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Paper Tiger Meets White Elephant?

**An Analysis of the Effectiveness
of the Mekong River Regime**

Ellen Bruzelius Backer

FNI Report 15/2006

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Paper tiger: person or thing that is less powerful or threatening than he/it seems or claims to be.

White elephant: possession that is useless and often expensive to maintain.

(Cowie 1989:894, 1457)

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Abstract

This report assesses the achievements of the Mekong River Commission, an organisation where Thailand, Lao PDR, Cambodia and Vietnam cooperate about the Mekong River which runs through all four. Burma and China, the furthest upstream, do not participate, but hold observer status. The study uses a model outlined by Arild Underdal (in Miles et al, 2002) to understand and account for the effectiveness or lack thereof of the regime. The main explanatory factors are the problem malignity of the cooperation of the river, the low problem-solving capacity of the regime and its members, and other arrangements for cooperation in the region. The report argues that geographical location along the river, combined with size of territory within the river basin, determines the potential for pusher and laggard roles within the regime, while domestic conditions in the state affect whether this potential is fulfilled or not.

Key Words

Mekong River, Southeast Asia, international and transboundary rivers, environmental regimes, regime effectiveness

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There are bound to be shortcomings in the study, for these I take full responsibility.

Lysaker, August 2006

Ellen Bruzelius Backer

Acronyms

ADB	Asian Development Bank
AFSC	American Friends Service Committee
ASEAN	Association of South East Asian Nations, founded by Indonesia, Malaysia, the Philippines, Singapore and Thailand. By 1999, Brunei Darussalam, Vietnam, Lao PDR, Myanmar and Cambodia were also participating, Cambodia joining last in 1999.
ASEAN + 3	ASEAN and South Korea, Japan and China
CEO	Chief Executive Officer
CIDSE	Cooperation Internationale pour le Développement et la Solidarité (Belgian organisation)
ECAFE	Economic Commission of Asia and the Far East
EGAT	Electricity Generating Authority of Thailand
EIA	Environmental Impact Assessment
EPB	Environmental Protection Bureau (provincial level, China)
ESCAP	The Economic and Social Commission for Asia and the Pacific, UN
FAO	Food and Agricultural Organisation, UN
GMS	Greater Mekong Sub-region (a program initiated by the ADB)
IUCN	The World Conservation Union
MoU	Memorandum of Understanding
MRC	Mekong River Commission
MRCS	Mekong River Commission Secretariat
NMC	National Mekong Committees, responsible for the contact between the MRC and the national governments
NTPC	Nam Theun 2 Power Company Limited
OXFAM	British development, relief and campaigning organisation
SEPA	State Protection Environmental Agency (central level, China)
SIDA	Swedish International Development Cooperation Agency
UN	United Nations
WB	World Bank
WRI	World Resources Institute

1 Introduction

The Mekong River – the Mother of Rivers – runs through some of the least developed and most war-torn areas in the world. On its way from the Tibetan plateau in China to the South China sea, the river passes through the Yunnan Province in Southwestern China, forms the border between Burma and Lao PDR and subsequently between Thailand and Lao PDR, runs through parts of the latter, flows into and through Cambodia, and splits up into a delta in southern Vietnam before it finally empties into the sea. During the dry season, the discharge may be as little at 2000 m³/second, whilst in the wet season, it may swell to an enormous 60,000 m³/second (Öjendal 2000:15). The basin is the home of approximately 70 million people of various nationalities and cultures. How may the resources offered by the mighty Mekong River and its tributaries be managed to the benefit of adjacent states and peoples?

This study is concerned with international river management. It is an analysis of regime effectiveness, yet there are a number of both theoretical and empirical perspectives which also might have been fruitful to apply to the case of the Mekong River. To deal with the politics of the Mekong River, the four lower riparians, Thailand, Lao PDR, Cambodia and Vietnam, cooperate within an organisation called the Mekong River Commission, whilst Burma and China hold observer status. The organisation is based on the *Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin* signed in 1995, but the cooperation dates back to 1957 when the Mekong Committee was established with the assistance of the UN. Since then, the four lower riparians have cooperated to a lesser or greater extent throughout the American warfare on Vietnamese, Laotian and Cambodian territory, communist coups and rule, the Cold War and market liberalisation programs. This report aims to evaluate the effectiveness of the regime shaped by this cooperation: whether it affects the policies of the riparians, and how the riparians affect the regime.

1.1 The geopolitical setting of the Mekong River

The Mekong River¹ runs through, or borders, six sovereign states: China, Burma, Thailand, Lao PDR, Cambodia and Vietnam. China is the biggest riparian, in terms of both population and area, and is the extreme upstream state. The river barely touches Burma, a closed military dictatorship with only 265 km border along the Mekong, before it enters the Lower Mekong Basin and forms the border between Thailand and Lao PDR. Thailand is the wealthiest of the lower riparians, one of two regional powers, and hosts the only somewhat functioning democracy in the region. Lao PDR is a landlocked country, one of the smallest and least developed riparians, and a one-party socialist state. The Mekong River runs through almost the entire country before it enters Cambodia, the other democracy, albeit malfunctioning, in the region. Cambodia suffers from decades of turmoil and political unrest which have prevented economic and political development. She is home to the Tonle Sap (The Great Lake), the biggest freshwater body in Southeast Asia. Finally, the Mekong River turns into a delta and enters Vietnam, a one-party socialist state, and the other regional power in mainland Southeast Asia.

Map 1 Mainland Southeast Asia

The potential conflicts over the river originate in different wishes of how to use the water: development of hydropower dams might alter the natural flow pattern. Sudden releases of substantial amounts of water may flush away river banks and river bank gardens, while the dams might store the nutritious silt that is normally spread with the annual flooding. Dams downstream will prevent mitigating fish from reaching further upstream of the river. Large irrigation projects withdraw water from the river system, which might affect fisheries and agriculture. Inter-basin transfers of water have similar consequences. Also navigation projects that include

dredging of the river and blasting of river banks will alter the natural turbulence and speed of the river, which in turn could have consequences for the river banks as well as the river's ecology and fish population. There are other examples of the cross-cutting interests that could have been mentioned, but these are meant to illustrate the complexity of the development interests in the region, and how gain in one sector might mean sacrifice in another.

1.2 Purpose, research questions and delimitations

1.1.1 Purpose of the study

The purpose of this study is to shed light on what the Mekong River regime has accomplished and what promotes and hinders the performance of the regime. It is rooted in an interest for shared, specific, natural resources such as rivers and lakes, combined with a fascination for both China and Southeast Asia and curiosity about cooperation on policies in a setting characterised by cultural and political diversity. The purpose is thus to elaborate on a rather specific case where the organisation of data is guided by a previously established theoretical framework for analysing regime effectiveness, as presented by Arild Underdal (2002). However, the report also aims to draw conclusions that might be useful for future studies in the same or similar settings either in the developing world, or relating to shared natural resources – but above all, it seeks to understand the dynamics amongst the Mekong River riparians that leads, or leads not, to fruitful cooperation.

1.2.2 Research questions

The research questions present the focus of this study, and guide both the formation of the hypotheses and the discussion and analysis of the report. They are as follows:

1. *Is the Mekong River regime an effective regime? How?*
 - a. *Why, why not?*
 - b. *How does the geopolitical location of the regime members affect their role in the regime?*
 - c. *What is the impact of China not being a member of the regime?*

Question 1) aims to determine whether the Mekong River regime has accomplished anything, and what influence the regime might have on the riparians. This question is the overall question for the report and identifies the dependent variable of the study, the regime effectiveness. It will also be compared to its effectiveness in an earlier phase of the regime, as explained in section 0. The other research questions are meant to explain the effectiveness or lack thereof, and hence lead to the independent variables/explanatory framework. Research question 1a) sheds light on why or why not the regime is effective, through discussing the intellectual challenges of river basin management, the institutional setting of the Mekong River regime and how other forms of cooperation influences the regime. Question 1b) aims to assess how the geopolitical location of the riparian regime members influence their roles within the re-

gime, with an attempt to suggest who might act as pushers and laggards for enhanced cooperation. Research question 1c) attempts to determine the impact of the non-membership of a significant riparian, China, and how her position influences the regime. The research questions of this study seek to address both the regime and the circumstances in which it operates to explain its effectiveness or lack thereof. They link to the hypotheses deduced from the theoretical, explanatory framework in chapter 2.

1.2.3 *Delimitations*

This report has three main delimitations. *Firstly*, the study will not address any topics related to Burma, because the current situation in Burma is extremely difficult and sensitive, and information is not easily available. This does not, however, have severe impacts on the study, as the Mekong River basin only briefly covers Burmese territory, and as Burma has been neither an active part of the cooperation, nor influential in policies relating to the Mekong River. *Secondly*, the report will focus on the Yunnan province in China, although the Mekong River runs through both the Tibetan Autonomous Region and Qinghai province. This is because Yunnan borders the other riparians, and because the current Chinese development on the mainstream of the Mekong River takes place mainly within Yunnan. The report will of course also relate to the Chinese central authorities in Beijing. *Thirdly*, the study will focus on the period from 1995 until the end of 2004, although this will be further restricted through the operationalisation of the dependent variable. The lower time limit is based on the signing of the 1995 Agreement, whilst the upper limit is based on availability of material.

1.3 Structure of the report

The report consists of six chapters including this introduction. The next chapter outlines the theoretical framework of the report, operationalises and explains the dependent variable and the explanatory framework. The hypotheses are stated as the outline of the explanatory framework proceeds, but also presented together at the end of the chapter to provide an overview of the expectations for the regime and relate them to the research questions and to each other. The chapter is concluded by a model which illustrates and summarises how the theory is applied to the case of the Mekong River regime, indicating where the hypotheses fit into the framework. The third chapter is concerned with the methodology of the study. It discusses the strengths and weaknesses of the methods used, and emphasises their implications for the results of the study. In the fourth chapter, the empirical background and findings are described in a manner as accurate and detailed as possible. The chapter is divided into several sections, starting by giving details of the Mekong River itself, before it turns to the Mekong River Commission. The next part of the chapter deals with the five riparians in this study, where the political background, the geography, the political relations to the region for the country at stake, and the relationship to and the perceptions of the Mekong River Commission are accounted for. The part on each riparian is concluded by a small summary of my main impression of the country in relation to the Mekong River regime. The fifth chapter addresses the

research questions and the hypotheses, and relates them to the empirical background and findings from chapter four. The chapter is organised into four parts, each discussing one of the research questions and the relevant hypotheses for this question. A brief summary bridges the chapter to its last section, which comments on the concept of effectiveness and on the applicability of the theoretical framework that has been used to organise the study to the reality of the Mekong River regime. Chapter six is the final chapter, where a few concluding remarks are made.

2 Theoretical background and explanatory framework

This chapter provides the theoretical framework which the study rests upon. It starts by discussing what international institutions are, and how the Mekong case fits into the distinction between organisations and regimes. The subsequent section explains the theoretical model that forms the framework for the analysis, incorporating an assessment of the concept of effectiveness and an explanation of which understanding of it will be used in this report and why. A justification for the inclusion of China in the analysis of the effectiveness of the Mekong River regime is then offered, followed by a discussion of the operationalisation of the dependent variable. Subsequently, the standard of measurement which the effectiveness of the Mekong River regime is to be compared to is considered. The next section outlines the three main components of the explanatory framework: the problem malignity, the problems solving capacity, and other relevant organisations and institutions, and applies them to the case of the Mekong River regime. The hypotheses are presented under the relevant parts as the section progresses to root them firmly within the explanatory framework. Finally, all the hypotheses are listed, the connections to the research questions are explained, and the choice of these particular hypotheses is justified. The chapter is concluded by a figure providing an overview of the explanatory framework, indicating the location of the hypotheses.

2.1 International Institutions

International institutions can be divided into three groups: bureaucratic organisations, regimes, and conventions (Keohane, Haas, and Levy 1993:5). The first ones are organisations, with secretariats, headquarters and staff, whilst conventions are informal practices, and regimes are somehow between the two. The two terms institutions and regimes are sometimes used interchangeably, especially in writings on international political economy (Gilpin 2001:83), however, the distinction is of significance for this study. *Institutions* is a much wider term, for example shown by Bernauer's (1995:352) definition where 'institutions are [...] defined as sets of international regulations and organizations'. The term *institution* covers both cases of cooperation where there is a specific body or organisation, and cases where the agreements are based only on regulations. The width of this term requires this study to use the more precise terms *organisations* and *regimes*. Organisations frequently possess legal personalities, albeit restricted by their objects and functions (Bindschedler 1999:1299). They may also have material manifestations. A regime, however, is defined by Krasner (1983:2) 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. Principles are beliefs of fact, causation and rectitude. Norms are standards of behaviour defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for action. Decision-making procedures are prevailing practices for making and implementing collective choice.

This definition makes it clear that a regime does not require a physical manifestation – an implicit or explicit agreement on a specific area is sufficient, and a regime does hence not require an organisation to justly be called a regime. There is an important nuance incorporated into the wordings of the definition: ‘“actors” expectations *converge...*’ (italics added), implying that the actors have similar, but not necessarily identical, ideas about the scope of the regime. This reservation is of significance when the definition is applied to real cases, since completely corresponding understandings are not required by the definition.

But how can the parties of the regime know that they are of the same opinion if the agreement is implicit? A tacit understanding of ‘the rules of the game’ provides a definition of regimes which makes them difficult to identify and tricky to pin down what they are really concerned with. However, if a specific agreement forms the basis for the regime, its scope and agenda is more easily identified. Bernauer’s (1995:352) definition of institutions requires that the cooperation is based on ‘explicit, legally or politically binding, international agreements’ and does thus not include agreements based on informality. The emphasis on explicitness is also stressed by Keohane (1989:4), who states that regimes are ‘institutions with explicit rules, agreed upon by governments, that pertain to particular sets of issues in international relations’. His definition also limits the actors in a regime to governments.

The Mekong River regime fulfils these criteria, as it is based on an agreement signed by four sovereign states. The agreement spells out the areas of cooperation, the institutional framework and general proceedings, the details are outlined in chapter 0 below. The agreement forms the basis for a regime which main idea is to cooperate on the development of the Mekong basin, and creates an organisation, the Mekong River Commission with its Secretariat, which purpose is to facilitate the realisation of this idea. The Mekong thus hosts both an international regime, the Mekong River regime based on the Agreement of 1995, and an international organisation, the Mekong River Commission. It is important to keep these two as separate units for the analysis, for reasons that will be explained soon.

2.2 The Theoretical Model for Analysing Regime Effectiveness

The model as explained by Underdal in chapter one in Miles et al (2002) provides the theoretical framework for this report. Underdal suggests that there is a chain of events that can be targeted for analysing the effectiveness of a regime (2002:6). This chain consists of the output, outcome, and impact of a regime, where output signifies any form of rules, norms or principles that are the result of the regime formation, outcome is the change in the target group’s behaviour caused by the output, and impact identifies any change in the biophysical environment resulting from the outcome (Underdal 2002:5-6). The distinction provides three points of attack for evaluating the effectiveness of a regime: does it produce anything (output)? Do its members adjust to its recommendations (outcome)? And does the regime influence the environment (impact)? Kütting (2000:23) claims that an approach which includes effectiveness

as a relative concept, defined individually for each regime, only vaguely identifies 'where effectiveness is situated', for example in the institutional setup, implementation or compliance. In reality, these are often intertwined, but for the sake of the analysis it makes sense to distinguish between at least two different kinds of effectiveness: institutional effectiveness and environmental effectiveness. The first refers to the output of the regime, whether something is produced by the cooperation or not. However, '[t]his understanding of effectiveness does not require that environmental improvement occurs as a result of the agreement' (Kütting 2000:4), but rather analyses the success or failure of an institutional structure independently of whether it approaches the environmental issue that inspired its initiation. The second kind of effectiveness incorporates impact on the environment, and seeks to explain 'an improvement in the quality of the natural environment through the actions of the regime' (Cioppa and Bruyninckx 2000). In other words, the environmental effectiveness takes a more holistic approach to the definition of effectiveness and incorporates the regimes' ability to improve the quality of the natural environment into the definition of effectiveness (Cioppa and Bruyninckx 2000). Even though this approach seems sensible when evaluating the effectiveness of environmental regimes, it also makes the analysis more complicated because it seeks to trace a causal relation between the biophysical environment and a regime. The biophysical environment is influenced by an almost uncountable number of factors, especially big and interdependent ecosystems like the Mekong River and its basin. The amount of data required to estimate changes in the environment and trace their origins is massive, if it is obtainable at all presently. To control for all possible sources of influence while attempting to measure that of a regime is a huge task, and certainly beyond the scope of this report. It is therefore necessary to limit the analysis to the institutional effectiveness of the Mekong River regime, and 'focus on observable political effects [...] rather than directly on environmental impact' (Keohane et al. 1993:7).

This report will focus on the output and outcome of the regime, but not attempt to measure any impact. Its main emphasis is thus on institutional effectiveness, often exemplified by output. Outcome reaches beyond the institution and institutional effectiveness because it incorporates change in the behaviour of the regime's target group. This implies that the analysis will move further than institutional effectiveness. Outcome places itself somewhere between institutional and environmental effectiveness, but without impact, it does not qualify as environmental effectiveness. This report does as stated above not aim to assess the environmental effectiveness of the Mekong River regime. However, including outcome in the analysis enables a distinction between how the qualities of the regime as opposed to those of its members affect the regime's effectiveness. This is because the regime's ability to induce the target group, the member states, to alter their policies in the direction of the regime's policy recommendations and their reaction to this is incorporated into the analysis. This is both important and interesting in the Mekong setting, where the riparians need to provide energy and resources to give the regime substance.

It is important to notice that Underdal's model seems to have been applied mainly to regimes dealing with a specific issue, such as the International Whaling Commission, satellite telecommunication, and The Convention on Long-Range Transboundary Air Pollution (see Miles et al. 2002). The Mekong River regime is rather different from these: it is defined more by a region than by a sector or topic, and it includes several policy areas. Its scope is thus wider and its range broader in terms of concerns than what is the case with the regimes it has previously been applied to. This has implications for the use of the terms and concepts which the model rests upon, as they need to be interpreted in a way that also fit the Mekong River regime. *Output* does, for example, not only refer to results of the regime formation phase, as Underdal (2002:5) suggests, but also 'products' from later stages. Identifying *outcome* becomes particularly difficult – when the regime endorses such a wide range of issues, how can a change in behaviour of the actors be recognised? How is *change in behaviour* induced by the regime to be defined, when the regime incorporates so many policy areas, and hence so many areas of behaviour? The implications of these differences between the regimes the model previously have been applied to and the Mekong River regime are important to keep in mind throughout the analysis, and will be returned to at the end of chapter five.

In his model, Underdal (2002:17) further suggests that international regimes aiming to coordinate behaviour can be divided into two categories according to the nature of the problem itself: whether it is a benign problem of coordination, or a malign problem of incongruity. This, and the problem-solving capacity of the regime and its members, influences the effectiveness of the regime. The problem-solving capacity consists of three main determinants: the institutional setting, the distribution of power among the actors involved in the regime, and the skills and energy available (Underdal 2002:23). The influence of other arrangements of cooperation in the region has been added as an explanatory category within the framework because there are several organisations and agreements with an adjacent or partly overlapping scope as that of the Mekong River regime. The dependent variable and the three labels of explanatory factors: the benignity/malignity of the problem, the problem-solving capacity, and other regional forms of cooperation are further explained and operationalised below, but before this, a clarification of why it is relevant to incorporate China into the analysis of the effectiveness of the Mekong River regime, and the difficulties this raises for the theoretical framework, is required.

2.2.1 Why include China in the analysis of the Mekong River regime effectiveness?

China is not a member of the Mekong River Commission. However, she holds observer status in the organisation, and there is an annual formal dialogue meeting between China, Burma and the MRC. In April 2002, she signed an agreement regarding technical cooperation with the MRC, where the Chinese government agreed to provide the downstream countries with information on water levels on the Mekong River every 24 hours during the flood season (MRC 2002). Through this agreement and her status as observer, she is involved in the organisation and participates

in a limited manner. However, China has not signed the Agreement of 1995, which is the basis for the Mekong River Regime, and has declined all offers to become a formal member of the MRC (Borton 16. August 2002). This creates a special situation which sheds light on why the distinction between an organisation and a regime is so significant: China is closely related to the Mekong River Commissions organisational web, but she is not a part of the Mekong River regime.

Why is it fruitful to include China in an analysis of the effectiveness of the Mekong River regime, if she is not a part of it? The key to this question lies in her geographical position as the extreme upstream country of the Mekong river. Approximately 16% of the Mekong River's total discharge into the South China Sea emanates from the Chinese stretches of the river (see map section 0). This means that her actions in the upper parts of the river influences the options available to the countries further downstream (Cheong 1998:221). It has been suggested that one of the fundamental requirements for an international regime is its inclusiveness, implying the participation of all significant states (Kütting 2000:35; Underdal 1980:35). However, it is important to notice that Krasner's regime definition *as such* does not require inclusiveness, rather, it is the *effectiveness* of a regime that necessitates the inclusion of all significant states. The argument is particularly valid for shared natural resources such as international rivers or lakes where the affected states are bound to be influenced by the others' treatment of the resource. The condition of inclusiveness is not met for the Mekong River regime as long as China continues to refuse membership. Her position as the extreme upstream of the Mekong River enables her to some extent to determine the fate of the river, and suggests that she would have been a strong and powerful participant of the regime. The Chinese refusal to join the regime therefore provides an interesting viewpoint for evaluating the regime effectiveness: how does it influence the regime? Does it affect the strength and effectiveness of the regime? Does her agreement about sharing information from 2002 affect the effectiveness of the regime? China's stand has potential to influence the Mekong River regime, and is important to incorporate when evaluating its effectiveness. The role of China in relation to the regime must be viewed from two angles: it is necessary to consider both how China through her actions influences the regime; whether China's behaviour alters that of the regime members and how this enhances or hinders the effectiveness of the regime, and to analyse how the Mekong River regime influences the behaviour and implementation of policies in China; to evaluate the scope of the effectiveness of the regime.

Underdal (2002:5) distinguishes between the 'impact of the cooperative arrangement itself' and 'the costs incurred and the positive side effects' that the regime might generate. He moves on to specify that he will focus on the effects of the regime itself, but nevertheless acknowledges that '[t]he aggregate impact of [...] side effects may well be more important than the impact of any formal convention or declaration signed in the end' (2002:5). This study will incorporate some of the side effects of the regime: those related to China. China may be influenced by the regime herself, or through the Agreement from 2002, although it is possible to claim that this Agreement itself is an effect of the Mekong River regime and thus indirectly contributes to the effectiveness of the overall regime.

Yunnan Province in China is a neighbour to the MRC countries. Both national and provincial governments are represented on cross-border issues (Makkonen 2005). It could be possible that the provincial government would make some adjustments to the wishes of her neighbours and the Mekong River Commission to remain on good terms, because freeriders, as Underdal (1980:29) argues, who only enjoy the benefits without sharing the costs, often earn a bad reputation amongst their prospective partners. The decentralisation process taking place in China, which transmits parts of the decision making power to the provincial level (Makkonen 2005), might enable the provincial government to do this. An adjustment to the policies proposed by the Mekong River regime by the provincial government of Yunnan would indirectly contribute to the effectiveness of the regime and increase its influence. This possibility complicates the analysis of China's influence on the regime effectiveness, and makes it clear that the results could vary with the level of analysis. Both central and provincial governmental levels need to be taken into account to provide a complete picture.

The four previous paragraphs have show that China needs to be included in a thorough analysis of the effectiveness of the Mekong River regime, incorporating the actions and views of the government at both central and provincial level.

2.2.2 Operationalisation of the dependent variable: regime effectiveness

The target group of the Mekong River regime is primarily its members, and secondarily other riparians. The effectiveness of the regime must therefore be measured in terms of the influence it has on these sovereign states, their policies and behaviour, as well as in terms of the output of the regime.

The Agreement of 1995 is ambitious and seeks 'to promote and coordinate sustainable management and development of water and related resources for the countries' mutual benefit and the people's well-being' (MRC 2005e) and covers several sectors, such as 'irrigation, hydro-power, navigation, flood control, fisheries, timber floating, recreation and tourism' (*The Agreement* 1995:Chapter III, Article 1). The scope of the Agreement itself is too wide to provide a basis for evaluating the effectiveness of the Mekong River regime within the framework of this report, and it is therefore necessary to focus on one area. All of the mentioned sectors could provide the basis for an evaluation, however, some have qualities that are more appealing when evaluating the effectiveness of a regime than others. This essay will use the hydropower sector as basis for evaluating the effectiveness of the Mekong River regime for several reasons. Hydropower is an important sector in resource policies in mainland Southeast Asia, and the 'great demand for energy in combination with the great potential in this sector is said to be driving the development [in the region]' (Öjendal and Torell 1997:118). Hydropower is at the centre of politics, almost to the extent that 'as dams assume an emblematic role in debates over water resources management, an examination of hydro-development can shed light on debates over environment and development more generally' (Bakker 1999:228). However, the sector has other assets making it suitable for the task. *Firstly*, hydropower affects both

members of the regime and China as they all have plans for developing hydropower stations. The choice of sector is not biased towards any actor, even though the scale of their planned hydropower plants differs. *Secondly*, consequences and qualities of hydropower development are fairly independent of geographical location, even if the plants differ in size. This means that all states have the same sort of plans, facing the same issues, and must adjust similarly to the same sort of requirements. Other sectors vary more between the five states. Irrigation, capacity building or fisheries differ in importance and meaning amongst the member states depending on geographical location. *Thirdly*, the Mekong River Commission Hydropower Development Strategy (HDS) was completed in 2001. This leaves the members only three years to adjust and thereby reduces the chances of finding big changes of behaviour. However, the strategy was amongst the first ones written after the signing of the 1995 Agreement, and is thus a document which is a product of the latest phase of the regime. Analysing the effectiveness on the basis of this document therefore provides an indication of the effectiveness of its most recent developments. It is important to note that the *de facto* period of study therefore is from 2001 to 2004, although the operationalisation of the dependent variable is meant to provide an indication for the effectiveness of the regime from 1995 to 2004.

As hydropower was one of the original areas of cooperation within the Mekong Committee from 1957 onwards, it is possible to compare the present Hydropower Strategy with the effectiveness of the Mekong Committee within the hydropower sector, and identify changes that have taken place. This will be further discussed in the next section.

One of the most important difficulties with using the hydropower sector as indicator is its political sensitivity. The field is regarded as sensitive due to the huge investments required, size of the projects and consequences for the environment and resettlement. It might be more cumbersome to obtain trustworthy information on this sector than on some of the others, implying both a methodological problem with the reliability of the data and a problem with access to the relevant data. This is certainly a weakness with using the hydropower sector as indicator for the effectiveness of the Mekong River regime, however, the advantages presented in the previous paragraph seem to outweigh the disadvantages.

The Hydropower Development Strategy from 2001 contains a number of specific policy recommendations for the Mekong River Commission to work on, including aspects where the Commission should attempt to make its members change their policies. The strategy hence identifies areas where the effect of the Mekong River regime in terms of behavioural change by its members can be measured directly. It is also important to note that the Hydropower Development Strategy relates to other sectors, for example through its link to EIAs or the construction of a hydraulic model of the Mekong River. It is therefore inevitable that this report also will refer to areas adjacent to hydropower.

2.2.3 *Against which standard is the effectiveness to be measured?*

Underdal (2002:7) suggests that the effect of a regime can be evaluated against two points of reference: the baseline, or what the situation would have been if the regime had not existed, and the optimum, which is some sort of ideal solution. The latter is specified as 'a collectively optimal solution [...] that accomplishes, for the group members, all that can be accomplished - given the state of knowledge at the time' (Underdal 2002:8). Nonetheless, it is claimed that the optimum yardstick is too difficult to estimate. It is likely that this is the case for the Mekong River regime too, and therefore, neither the optimum point for the regime nor how far away from it the regime is, will be defined. This conclusion is supported by Bernauer (1995:368), who argues that a collective optimum is difficult to define because 'scientists may disagree about [it] and economists may find [it] difficult to determine'. He suggests two other standards for evaluating the effectiveness of a regime: compliance and the goals of the institution (Bernauer 1995:368), but dismisses the compliance standard on basis of a problem of endogeneity, as 'the evaluative standard that is used in the measurement of the dependent variable (behaviour is assessed against rules) is also a part of the explanatory concept (institutions include the same rules)' (Bernauer 1995:359, brackets in original). He claims this creates a causal problem related to the effect of institutions on outcomes, and for this reason, prefers to use the goals of an institution as measurement stick. However, as noted in the section describing the operationalisation of the dependent variable, the Mekong River regime has a rather wide scope, implying serious measurement difficulties. How can sustainability be measured for all the sectors included? How could a study of this size include sectors as different as fisheries, capacity building and hydropower? The goals are too loosely defined and the sectors too many for a study of this scope. However, Underdal's first point of reference, namely the baseline, is more approachable. Defining what the state of affairs would have been without the regime and hence identifying relative improvement ought to be easier to determine, especially since the era of the present Mekong River regime only began as recently as 1995, and data describing the period of the regime before this are available to a certain extent. This notion will clarify whether the regime makes a difference at all. However, the study will not attempt to compare the achievements of the regime with a hypothetical state of affairs without the regime. This is a counterfactual presumption, and there is no certain way of determining what the situation would be without the regime. This kind of comparison is hence not feasible (Kütting 2000:33-34). Yet to create the yardstick which the effectiveness is to be evaluated against, the situation before the regime formation must be assessed. The effect of the regime in the period for this study, 2001-2004, will be compared to the effect of the regime in previous time periods. The measurement stick is thus in some sense external to the dependent variable. The most obvious problem with this solution is that the state of the dependent variable, the effectiveness of the Mekong River regime 2001-2004, is influenced by its past because the history of a regime forms a part of the regime at present. However, it is still possible to measure how the effect of the regime has changed from a first to a second period, which is one of the tasks this study aims to achieve. There are two periods that are possible yardsticks: the first phase of the cooperation in

the Lower Mekong Basin called the Mekong Committee, lasting from 1957 to 1978, and the period with the Interim Mekong Committee from 1978 to 1995. However, due to the historical circumstances in the region, the first period of the Mekong Committee is limited to 1969. The strengths and weaknesses of both options are discussed in the next section.

Firstly, the Mekong Committee seems rather old to use as a measurement stick, as politics, the environment and development in the region has changed substantially since the 1950s and 1960s. By comparing the present regime with this period, the investigation might find big differences that are results of both changes in the world, in the region, and of the substantial amount of time that has elapsed. It will hence be difficult to control for external effects when evaluating the influence the regime has upon its members. This problem is less if using the Interim Mekong Committee as yardstick, as it is closer in time to the present regime. However, the problem still applies to the early years of this period. *Secondly*, the member states were somewhat different in the early Mekong Committee. Vietnam was divided into the Democratic Republic of Vietnam (North Vietnam) and the Republic of Vietnam (South Vietnam), and only the latter was a member of the Mekong Committee (Öjendal and Torell 1997:53, footnote 25). The unified Vietnam is a member of today's Mekong River regime. During the Interim Mekong Committee, however, Cambodia was not a member, at first because of the Khmer Rouge government's absence (Öjendal and Torell 1997:55, footnote 28), but after the Vietnamese overthrew this government in 1979, Cambodia did not participate because of unrest and lack of an internationally recognised government. None of the two possible yardsticks have a membership that correspond to the present member states of the Mekong River regime, however, the complete lack of one actor during the Interim Mekong Committee is of greater concern than the lack of North Vietnam during the early Mekong Committee. *Thirdly*, the unrest in Cambodia and in the region in general during the 1970's imposed limits of the workings of the Mekong Committee. Large parts of the basin were unavailable because of conflict and instability, thus constraining data collection, field visits and implementation of the Mekong Committee's programme (Jacobs 1995:142-143). This means that the Interim Mekong Committee and the Mekong Committee from 1970 onwards only had a limited geographical base to work with. Prior to the 1970s the Mekong Committee could gather data and make plans for large parts of the lower basin, whilst this was not possible after the 1970s and during the interim period. The present Mekong River Commission is able to make plans and gather data from the entire lower basin. It thus seems that the early Mekong Committee provides a more adequate yardstick than the Interim Mekong Committee on this matter, as the former also worked with the entire lower basin. *Fourthly*, the Mekong Committee had policies on hydropower development, in fact, it has been accused of leaning towards projects on developing large scale water resources (Cheong 1998:224), even if it also had programmes in watershed monitoring and rehabilitation and proposals for the improvement of resettlement and irrigation schemes (Jacobs 1995:138). This means that an evaluation of the effectiveness of the Mekong River regime operationalised through its hydropower policies is compatible with using the early Mekong Com-

mittee as its yardstick, as the latter also had policies on this sector. The Interim Mekong Committee had similar policies and programmes, though they were severely limited due to the regional unrest as described above.

This discussion has shown that the choice of yardstick is one between two candidates which both have their flaws. None offers a perfect basis to compare the effectiveness of the present Mekong River regime with. However, it seems that the early Mekong Committee from 1957 to 1969 allows for the best basis for comparison, as the membership is the most similar to the present regime and the entire basin was open to the policies of the regime, despite its outdatedness. This needs to be taken into account in the analysis.

There are, nevertheless, a few issues relating to the early Mekong Committee that needs to be highlighted when using it as a standard to which the effectiveness of the present Mekong River regime is evaluated. *First* of all, the scope of the cooperation was narrower than what is the case with the present regime, and as the Mekong Committee had fewer areas to focus on, its effect on these might be greater than the effects of the present Mekong River regime upon the same sectors since it approaches more policy areas. This, however, might also vary with the number of staff and resources available. *Secondly*, and perhaps more importantly, the transformation from the Mekong Committee (and Interim Mekong Committee) to the Mekong River Commission in 1995 saw some important changes in the structure of the regime. The Agreement from 1957, together with an amendment in 1975 that gave each riparian the right to 'a reasonable and equitable' share of the water, provided the members with veto power on each others' development projects on the mainstream and its tributaries (Makim 2002a:10). This principle was rejected in the Agreement of 1995 and replaced by a principle of 'prior consultation', defined as '[t]imely notification plus additional data and information' (*The Agreement 1995:Article 5*, and definitions. Underlining in original). The definition specifies that prior consultation is not a right to veto. Additionally, the Agreement of 1995 differs on the mainstream and the tributaries, and on wet and dry season. It seems clear that the Agreement of 1995, which is the basis of the regime to be evaluated, differs, and is weaker, than the basis of the Mekong Committee (Bakker 1999:223). On the other hand, the political authority given to the cooperation in 1995 is higher than that of the previous cooperation (Öjendal and Torell 1997:57). These are significant differences between the regime to be evaluated and its measurement stick, to the extent that they have been described as 'a revolutionary change in regime principles, norms, rules and decision making procedures' (Makim 2002a:16). It might even be plausible to ask whether it is really the same regime, and should this be the case, it would pose serious problems for the applicability of the measurement standard of this study. Nonetheless, the regime can also be regarded as going through different phases, a development path which has been suggested for other regimes (see for example Andresen 2002:; Curlier and Andresen 2002). Each phase of the regime differs from the previous one, yet the basic characteristics remains the same. Krasner (1983:3) states that '[c]hanges in rules and decision-making procedures are changes within regimes, provided that principles and norms are unaltered'. The change in the Mekong River regime is a change in the

rules or decision-making procedures of the regime, and is therefore a change within the regime, not in its principles and norms. The principle of cooperation on the development of the Mekong River has remained. Browder and Ortolano (2000) use this as a starting point for their work on the Mekong River regime, and Browder (2000:237) mentions that the Mekong River regime has 'evolved over' three phases in another work. This study will regard the Mekong River regime as one regime that goes through different phases.

An assessment of the effectiveness of the Mekong Committee

This paragraph will briefly review the achievements and effectiveness of the Mekong Committee as accounted for by other scholars, to provide a yardstick which the effectiveness of the Mekong River regime may be evaluated against. The two main objectives of the Mekong Committee were to investigate water resources in the lower Mekong basin and identify the most suitable sites for water resources development with an emphasis on hydropower development (Bakker 1999:222; Jokinen 2001:211). It has been accused of only focusing on hydrological, economic, and engineering aspects of projects, while neglecting social, cultural and environmental issues (Jacobs 1995:138). This is somewhat understandable, as for instance an Agricultural Division was only set up in 1970 (Jacobs 1995:143), and many of the projects were in fact related to hydropower development (Jacobs 1995:140, 142). It is nevertheless wrong to claim that it was only a dam-building agency (Jacobs 1995:138), even if it included less sectors than the present Mekong River regime. In fact, it 'produced millions of dollars' worth of reports and very little else' (Brady 1993:95), and data 'collection and coordination occupied most of the Committee's attention and was its most consistent contribution in time and effort'² (Makim 2002b:17). The data gathered contained details on the hydrology and geology of the basin, engineering studies, and social and economic aspects of water resources (Jacobs 2002:358). However, there are indications that what was produced was not due to the MC itself, as

[b]y the mid 1960-s, thanks to an extensive international effort spearheaded by the United States and ECAFE [Economic Commission of Asia and the Far East], the Mekong Committee had completed basic technical investigations, started the construction of tributary projects, and initiated planning for mainstream projects (Browder 1998:47).

Three influential investigations, called the ECAFE report (1957), the Wheeler report (1958), and the White report (1962), on the basin were all financed and led by either UN or US-related bodies or persons (Jacobs 1995:139, 2002:357). The ECAFE report was commissioned by ECAFE, whilst the Wheeler mission was initiated and financed by the US Department of the Interior, led by retired Lt Colonel Raymond Wheeler from the US Corps of Engineers, and finally the White report, led by geographer Gilbert White, was commissioned by the Ford Foundation (Jacobs 2002:357; Öjendal 2000:115, 116, 127). Both the ECAFE and the Wheeler reports focused on engineering aspects of basin development, whilst the White report was more concerned with social and economic issues. These aspects were nonetheless neglected in the work of the MC

(Öjendal 2000:127). The Mekong Committee was thus only effective to a certain extent, mainly in gathering and processing data, and that also this was largely driven by foreign experts and funds.

2.2.4 *The explanatory framework*

As mentioned above, Underdal (2002:13) divides the aspects influencing the dependent variable, the regime effectiveness, into two main categories: the problem malignity, and the problem solving capacity. This section explains these two categories and how they apply to the Mekong River regime, and outlines a third category it is important to take account of: participation in other international bodies and agreements in the region. The hypotheses are introduced as the framework unfolds.

The problem malignity

A problem can be malign in two fields: it may be intellectually difficult, in need of intricate models and/or with a lack of accurate and relevant data, and it may be a politically difficult problem, as a result of the actors' preferences and interests (Underdal 2002:15). First of all, the management of most river basins is an intellectually malign task due to a complex ecology (Young 1994:21) and, in the Mekong case, due to lack of accurate data on the ecosystem and its components (Öjendal and Torell 1997:113). This makes it difficult even to know how the management of the water will affect the basin and its ecosystem. Knowledge deficits make it harder to achieve effective governance (Young 1994:18). These two points together lead to

Hypothesis A: The lack of information and the complexity of the ecosystems of the Mekong River Basin limit the effectiveness of the Mekong River regime.

Secondly, the governance of the Mekong River basin is expected to be a politically malign problem. The number of stakeholders makes it more difficult to achieve an effective regime, and, as Bernauer (1997:172) suggests, the relatively high number of riparians might be an obstacle to smooth management. A common situation with transboundary rivers is that the quantity and quality of the water each riparian is entitled to is not determined (Bernauer 1997:161), creating an unclear foundation for the regime. This contributes to the intricacy of accomplishing an agreement on the management of the resources, and is thus assumed to limit the effectiveness of the regime. Heterogeneity of preferences amongst the stakeholders also makes it more difficult to achieve an effective management (Bernauer 1997:170-171). The heterogeneity is further enhanced by the asymmetrical character of the interests in the Mekong River, with many of the actors' interests being negatively correlated. Underdal (2002:19) himself mentions that an upstream-downstream relationship is a typical example of this kind of asymmetry. Additionally, the presence of externalities might influence the effectiveness of the regime. Externalities implies that actors, who by agreeing to the regime where they have to accept costs they otherwise could have left for others, will be both more reluctant to join in the first place, and more sceptical of strict regulations. Upstream countries are often able to externalise costs to those

further downstream. The distribution of costs is also fairly easy to predict for the actors involved. However, those that suffer from environmental damage first, or most severely, might be more eager to have an efficient regime and thus take a leading role in the efforts needed for the operation of an effective regime (Keohane et al. 1993:17). If a government is very concerned with the issues that are or potentially could be addressed by the regime, this might lead the government to act as a pusher. Governmental concern can contribute to the effectiveness of a regime (Keohane et al. 1993:19). The heterogeneity and the asymmetry of preferences, and externalities, all relate to the upstream/downstream division amongst the riparians. Downstream countries are generally more vulnerable for upstream policies than vice versa, and they are therefore more concerned with their rights and protection. This, depending on the capacity of the downstream government and the historical patterns of influence, might increase the effectiveness of the regime. It may therefore be suggested that

Hypothesis B: The downstream regime members act as pushers within the regime, whilst the upstream members are laggards.

Pushers are understood as someone who makes efforts to enhance to effectiveness of the regime, whilst *laggards* either make no efforts, or consciously work to limit the effectiveness. It is important to note that externalities do not necessarily flow from upstream to downstream, as, for instance, dams downstream also blocks migratory fish from reaching upstream (Bernauer 1997:162). The presence of positive externalities, for example, hydropower dams and irrigation reservoirs leading to better flood control, is expected to augment the regime effectiveness because it induces the regime participants to cooperate to increase the joint benefit.

The problem solving capacity

The category 'problem solving capacity' relates to three aspects: the institutional setting of the regime, the distribution of power amongst the actors involved, and the skill and energy available to the cooperation (Underdal 2002:23). These will be dealt with in turn below.

The institutional setting

The institutional setting influences the effectiveness of the regime both through creating an arena where issues can be discussed, and as an actor in its own right (Underdal 2002:24). The institutional arena as suggested by Underdal seems to be somewhat similar to the contractual environment that Keohane, Haas and Levy (1993:19) claim is important for states to 'make and keep agreements that incorporate jointly enacted rules, without debilitating fear of free-riding or cheating by others'. The bodies of the Mekong River Commission are the arena where the states interact, and the strength of this arena varies with the decision making rules: weak decision making rules limit the chances to promote an effective regime. An institution may also contribute to the effectiveness of a regime through being an actor in the processes itself, providing inputs or amplifying outputs (Underdal 2002:27). It may 'play an independent role in changing states' interests - and especially in promoting

cooperation' (D'Anieri 1995:154), it may contribute to the agenda (Keohane et al. 1993:8), or it may work to increase the states governmental concern (Keohane et al. 1993:21). However, this depends on a well functioning organisational body which has the space, capacity and skills to be an actor in its own right. A lack of flexibility within the regime to adjust to changing, or redefined, issues or problems, may limit its effectiveness (Young 1994:150). The availability of resources to the institution will also influence the regime effectiveness, where sufficient resources are a requirement for an effective regime. However, the source of the funding might have an impact on the regime, as external funding usually comes with conditions or recommendations. This could have a negative impact on the effectiveness of the regime because it may lead to a lack of sovereign control over the regime and its policies. Along similar lines, Doornbos in Stokke (1995:386) argues that financial aid to governments in Third World countries may lead to an 'erosion of policy-making capacity'. This is because '[d]emands for compliance with contradictory instructions from different donors may result in confusion and distortions' and also leave 'the governments concerned with limited space for autonomous action'. Stokke (1995:28, 66) agrees with this, referring to the suggestion that both policy-making and implementation may be affected. This report believes the Mekong River Commission to be in a similar situation, as the organisation relies on international funding. Nonetheless, the donors might also expect achievements and regular feedback, which again may enhance the effectiveness of the regime. The institutional setting of the Mekong River regime contains aspects with both positive and negative influence on its effectiveness that will be discussed in detail in the analysis, but all in all,

Hypothesis C: The institutional setting of the Mekong River regime limits the effectiveness of the regime.

However, an institutional arena that has been active over 'an extended period of time' probably has the opposite effect, and enhances the effectiveness of the regime as the actors expect long-term cooperation (Underdal 2002:26). Decades of cooperation in the Mekong Regime has made the members committed to this cooperation (Browder 2000:244), which implies that

Hypothesis D: The many years of cooperation within the Mekong River regime increase the effectiveness of the regime.

The distribution of power

The distribution of power within the Mekong River regime is partially determined by the upstream/downstream division amongst the Mekong states, as a strategic position upstream, like Young (1994:128) argues, provides considerable power. This particular aspect was discussed under the section on problem malignity above. Historical relations and patterns of influence also significantly influence the distribution of power within the regime. Moreover, Underdal (2002:29) claims that 'the existence of a *unipolar* distribution of power tends to enhance the decision-making capacity of the system', assuming that the powerful actor is a part of the regime. China is the extreme upstream of the Mekong River and the actor

which most closely fits the label of a unipolar power, but she is not a part of the regime. Underdal's claim can therefore not be valid for this case, and the unipolarity of the distribution of power, should this be a correct description, will limit the effectiveness of the regime because the unipolar power is unable to provide leadership or act as a pusher within the regime. In other words,

Hypothesis E: The effectiveness of the Mekong River regime is limited because the most powerful riparian, China, is not a member of the regime.

However, it is possible that this particular distribution of power may induce the regime member countries to cooperate more closely because the impacts of China's development of the river is so significant that the other riparians need to coordinate to be able to deal with them. This would in case increase the effectiveness of the regime, meaning that:

Hypothesis F: The Chinese developments on the upper parts of the Mekong River forces the regime members to cooperate to deal with the downstream impacts, which increases the effectiveness of the regime.

Skill and energy

The last aspect of the problem solving capacity, skill and energy, is not treated as thoroughly as the other two by Underdal (2002:33). However, this aspect is of significance for the evaluation of the Mekong River regime, as '[d]eveloping countries [...] typically lack [...] adequate capacity on both the governmental and societal dimensions' (Keohane et al. 1993:20). This will, in turn, curb the effectiveness of the regime, as states might 'lack the capacity to implement the provisions of governance systems they have agreed to in international negotiations' (Young 1994:18-19). Inadequate access to skills is expected to limit the effectiveness of the regime. Similarly, low levels of energy and will to commit to the regime will also affect the regime negatively. Nonetheless, the regime will also be affected if the actors have ambiguous or different perceptions of the issue (Underdal 2002:33). This is likely to decrease the overall effectiveness of the regime, as, if nothing else, the actors will focus on different aspects of it. Skills and energy, or the lack of it, might very well be a significant factor for the effectiveness of the Mekong River regime. This aspect is, however, not given a separate hypothesis, as skill and energy will be addressed under hypothesis B and research question 1b).

Other forms of regional cooperation that might influence the Mekong River regime

Bernauer (1995:361) stresses the importance of controlling for exogenous factors when evaluating the effectiveness of a regime. As there are several other schemes for cooperation, agreements and Memorandums of Understanding (MoU) between the Mekong River riparians, it is important to assess how these might influence the Mekong River regime. This section will provide a brief overview of the most important ones, and how they could be expected to influence the Mekong River regime.

One of the most extensive schemes is the Greater Mekong Sub-region programme (GMS) from the Asian Development Bank (ADB), consisting of the Mekong regime members, Yunnan and Guangxi (from 2005) provinces in China, and Burma. It ‘aims to promote development through closer economic linkages’ (ADB 2005) and focuses on infrastructure and free flow of goods and people within the region, but it also has programs on transport, energy, telecommunications, environment, human resource development, tourism, trade, private sector investment, and agriculture. It is thus a fairly extensive programme and partly overlaps the scope of the Mekong River regime. Additionally, there are several bilateral agreements and MoUs between the MRC member states, and between MRC member states and China, that address power/electricity policies. This affects the incentives these states have to either influence the MRC policies on hydropower, or to adhere to the MRC policy suggestions. In sum,

Hypothesis G: The other forms of cooperation in mainland Southeast Asia limit the effectiveness of the Mekong River regime.

External factors

There are some general, external factors that always need to be taken into consideration when conducting studies in political science, such as economic and technological changes, which may reduce or increase incentives for cooperation. Both have played, and probably still do, an important role in forming the framework which the Mekong River regime has to work within. Nonetheless, both factors are so extensive and complex, that this study will neither attempt to operationalise them, nor to give an indication of how and how much they influence the effectiveness of the Mekong River regime.

2.3 The Hypotheses

All seven hypotheses are presented here to provide an overview of the predicted effectiveness of the Mekong River regime:

- A: The lack of information and the complexity of the ecosystems of the Mekong River Basin limit the effectiveness of the Mekong River regime.*
- B: The downstream regime members act as pushers within the Mekong River regime, whilst the upstream members are laggards.*
- C: The institutional setting of the Mekong River regime limits the effectiveness of the regime.*
- D: The many years of cooperation within the Mekong River regime increase the effectiveness of the regime.*
- E: The effectiveness of the Mekong River regime is limited because the most powerful riparian, China, is not a member of the regime.*
- F: The Chinese developments on the upper parts of the Mekong River forces the regime members to cooperate to deal with the downstream impacts, which increases the effectiveness of the regime.*

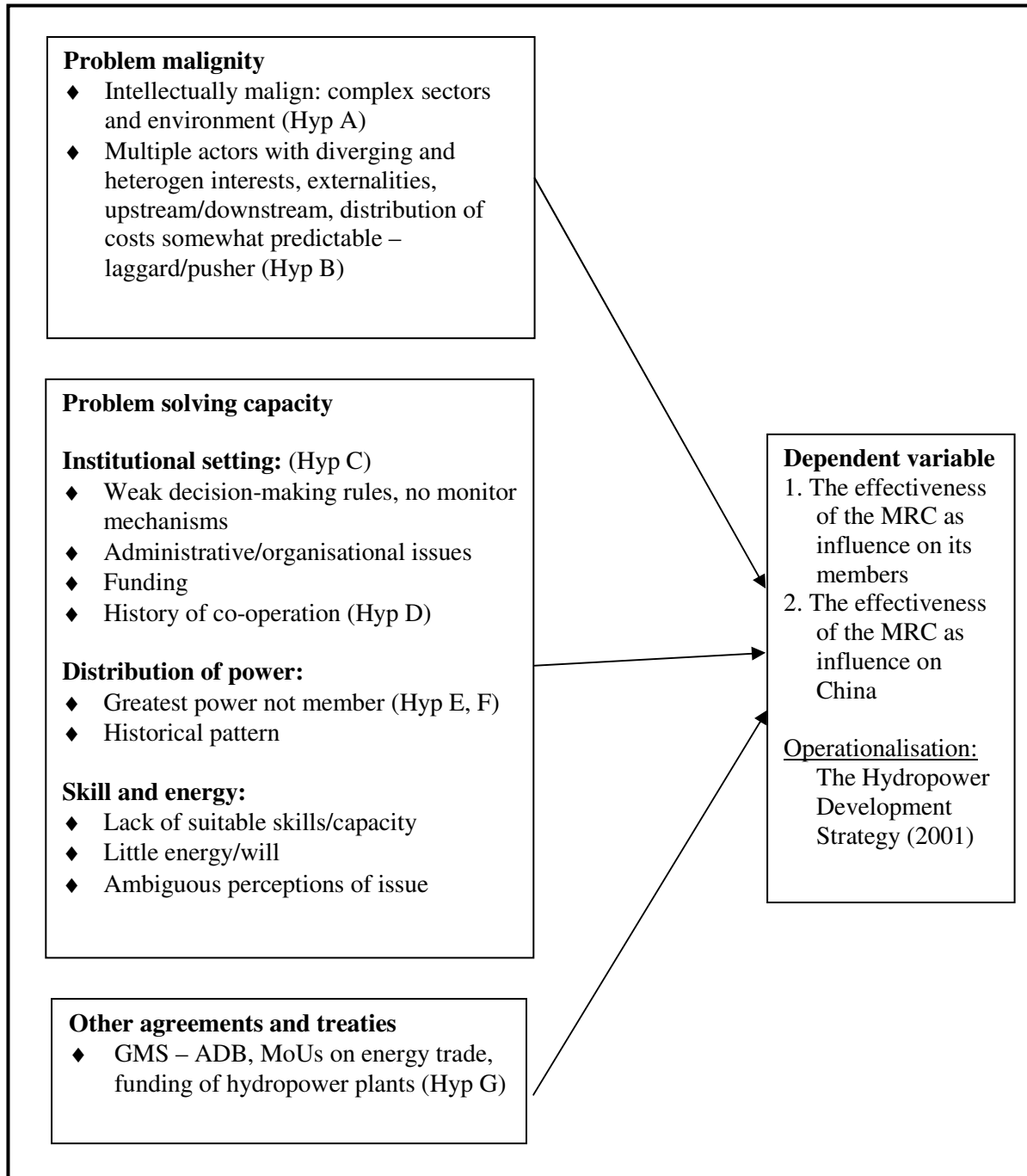
G: The other forms of cooperation in mainland Southeast Asia limit the effectiveness of the Mekong River regime.

Hypothesis B predicts the distribution of roles within the regime, whilst all the others make auguries about its effectiveness. Four of them (A, C, E and G) spells out limits on the effectiveness, whilst two (D and F) suggest factors that might influence the regime effectiveness in a positive way. The overall prognosis of the effectiveness is thus rather low.

Several other aspects of the explanatory framework might have been used to phrase the hypotheses, however, these seven aspects have been chosen because they together represent all three main categories (problem malignity, problem solving capacity, other agreements and treaties). There is one hypothesis each on the intellectual and political malignity of the regime (A and B respectively), whilst four on the problem solving capacity. Two of these relate to the institutional setting, one on the institutional setting explicitly, containing several aspects (C), whilst the remarkably long history of the Mekong regime warranted a hypothesis on its own (D). The other two (E and F) relate to the influence and relationship with China, as the relationship between the regime and the extreme upstream of the river is both important and interesting. The last hypothesis (G) is generated from the third aspect of the explanatory framework. It is important to note that the discussion later in the report will cover the explanatory framework, whilst paying special attention to the hypotheses.

As for the link between the hypotheses and the research questions, all apart from hypothesis B contribute to answering research question 1). They all, apart from hypothesis B and the two hypotheses regarding China, also provide answers to question 1a). Hypothesis B, however, relates to question 1b), whilst the two hypotheses on China link up to the research question on China, 1c).

A model to summarise the explanatory framework, indicating the location of the hypotheses is shown on the next page.

Figure 1: The explanatory framework

3 Methodology

This chapter outlines the methodology used in the research for this study: where and how the data were found, how the various sources of information affect the reliability of the data, and how the challenge of obtaining information with high validity for this particular study was approached. The chapter is divided into three main parts. Firstly, the character of the study is briefly described, placing it within the greater framework of social sciences' case studies. The second part of the chapter discusses the sources used in the study, divided into two main sections. The first one of these is concerned with the written sources of the report, their reliability and their validity. The other section looks at the material obtained through interviews, and what implications the details of the interviews, such as who were interviewed, where the interviews were made, and how they were conducted, have on the reliability and validity of the data. The third and final part of this chapter provides a summary of the methodological restrictions of the suggestions on this report, presented in bullet points. These points are important to keep in mind throughout the rest of the report.

3.1 Case study

This study is a case study, as it 'investigates a contemporary phenomenon within its real-life context, [and] [...] the boundaries between the phenomenon and context are not clearly evident' (Yin 2003:13). Furthermore, information is found in multiple sources of evidence, and the study uses established theory to guide the data collection and organise the data (Yin 2003:14). Applying a general theory, Underdal's theory of regime effectiveness, to a specific case, the Mekong River regime, implies that the study is a theoretically applied case (Andersen 1997:68). However, the study makes an attempt to develop the theory a little further, or rather adjust it, through using Underdal's model for evaluating regime effectiveness to analyse a regime with qualities that previously have not been included in this kind of studies. These qualities are the non-membership in the regime of a significant actor, China, and the scope of the regime itself, as it deals not with an issue problem as such, but rather with the management of a specific area and resource. The study will hence consider the applicability of Underdal's model to a case belonging to a broader kind of regimes.

3.2 Sources

When researching a complex case like the Mekong River regime, it is important to constantly question the reliability and validity of the data. The reliability is the trustworthiness of the information: is it true? Is this really the case?, whilst the validity of the data says something about its applicability to this particular study. There are difficulties related both to the reliability and the validity of the data gathered for this study, for instance, quite a number of the sources used for this study mention the lack of credible statistical data on basic matters such as river basin resources, water flow, fish population and its behaviour. This restrains the accuracy of the foundation on which policies are suggested and implemented, im-

plying that the consequences of the policies could be partly unknown because their effects in all areas are not taken into account. This reduces both the reliability of the material, through inaccurate observations, and its validity, as certain aspects of the Mekong River basin might be influenced by policies that they are neither incorporated into nor an explicit part of. To improve and to some extent test the reliability and validity of the data, it has been approached from several sources, triangulating the data. Confirming and reconfirming information is particularly important when studying a sensitive issue like hydropower policies. Information about controversial projects like hydropower dams is often limited to official material, and it may be difficult to obtain material from other sources about such projects in China (Heggelund 2002:10), as well as in the Mekong River regime member states. It is important to notice, however, that although the study gathered information about the same topic from different sources, it also needed to conduct research on different aspects of the overall topic. The process of data gathering has hence both attempted to confirm the same data from as many relevant sources as possible, and to collect information about related yet separate topics. For example, the Vietnamese contribution to the effectiveness of the Mekong River regime, and the Thai contribution to the effectiveness of the Mekong River regime, are two aspects of the same overall topic, the effectiveness of the Mekong River regime, but data relating to the Thai contribution does not in any way increase the reliability of the data relating to the Vietnamese contribution. Together, however, they are a part of the overall picture of the effectiveness of the Mekong River regime itself. These two processes of data gathering must not be confused. The following sections outline the strengths and weaknesses, particularly those related to validity and reliability, of the sources of evidence used for this report.

3.2.1 *Written sources*

Several kinds of written sources have been used for this report: official documents from MRC, documents written by NGOs, donors, and scholars, and information obtained through media. The *MRC Hydropower Development Strategy* from 2001 and the *Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin* from 1995 are important primary sources of information which the report rest upon. Several of the questions posed to get an impression of the effectiveness of the Mekong River regime as it is perceived and understood by the interviewees are drawn from the particular policy suggestions in the *Hydropower Development Strategy*. These policy suggestions provided a measurement stick for how well the MRC policies are implemented and embedded in the policies of the respective member countries, and allowed for a number of rather precise questions regarding policy change and adaptation in the MRC member countries as intended by the *MRC Hydropower Development Strategy*. Official documents, like this strategy and the 1995 Agreement, are both unobtrusive and exact, and, as Dahl (1967:77) suggests, created under controlled circumstances, which could enhance their reliability. However, they might also be written with a bias or a specific purpose (Yin 2003:87), or created under pressure to follow conventions to hide or ignore difficulties and disagreements (Dahl 1967:77). The last point could possibly apply to the Agreement of 1995,

which was written under pressure by the UN and donors to prevent the historical Mekong co-operation from falling apart. It is also noteworthy that the Hydropower Development Strategy was written by four foreign consultants, reviewed by a panel of local and foreign advisors. Both the Agreement of 1995 and the HDS are available from the Mekong River Commission website, however, the agreement on exchange of information between the Mekong River Commission and China from 2002 is not. I have not been able to get hold of a copy despite several requests to the MRC staff and to other contacts, and none seems to be available online.

Particularly data gathered from NGO- and donor-produced material could be problematic in terms of reliability, as they might be written with a more or less specific political agenda in mind, attempting to sway other actors. These kinds of documents are thus in danger of twisting the facts for the benefit of their agenda (Dahl 1967:73), influencing the manner in which information is presented as well as what information is put forward, and reducing the reliability of the information provided. Additionally, such documents often argue how matters ought to be, or what is problematic with the present situation, instead of stating how things are in a more balanced manner. This makes it more difficult and time consuming to find data that are valid for the evaluation of the effectiveness of the Mekong River regime in these documents. However, some of the material written by donor agencies, particularly SIDA, has provided important information for this report, as it presents a more complete image of the policies in the basin, or a more focused evaluation of the Mekong River Commission, than what other sources have done.

Academic material with high validity is available on a limited basis. There are a number of studies on the transition from the Mekong Committee, to the Interim Mekong Committee and furthermore to the Mekong River Commission, however, the effectiveness of the cooperation is only commented in smaller sections. It is also noteworthy that some of the academic material this paper is based on is working papers and unpublished work, hence reducing the reliability of the material. The lack of sources of information with high validity has made it necessary to rely on these kinds of sources, even if it reduces the trustworthiness of the suggestions made by this report.

Some of the written material on which this study is based, is classified as 'restricted', and has not been available through public channels. These documents have mostly been bought in a peculiar little bookstore in Vientiane that sold public as well as restricted copies of government and donor reports. In my opinion, this is an indication of the secrecy and sensitivity that characterises the politics of the Mekong region and of the difficulties of obtaining primary sources.

3.2.2 Interviews

The data in this report are partially drawn from a number of interviews conducted in China and the Mekong River Basin in January-February 2006. The journey was financed by grants from the Department of Political Science at the University of Oslo, The Norwegian State Educational Loan Fund, The Fridtjof Nansen Institute and UNIFOR. This did

not seem to sway the interviewees. There are a number of methodological difficulties raised by the process of gathering data for this report through interviews, addressed under the appropriate headings below.

Who?

When analysing policies in five different states, it is difficult to get an overview of who knows what, and who it is appropriate to talk to in order to gain access to relevant information. The character of the topic made it necessary to try to interview representatives from both the governmental sector, the civil sector, donors and locally based academics in all MRC member countries, Beijing and Yunnan. A variety of perspectives from people from different segments of society increases the reliability of the data (Rubin and Rubin 2005:67). Nonetheless, mapping who within these sectors in the different states would be most appropriate to talk to is a daunting task, requiring more time than what the scope of this study allowed. The attempt to find, get in touch, and organise a meeting with all these people was bound to be less than 100% successful. The selection of sources of information was therefore to some extent characterised by chance, because it is partially luck to discover who has the most appropriate knowledge. Lists of participants from various international conferences and meetings, discovered on the internet, proved to be of great help when mapping out who has the appropriate competence and finding their contact details. However, not all relevant people once identified and approached, were willing to talk to a master student or a researcher, as I sometimes introduced myself as. Time is precious and many of the relevant people are busy, hence, the selection of available people was smaller than what a perfectly planned fieldwork would allow for. Even though the selection was done paying as much respect to representativity and relevance as possible, their acceptance of the invitation to talk about Mekong issues is beyond my control. This reduces the chances of gaining access to the appropriate persons, possibly decreasing the reliability of the data as well as the chances of obtaining data with a high validity.

Nonetheless, there are two aspects that helped prevent the negative effects of the size of the populations which the interviewees have to be drawn from, and the difficulties of having access to the appropriate persons. *Firstly*, I have quite a few contacts in the environmental government and civil sector in the MRC member countries from my internship at the *Thailand Environment Institute* in Bangkok, where I amongst other tasks organised the *Second Regional Environmental Forum for Mainland Southeast Asia*. This was important as it gave me a clue of where to start when contacting people, and meant that I had met and communicated with quite a few relevant interviewees. When planning who to interview, I often started by looking at my contacts in the relevant sector and country, and emailed these persons with information about my research. I asked whether they would be able to talk to me about these issues, and if they were not, whether they could suggest someone else that would be. In many cases, my own contacts agreed to meet me. In this manner, my network enabled me to meet more relevant people than what I probably could have done otherwise, and allowed for some sort of control of whether they were able to provide information with high validity. *Secondly*, one of my supervisors for the thesis on which this report is

based has worked with Chinese environmental issues for twenty years, hence, I was able to receive suggestions from her and her contacts on who to interview in China. I also contacted a Swedish academic, Joakim Öjendal, who has written a Ph. D. on the Mekong River (Öjendal 2000), presented my topic and asked for his suggestions on who to interview. These suggestions were given high priority when choosing who to approach with a request for a meeting. I believe that these two factors together made me able to get in touch with persons that could provide more valid and reliable information, and know better who would be able and willing to provide this information, than what otherwise might have been the case. This is not to say, however, that there are other people that could have made significant contributions to the study, had they and I been given the chance, but given the scope and prerequisites of this report, I believe the selection of interviewees was done in a controlled manner as possible.

Where?

Given the topic of this study, it would have been appropriate to visit and make interviews in all the MRC member states. Nonetheless, this was unfeasible due to restrictions on time and financial resources. Interviews were done in Beijing, to get the official Chinese view on Mekong matters, and in Kunming in the Yunnan province, to have views from the regional Chinese level. Furthermore, interviews were conducted in the Lao capital of Vientiane, where the Mekong River Commission headquarter is situated, which enabled me to talk to both international NGOs in Lao PDR, independent researchers, and to the Lao National Mekong River Committee Secretariat, in addition to staff of the Mekong River Commission Secretariat. It should be noted that the civil sector in Lao PDR is both small and restricted, hence it is more difficult to obtain reliable information from alternative sources there than in some of the other MRC members. The last interviews took place in Bangkok, Thailand, where I met with locally based academics, international NGOs, the ADB, donor representatives and the Thai National Mekong River Committee Secretariat. It is a weakness of this report that representatives from Vietnam and Cambodia were not interviewed, however, the scope of the study necessitates such shortcuts, even though the price is paid in reduced reliability. Nonetheless, there are certain points that make it appropriate to chose Thailand and Lao PDR, if only two of the MRC members may be visited. *Firstly*, the two represent two different forms of government, democracy and socialist republic respectively. It is important that both these are included to have a chance of indicating whether system of government influences the effectiveness of the Mekong River regime upon its members. *Secondly*, Thailand and Lao PDR are very different when it comes to economic strength, and hence, they will provide an indication of how much this matter in relation to the effectiveness of the Mekong River regime. *Thirdly*, their positions along the Mekong River make them important to visit. Thailand, as the most upstream of the MRC states, has the least incentives to adhere to the Mekong River regime. If she adjusts to these policies, it will indicate that the regime is effective to some extent. Lao, on the other side, is the country with the highest potential for hydropower development of the members. Many of the planned hydropower dams are situated in Lao PDR. Her compliance with the regime is

thus significant in order to have an indication of the scope of the effectiveness of the regime, to how general its influence is. It thus seems as even if it would have been best to make interviews in all four MRC member states, it is possible to make some suggestions regarding the effectiveness of the Mekong River regime based on information gathered from interviews with Lao and Thai representatives only. Though it is a flaw of the study, it is a justifiable one.

How?

The interviews were conducted in English, sometimes helped by French vocabulary. It would obviously have been better to conduct the interviews in Mandarin, Lao, and Thai, however, this was not possible. Not conducting the interviews in the interviewees' native language is likely to have reduced the reliability of the data obtained. Nonetheless, as the Mekong River Commission is an international organisation, with English as its working language, those that work with the organisation are used to express themselves in English when discussing MRC matters. This reduces the negative effect of not using the interviewees' native language. Additionally, I have studied in China, and held an internship in Thailand, so I have some relevant cultural competence for the areas visited. This enabled me to decode the interview situation and behave in an appropriate manner in order to get as much information as possible.

Upon request, the interviewees received information about the topic of the study and summary of the subjects that were to be discussed during the interview. This was both problematic and beneficial, problematic because they were able to prepare the answers in advance, and hence only state what is 'politically correct', but beneficial because this also gave them time to consider the questions, find appropriate answers and necessary information. If the interviewees did not want information about the project prior to the interview, I started the meeting by providing a brief outline of the purpose of the study and its variables, to ensure that the interviewees understood the purpose of my questions. This was particularly important when approaching sensitive issues, as it allowed me to hint at topics without necessarily asking direct questions, and the interviewees to answer in an equally subtle manner. This is obviously problematic for the reliability of the information obtained, however, the sensitive nature of the study as well as cultural norms necessitated this approach.

The interviews were based on an interview guide, composed of similar yet differing questions depending on who was to be interviewed. It is therefore possible to compare the different interviewees' answers. I had a flexible approach to my interview guides which, according to Thagaard (2002:85), ensures that the questions are relevant for the interviewee's position. I tried to achieve this without compromising on the core issues. The questions were designed to cover certain aspects of the effectiveness of the Mekong River regime, based on my impression from the written material I had studied prior to the fieldwork. My aim was 'not to restrict or predetermine the responses but at the same time cover the research concerns' (Rubin and Rubin 2005:135). The questions were open, letting the interviewee talk about what issues felt appropriate, but with enough

structure to guide the conversation in order to obtain relevant and valid information. When I had conducted a fair number of interviews, I started to ask the interviewees to comment on information obtained in previous interviews. This enabled me to control the reliability of the information, but it also meant that the structure of the interviews changed somewhat as I went along. As for the most sensitive issues, I tried to approach them as carefully and gently as I could, often introducing them in an indirect fashion, which, as Rubin and Rubin argues (2005:119), gives the interviewees the option to discuss them or not. The cultural norms in Asia required me to ensure that nobody would 'lose face' if they were unwilling or uncomfortable discussing a topic, this approach is hence appropriate. If the interviewees provided an answer to the touchy theme, I proceeded with more direct questions on the matter. If not, I let it drop, and made another attempt at a later stage in the interview if it felt suitable. I took notes during the interviews, and then transcribed the notes to interview summaries within 12 hours of the interview. Recording the conversations would have made the data more reliable, however, the sensitivity of the issue made this difficult if I had any aspiration of getting more information than the 'official version'. The interviewees were allowed to remain anonymous for the same reason. This represents a dilemma: anonymous sources reduce the reliability of the data, but ethically sound research must protect the identity of the interviewees when the information they provided might be used against them (Thagaard 2002:24). The sensitive character of the topic made me accept this as a necessary precaution to protect the persons I met and talked with. It was a choice I made to obtain information as accurate as possible on the situation in the Mekong River basin, even if it does make my results less trustworthy. To ensure that the study can be replicated, however, I have given each interviewee a random number, and the statements may be compared to my notes that have been made anonymous. The names and positions of the interviewees are listed in alphabetical orders at the end of the report. The numbers do not correspond with the list. It is important to notice, however, that anonymous sources are rather the rule than the exception in research on the Mekong River basin politics.

3.3 Methodological restrictions

The main restrictions on the suggestions in this report as a result of the methodology applied and the sources used, are

- Lack of representativity of the interviewees means that the results might be less reliable for Vietnam and Cambodia than for Thailand and Lao PDR.
- Scarcity of academic material with high validity made it difficult to confirm all information, reducing the general reliability of the suggestions.
- A certain degree of unrepresentativeness in the selection of interviewees implies reduced reliability of the data.
- Previous experience in the region, valuable contacts and suggestions from interviewees of whom it would be appropriate to meet with, ensured that I have been in touch with quite a few of those that are

considered to possess knowledge and competence relevant to the study.

- Experiences and cultural competence of the region made sure I was able to approach and talk to the interviewees in an appropriate manner, obtaining as much information as possible in a culturally sensitive manner. This proved to be particularly important regarding the sensitive issues.

4 Empirical background and findings

This chapter sets forth the empirical background of the Mekong River regime and the findings from the fieldwork and interviews. It starts by presenting the Mekong River and its geographical and hydraulic qualities, supplemented by a map indicating the basin area, to provide a foundation for the following parts of the chapter. The first concentrates on the Mekong River Commission itself; the history of the cooperation, the 1995 Agreement, which is the backbone of the present phase of the regime, and the organisational structure and funding. Then, the implementation or follow-up of the Hydropower Development Strategy is described, before some of the perceptions about the regime and its organisation that were gathered during the fieldwork are outlined. These sections relate to the regime itself. The next parts of the chapter present the empirical background and findings on the riparians: Thailand, Lao PDR, Cambodia, Vietnam and China. Each state has one section that is divided into the following sub-sections: political background, geography, political relations to the region, relationship to the MRC, and perceptions of the MRC. Together, this forms the background on which the analysis in the next chapter rests.

4.1 The Mekong River

The Mekong River runs for about 4,400 km through the South East Asian mainland, which makes it the 12th longest river in the world (see map following page). The basin covers 795,000 km², and is inhabited by approximately 70 million people of various culture, ethnicity and language. There are six riparian countries, and they differ from other post-colonial states in that they were 'established political entities' before the European colonisation of present Vietnam, Cambodia, Lao PDR and Burma (Dosch and Hensengerth 2005:265). Thailand and China were never formally colonised. The source of the Mekong River, only determined with certainty in 1994 (Osborne 2000:12), is located in the Tibetan mountain plateau 4,975 meters above sea level (Makim 2002b:7, footnote 8), but the river falls rapidly through steep valleys and gorges on its way through China. At the time it leaves the upper Mekong Region, the river is only about 500 meters above sea level (Browder 1998:35), and turns into a wide, docile-looking body of water, occasionally interrupted by rapids and falls. As it enters Vietnam, it spreads out into a delta with numerous waterways leading to the South China Sea. Within the basin, snow where rainwater may be stored is only found in the Tibetan mountains, and the river therefore experiences significant contrast between the wet and the dry season (Browder and Ortolano 2000:501). The wet season from May to November with floods peaking in September-November may account for 85-90% of the total flow of the river (Dore 2003:423). This causes the river level to change up to 14 m in some locations (Yu 2003:1223). During this wet season, the massive amount of water in the Mekong River mainstream forces the Tonle Sap River, which normally empties the Tonle Sap into the Mekong River at a river junction by Phnom Penh, to reverse its direction and fill the lake with water from the Mekong River. The coverage of the lake then expands from approximately 2,000 km² at its lowest to 10,000 km² or more during the wet

season (Browder 1998:36), and the depth increasing from about one meter to ten meters (Osborne 2004:4). This seasonal phenomenon is one of the qualities that makes the Mekong River basin unique, and allows for ecosystems that have adapted to this special pattern. However, data describing the environment and ecosystem in the region is generally inadequate or even nonexistent (Lebel, Garden, and Imamura 2005;; Öjendal and Torell 1997:25, 113), and the capacity of the state agencies in the region to collect information is modest (Lebel et al. 2005). The river is navigable from the sea only up to the northern parts of Cambodia, as the Khone Falls on the Lao-Cambodian border and a sequence of rapids in the northern parts of Cambodia prevent all ships from sailing further up the river. There is no development of significance on the mainstream and the basin is relatively untouched apart from the present hydropower development in China. This is mirrored by the human resources situation, as persons from the region with suitable education or training on river management are scarce (Bakker 1999:218; Öjendal and Torell 1997:149). The poverty rates in the region are high, more than 35% of the population in Vietnam, Cambodia and Lao PDR, and 16% in the Thai area of the basin (Osborne 2004:3). The Mekong basin is marked by ethnic and cultural diversity with more than 100 ethnic groups living within the boundaries of the basin (Cogels 2005). The six riparian states have differing languages and script and cannot communicate in their native languages³, and there are a number of minority languages and tribes in addition to the riparian nationalities. A large majority of the basin inhabitants, about 85%, 'make their living directly from the natural resources base' of the basin (Jacobs 2002:356). The total hydropower potential of the river is estimated to be 285TW (terawatt) (Yu 2003:1223).

4.2 The Mekong River Commission

4.2.1 History

The lower Mekong River riparians have cooperated for decades. The *Committee for Coordination of Investigations of the Lower Mekong Basin*, known as the *Mekong Committee*, was initiated by the UN in 1957, with the twofold purpose of supporting non-communist countries and promoting economic development in the region (Öjendal 2000:110), although neither Burma nor China were included in the planning efforts. Burma was not interested, whilst China was not a member of the UN at the time and therefore excluded (Jacobs 1995:139). The founding members of the Mekong River cooperation are thus Thailand, Lao, Cambodia and South Vietnam. Three important studies were conducted under the umbrella of the Mekong Committee: an ECAFE study, The Wheeler Report and The White Report (Jacobs 1995:139). They aimed at mapping the potential primarily for hydropower development in the region and improve the natural resources and economic database. However, war and unrest prevented any large-scale plans from being realised as the US military involvement in the region escalated from the mid 1960s. The communist takeover of power in Lao PDR, Cambodia and a united Vietnam in the mid 1970s changed important preconditions for the Mekong cooperation, however, Vietnam, Lao PDR and Thailand continued to cooperate in an Interim Mekong Committee. The Cambodian government, headed by Pol Pot from the genocidal Khmer Rouge, was absent

Map 2: The Mekong River Basin
 Map from the MRC/Nhan Quang



and did not respond to invitations from the others. This absence also implied a continued halt to the regional development plans, a situation which pertained throughout the 1980s. With the readmittance of Cambodia to the international society in the early 1990s, the cooperation in the lower Mekong River basin was reinvigorated, and after difficult negotiations, the *Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin* was signed by all four governments in 1995. This agreement spelled out new organisational arrangements and goals for the cooperation, explained below.

4.2.2 *The 1995 Agreement*

The Mekong River regime is based on the *Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin*, signed by the four participatory sovereign states: Thailand, Lao PDR, Cambodia, and Vietnam, on April 5th 1995 in Chang Rai, Thailand. The Agreement spells out the areas of cooperation (Article 1), the institutional framework (Chapter IV), the budget and sources of funding (Article 14), how to deal with differences and disputes (Chapter V) and other proceedings (*The Agreement* 1995), and provides the basis for the cooperation referred to as the Mekong River regime. It is an overarching structure that addresses river and water issues in a basin perspective (interview 3.1, interview 3.2, MRC 2005a), but emphasises respect for the sovereignty of the signatory states, and is not granted enforcement power (interview 3.1, interview 3.5, interview 3.6, interview 4.1, interview 4.5, *The Agreement* 1995:Article 4). 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’ (*The Agreement* 1995:Article 4). Implementation of policy recommendations rests with the member states (interview 3.1, interview 3.4), and the organisation ‘has no mandate to act on its own in any fashion that has not been approved by the member countries’ (Osborne 2004:9). As mentioned previously, the regime has a wide scope and aims to cooperate in areas such as navigation, hydropower, fisheries, irrigation timber floating and fisheries. The MRC holds the status of an international body and may enter into agreements and obligations with the international community and donors (*The Agreement* 1995:Article 11).

The decision making rules for the parties’ use or diversion of the water from the Mekong River depend on both season and location of the development on mainstream/tributaries as stated in the Agreement of 1995. The strictest restrictions relate to inter-basin diversion during the dry season, which is only allowed if agreed upon by the Joint Committee through a specific agreement for each project (*The Agreement* 1995:Article 5, B 2 b). Other projects for use of the water require either prior notification or prior consultation, but the parties have no right to veto any development project (*The Agreement* 1995:Chapter II, ‘Prior consultation’).

4.2.3 *The organisation*

The Agreement of 1995 describes the structure of an international body with three permanent sections: a council, a joint committee, and a secre-

tariat (*The Agreement* 1995:Article 12). The Mekong River Commission (MRC) is the term used to describe the whole body with all three sections, while the Mekong River Commission Secretariat (MRCS) denotes the permanent secretariat. The secretariat's office is located in Vientiane, Lao PDR, it moved from Phnom Penh in 2004⁴. The Secretariat is staffed with riparian citizens in equal number (*The Agreement* 1995:Article 33) and foreign experts, whilst the CEO and program coordinator posts are to be held by 'foreigners' (interview 3.5). The cooperation is organised into four Core Programmes, one Support Programme, and five Sector Programmes (MRC November 2003), and the 'organisation itself has undertaken a radical restructuring to lay the basis for a modern river basin management body' (MRC 2005b). Each programme has its own contact network and sources of data, and there is little communication between them (interview 3.5).

The MRC appointed a new CEO in summer 2004 who brought noticeable changes to the profile of the organisation, shifting emphasis from knowledge and capacity building to development and investment facilitation (interview 3.4, interview 3.5, interview 3.6, interview 4.1, interview 4.2, interview 4.4).

The MRC relates to the member states' governments through National Mekong Committees (NMC), who coordinate MRC programmes at the national levels, and provide a link between the national ministries and line agencies (MRC 2005a). The setup of the NMCs is not uniform, but varies between the member states (interview 3.4, interview 4.4).

The MRC relates to other organisations through partnerships on specific projects, research or MoUs. Some, such as the ADB, ASEAN, the World Bank, IUCN and WWF, have been granted observer status, which gives them right to participate in all formal MRC meetings (MRC 2005d). The MRC and the ADB also has concrete technical cooperation, and the ADB funds the Flood Management and Mitigation Programme (interview 3.5).

Funding

The Mekong River regime has historically been financed by the UN and the international community, but, as Jacobs (1995:142) suggests, Thailand also contributed substantially to the early phase of the regime. The Mekong cooperation had received almost US\$ 50 millions (1992 dollars) from the UNDP by 1992 (Browder 2000:248), which makes it the UNDP's 'single largest program commitment' (Makim 2002b:31, footnote 73). Currently, the signatory states provide a little more than 45% of the operating expense budget, that is, the budget of the Secretariat itself, without the costs of the programmes (MRC 2004:77). The donors' grants were a little less than US\$ 13 millions in 2004, whilst the riparians' contribution was slightly more than US\$ 1 million (MRC 2005c:42). As for new funding agreements concluded in 2004, the Netherlands stand out with a donation slightly above US\$ 14 millions, whilst Sweden has granted US\$ 4,7 millions, Germany US\$ 3,5 millions, Finland US\$ 2,3 millions, and Denmark has pledged US\$ 11,2 millions (MRC 2005c:41). The donors provide funding to the MRC on a program basis and support the programs of their choice (interview 4.4).

4.2.4 *Follow-up of the Hydropower Development Strategy (HDS)*

The development of *Rules for Water Utilization and Inter-Basin Diversions*, as specified by Article 26 in the 1995 Agreement and briefly referred to in the HDS (MRC 2001a:64) are on schedule and will probably be ready in 2006, with three of five procedures already approved by the Joint Committee (interview 3.3, interview 3.6, MRC 2001b, 2003a, 2003b). The member countries have not defined the exact dates of the wet and dry season within the context of the flow regulations (interview 4.1), as the *Procedures for notification, prior consultation and agreement* state that the 'MRC JC [Joint Council] will decide on the actual dates of the start and the end of the wet and dry seasons' (MRC 2003a:section 1). A precise definition of 'tributary' is also left for later: '[f]or the purposes of the present Procedures, a tributary as decided by the JC is a natural stream of the Mekong River System whose flows have a significant impact on the mainstream. This definition is subject to be reviewed and agreed upon after some time of implementation is any concern is raised' (MRC 2003a:section 1). What is to be counted as *significant*, is, however, not specified. The upstream countries wants a more limited definition than the downstream ones (interview 4.1).

The hydraulic model of the Mekong River is very close to completion (interview 3.3, interview 3.6). The Chinese parts of the river are not included in the model (interview 3.3, interview 3.6, Halcrow Group Ltd 2004:i), although the model has made assumptions on the operations of the Chinese dams for its impact assessments (interview 3.6). At the Annual Dialogue meeting with China and Burma in 2004, the Chinese statement had not mentioned the building of seven new dams that were publicly announced the following week (interview 4.2). The model is organised so that each member state has one copy and may conduct analyses in private, before sharing the results with the other member states (Halcrow Group Ltd 2004:6).

The transboundary guidelines for EIAs are currently being formulated (interview 3.1, MRC 2005f). The information base on the Mekong River is also almost complete, though the MRC member countries refuse to make it public for security reasons (interview 3.5). The MRC has established transboundary working groups to control the water quality on the Mekong River (interview 4.5), and the Appropriate Hydrological Network Project has conducted national training programmes. Data centres have been commissioned and are ready for local staff to move in (MRC 2005c:22).

4.2.5 *General perceptions of the MRC and the Mekong River regime*

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 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 organisation has focused on gathering data and building capacity because these areas are less sensitive (interview 3.2), but it also aims to

build trust between the member states. The region is marked by ‘genuine, recent, bad blood’ (interview 4.2). It was claimed that the regime relies on a unique ‘Mekong Spirit’ that has been created after decades of cooperation (interview 3.3, Öjendal 2000:113) and a special wish to cooperate (interview 4.5). The new CEO has, as mentioned, shifted the focus of the organisation, a move which showed to be somewhat controversial and was perceived or described negatively by several interviewees (interview 3.4, interview 3.5, interview 4.1, interview 4.4, interview 4.5).

The limited definition of tributary the MRC currently uses implies that the MRC has made itself irrelevant to much of the development work financed through other channels such as the ADB or Chinese private sector (interview 4.2). It also gives the member countries incentives to develop tributaries because they are excluded from the Agreement of 1995, and hence 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 suggested by the donors (interview 4.4) and by Thailand (interview 4.1). It was also suggested that the effectiveness of the regime varies not with the member countries, but rather with the different sectors and programmes. This is because capacity varies within the member countries, where some sectors are better equipped to deal with transboundary issues than others (interview 3.1).

The MRC Hydropower Development Strategy was described as an outdated document that had not had any influence on hydropower policies in the region at all (interview 4.2), and the hydropower programme of the ADB was considered more vibrant than the HDS (interview 4.1). It was also suggested that it the HDS is not moving forward smoothly, primarily because some of the member states have the resources to fund their own projects. This means that they do not need to adhere to the MRC recommendations (interview 3.3). Some of the National Mekong Committees have also expressed concern that the HDS has not materialised into concrete projects (MRC 2004:56).

It was also mentioned that ADB’s GMS projects have a stronger character of individual projects on a national basis and do not have general overarching structure like that of the Mekong River regime (interview 3.1, interview 3.2, interview 3.4) nor any regulatory functions (Osborne 2004:7).

My impression of the regime is one that struggles to dominate the space which the Agreement of 1995 has provided. It has the potential, but is not allowed by the members to be the policy-recommending body which it could have been, and has therefore disappointed many. Nonetheless, it is able to make concrete achievements in certain areas, particularly relating to collection and processing of information.

4.3 The riparians

4.3.1 Thailand

Political background

Thailand, a constitutional monarchy, was never colonised by western powers. After being on Japan's side in the Second World War, she turned to the West and strengthened her ties to the US (Makim 2002b:11). Thailand was of strategic military importance to the US during the US-Vietnamese war (Yu 2003:1224), and she has remained allied to the West and US since. Her recent history is a patchwork of military coups and democratic rule with bloody student uprisings in the 1970s and 1992. The current constitution from 1997 is designed to ensure political stability and political leadership rooted in a popular mandate, and affirms the right to public participation and consultation. This means that prior to major public commitments Thailand is obliged to go through a process of public hearings and consultations. Her NGO community is more vibrant and influential than in the other Mekong riparians (Brady 1993:107; Lebel et al. 2005.; Tarr [1998]:6). Although Thailand is a democracy and the responsibilities for running the country lies with the elected politicians, the royal family, and especially King Phumiphon, are widely admired and respected. It was the interference by the King during the previously mentioned uprisings that brought the conflicting parties together and reintroduced orderly conditions. Thailand experienced an enormous economic growth during the 1980s and 1990s, diversifying the economy and establishing herself as a newly industrialised country. However, the 1997-98 Asian economic crisis had a severe impact on Thailand, reducing the GDP by 10,5% in 1998 (Turner 2006:1582), but she seems to have recovered since then (Central Intelligence Agency 2006d), and is presently the strongest economy in the sub-region (Krongkaew 2004:980). Thailand has a little more than 60 million inhabitants, and approximately 40% of the labour force are employed in agriculture, hunting and forestry⁵ (Turner 2006:1580, 1584). The GDP per capita is \$ 8,300, adjusted for purchasing power parity⁶ (Central Intelligence Agency 2006d).

Geography

Approximately a third, 36% (Dore 2003:423), of Thailand lies within the Mekong River basin, although the majority of this is in the remote, draught-ridden and lesser developed Isan region in the North-eastern parts of the kingdom, also known as the Korat Plateau. Approximately half of Thailand's arable land is located in this region (Makim 2002b:29, footnote 68). Thailand has made extensive irrigation plans to transfer water from the Khong River, a Mekong tributary near Nong Khai/Vientiane, through the Korat plateau and into the Chi and Mun Rivers leading the water back into the Mekong River in the very south of Lao. The transferred water will be used to irrigate the land (Hirsch 2001:247). Thailand had developed all sites with hydropower potential in this area by the early 1990s (Browder 2000:242).

Political relations to the region

Thailand was one of the founding members of ASEAN in 1967. She is a member of the so-called Golden Quadrangle, the *Agreement on Commercial Navigation on the Mekong-Lancang River* concluded in 2000 between China, Lao PDR, Burma and Thailand that aims to make the upper parts of the Mekong River navigable all year round. The navigation channel was, however, not completed, partly due to resistance from Thai civil society (interview 4.5, Dore 2003:428), but officially because Thailand needed to establish the boundary (which is the thalweg) with Lao PDR (Osborne 2004:27). Thailand has an MoU with Lao PDR from 1996 to buy 3000 Mw from Lao hydropower dams (interview 3.3, NTPC 2005a). The Electricity Generating Authority of Thailand, EGAT, has provided the majority of the funds for several dams in Lao PRD, expecting electricity deals in return (interview 4.5). Further details on this are provided 0 below. Thailand wants to construct a regional power grid for regional power trade (interview 3.3). Thailand also funds hydropower dams in Burma, on the Salween River, and in China (interview 3.5, interview 4.5). Thailand and China have signed an MoU about trade in electricity, where Thailand states her intention to purchase up to 3000 megawatts generated by the Chinese hydropower dams on the Mekong River (Dore 2003:431-2). EGAT has agreed to partially finance some of the dams, and the Thai company MDX Power is developing the 1500MW Jing Hong hydro project in Yunnan (Yu 2003:1225), which is also supposed to supply Thailand with power (Lebel et al. 2005.; McCormack 2001:16; Osborne 2004:12). This implies that Thailand recognises China's right to develop her parts of the Mekong River (interview 1.3, interview 3.5, Dore 2003:432). However, some of these projects have been postponed because of the Asian economic crisis in 1997-98 which hit Thailand particularly bad. Despite increasing economic relations with her neighbours, there has also been tension resulting in violence the past decades. Thailand and Lao PDR fought a brief war on border and refugee issues in the late 1980s, and, as Dosch and Hensengerth (2005:276), remind us of, Thailand and Cambodia experienced outbreaks of mutual hostilities in January 2003. Nonetheless, cooperation may still take place at a lower scale. Laotian and Thai villages on opposite banks of the Mekong River are reported to have collaborated to request Chinese ships to sail at reduced speed, as their wakes accelerate bank erosion (Lebel et al. 2005).

Relationship to the MRC: giving, but not giving in

Thailand provides technical expertise and capacity to the MRC cooperation (interview 3.2), and has not been as dependent on it for funding and technical assistance as some of the other members (Browder 2000:243). She would like China to become a member of the MRC, possibly because she will be most affected by alternations in the flow regime caused by Chinese development (interview 3.4, Browder 2000:247; Browder and Ortolano 2000:516).

Thailand refused to sign the *Procedures for Notification, Prior Consultation and Agreement* at the council meeting in 2004, citing her need for extensive public hearings, but also suggesting that the procedures were

useless without Chinese participation (interview 3.4). The lower Mekong riparians will need to adjust their behaviour to the Chinese water policies (interview 4.1), and Thailand therefore prefers a framework for the cooperation instead of strict regulations. The Agreement of 1995 is regarded as adequate (interview 4.1). Browder (2000:257), speaking of the negotiations prior to the 1995 Agreement, has 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'. It has also been suggested that Thailand fears that regulations might restrict her freedom of action, especially related to future water diversion projects (Osborne 2004:8).

Due to the extensive Thai system of public consultation, Thailand requires more time than other MRC members before she can commit to MRC policy recommendations and suggestions (interview 3.1, interview 3.4).

Thailand has benefited substantially from the MRC cooperation in the past (interview 4.1). During the 1960's and 1970's, when war and unrest raged in other parts of Southeast Asia, Thailand was comparatively peaceful and hence accessible to development projects, sparking her economic development (interview 4.1). She received funding and technical support from the World Bank and the US, resulting in several hydro-power and coal fire power plants (Yu 2003:1224, 1226).

Perceptions of the MRC: 'demanding downstreamers'

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). The strength of the Thai economy and state 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). She 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 Thai parts of the Mekong basin are peripheral and underdeveloped, the Mekong Cooperation receives less attention from the government in Bangkok (interview 3.2, interview 4.4, interview 4.5).

Summing up, Thailand gains leverage and prestige as a fairly rich democracy with a developed market economy and as the furthest upstream of the regime members. She could be well off without the regime, but is happy to share capacity to help the other members. She is nonetheless not willing to uncritically adopt regime policy suggestions herself, and uses her status as a democracy in need of public hearings to postpone decision-making on these issues.

4.3.2 *Lao PDR*

Political background

Laos gained full independence from France under the 1954 Geneva Accords (Jacobs 2002:357). From 1953 there was an almost continuous civil war between groups supported by the communist North Vietnamese and groups supported by the US and Thailand (Turner 2006:1030) until the communists gained control of all of the country in 1975, and formed Lao People's Democratic Republic. The communist government sided with Soviet in the Sino-Soviet split together with Vietnam, and has been heavily influenced by the latter (Brady 1993:89; Central Intelligence Agency 2006c; Pouvatthy 1986:450; World Encyclopedia 2005a). Laos also has historical ties to Thailand (Krongkaew 2004:980). The Thai influence is increasing, causing friction with Vietnam (Brady 1993:89). The Lao leadership initiated an economic reform in 1986, called the *jintanaakān mai* (New Economic Vision), which moved the economy from central planning to market-orientation (Krongkaew 2004:981). Lao PDR has less than 6 million inhabitants, of which approximately 80% live in rural areas (Turner 2006:1030), and more than 75% of the economically active population is engaged within agriculture, fishery or forestry (Turner 2006:1033). The income per capita is \$ 1,900 adjusted for purchasing power parity (Central Intelligence Agency 2006c). The legal system in Lao PDR is young, as the constitution is from 1991, most of the approximately 50 laws are developed after 1991, large sectors are not regulated, and the status of international law is not clear (Embassy of Sweden, Vientiane 2004:30). The Laotian government is aware of the process of public participation that is granted by the Thai Constitution of 1997 and the manner in which the participation takes place, however, there is no desire to open up for similar processes in Lao (interview 3.5) and there is at present little popular pressure for change (interview 4.4). The country has remained fairly closed and imposes restrictions on civil society, although international NGOs have been allowed to work in the country (Embassy of Sweden, Vientiane 2004:25). It has been suggested that the Laotian government is corrupt at an increasing rate (interview 3.5, Embassy of Sweden, Vientiane 2004:29).

Geography

Landlocked Lao PDR is one of the smallest members of the MRC, and the Mekong River mainstream and tributaries drain 97% of her territory (Dore 2003:423). Large parts of the country are mountainous, while the most fertile areas are found on the plains next to the Mekong River. She has an abundance of unexploited water resources, which gives her a central position in the future use of the water (Cheong 1998:222-223). Ex-

exploitable hydropower on the major Mekong tributaries are an estimated 13,000MW, whilst the mainstream estimations are 8,000MW (although some of this is shared with Thailand) (Pholsena and Phonekeo 2004:2). Presently, only 671MW are harnessed (Pholsena and Phonekeo 2004:3).

Political relations to the region

Lao PDR became a member of the ASEAN cooperation in 1997, and she is a party to the navigation agreement, the Golden Quadrangle, for the upper parts of the Mekong River where Thailand, China and Burma also participate (interview 3.1). The work to make the river navigable all year round has come to a halt apparently because of a border dispute between Lao PDR and China after a border marker in the river was blown up (interview 3.5), but it also refuelled a dispute with Thailand regarding the demarcation of the borderline (Lebel et al. 2005). The relationship with Thailand has also been strained by border disputes, refugees and Lao accusations of Thai support of insurgents (Makim 2002b:35, footnote 86). There is some concern that Thailand is increasingly trying to exercise economic influence over Laos (Hirsch 1995:254). Some interviewees pointed out the investments from Thai private companies in the Laotian hydropower sector as a tactic to ensure that the power produced will be available to Thai companies (interview 3.3, interview 4.5). It has even been suggested that almost all of the output from her hydropower plants would go to the Thai power grid (interview 4.1, Boyd 2002:; Usher 1996:131). The Thai power company, EGAT, is for example involved in the Nam Theun 2 dam project, a fairly big project, financed by institutions such as the Agence Française de Développement (AFD), the Nordic Investment Bank, the ADB and the World Bank's International Development Agency (NTPC 2005b). The Thai MDX group participates through a sub-company called GMS Power in a project located in the same watershed, the Nam Theun-Hinboun Dam (Hirsch 2001:243), which power is primarily destined for export to Thailand (Osborne 2004:35).

The World Bank is regarded as an important actor in Lao development policies (interview 3.3), and financial guarantees for development projects by international financial institutions remain crucial (Lebel et al. 2005). Lao earns a substantial amount of her foreign exchange from the sale of hydropower to Thailand (Tarr [1998]:3). She also receives investment from China, for example, the Nam Mang III dam is funded by Chinese investors (interview 3.5, Wong 2001:28), and China was apparently prepared to provide the necessary financial guarantees for the Nam Theun 2 if the World Bank backed down (Osborne 2004:37). Vietnam is eager to remain influential in Lao PDR (interview 3.5). A Memorandum of Agreement between the two, where Lao promises to sell between 1,500 and 2,000MW by the year 2010 to the Vietnamese government, was signed in 1995 (Pholsena and Phonekeo 2004:5).

Relationship to the MRC: benefitting but evasive

Laos' central position within the basin makes her attach significance to the Mekong cooperation (interview 3.2, interview 4.4, interview 4.5), but as one of the smallest and least developed members of the MRC, she has

less capacity to digest and implement MRC policy recommendations (interview 3.1, interview 3.2, interview 3.3). There have, however, been some concrete changes within the government, where the initiation of the State Technology and Environment Agency is the most prominent example (interview 3.5). Laos gains access to capacity from the MRC, and in the fiscal year 2003-2004, the MRC contributed US\$ 4.26 millions or 1% of the official development assistance to the Laotian government (Ministry of Foreign Affairs 2005:4).

The Laotian government is occasionally unwilling to give out data needed for the hydraulic model of the Mekong River (interview 3.3). Sometimes, this is because the data simply does not exist, which applies particularly to the tributaries (interview 3.3, interview 3.6), but also security reasons have been cited as reasons for not providing data (interview 3.3). It was also mentioned that some private investors refuse to share their data (interview 3.3).

Laotian hydropower politics focus on the Mekong tributaries, because developments on these are a domestic matter and does not involve the other MRC member states (interview 3.3). These development projects are less controversial. Lao depends on international investment to develop her hydropower resources, and is therefore forced to adhere to international standards (interview 3.3).

Perceptions of the MRC: uncomfortable demands, useful resources

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 are 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 a strict water flow regime as the countries further downstream would like (interview 3.4).

The financial resources available through the ADB and GMS are important to countries in a stage of development, such as Lao PDR (interview 3.1), but the GMS is generally not seen to compete with the MRC in Lao (interview 3.2).

The overall impression is that Laos, as one of the smallest and least developed countries in the region, realises the benefits the regime provides in terms of financial and human resources. She aims to use the regime to gain status in the international society, but is herself both

unable to influence it and unwilling to adjust to policies that may threaten the stability of her one-party government.

4.3.3 Cambodia

Political background

The Kingdom of Cambodia gained independence from the French colonial reign in 1953, but has been plagued by internal conflict since 1967 (Turner 2006:345). The US warfare in Vietnam in the mid 1960s and 1970s extended to include Cambodian territory, and after the US and Vietnam had pulled out their troops in 1973 they continued to support different factions fighting a civil war. The Khmer Rouge finally captured power in 1975, withdrew Cambodia from all international engagements, and attempted to build the society anew from 'year zero'. Their policies killed more than a million Cambodians through forced labour, executions and generally bad sanitary conditions and malnutrition (Öjendal 2000:170, footnote 1). Vietnam invaded Cambodia in 1978, capturing Phnom Penh in 1979, and installed a Vietnamese-friendly government that was not recognised by the international community. Fighting continued in provincial areas as the factions received support from outside. The areas held by Khmer Rouge traded for example substantial amounts of logs with interests linked to the Thai military (Hirsch 1995:252-253). Both Vietnam and Thailand have historically tried to secure Cambodia as their sphere of influence, or at least prevent her from siding with the other (Brady 1993:89; Pouvatchy 1986:440). However, in 1991, the factions signed a peace agreement in Paris that instituted cease fire monitored by UN troops and brought free elections and a new constitution in 1993, although the current prime minister Hun Sen came to power through a coup in 1997 (Turner 2006:345). Cambodia is more stable now than the previous decades, yet still plagued by political violence and lack of respect for human rights (Amnesty International 2006;; Utrikesdepartementet 2002:2), in addition to disorganisation, inadequate human resources, infrastructure and capital (Krongkaew 2004:981). Prime minister Hun Sen's low tolerance for and crackdown on criticism has reduced the number of opposition parties to one (Myers 2006:42). However, Cambodia has a vibrant NGO community at grassroot level (interview 3.4, Tarr [1998]:13; Utrikesdepartementet 2002:6). The NGOs receive a substantial amount of financial support from the international community (Utrikesdepartementet 2002:6), but is not so much supported from the government (interview 3.4). The legal system is still weak, underdeveloped and plagued by corruption, especially when protecting the rights of the poor (Utrikesdepartementet 2002:5). Cambodia is one of the smaller Mekong riparians with only 11 million inhabitants, and fisheries and agriculture engages more than 60% of the economically active population (Turner 2006:345, 348). The GDP per capita is \$ 2,100 adjusted for purchasing power parity (Central Intelligence Agency 2006a).

Geography

As much as 86% of her territory lies within the Mekong River basin (Dore 2003:423), and the river and wetlands system of the Tonle Sap covers large parts of the country. Data describing this ecosystem is unre-

liable or nonexistent (interview 3.3), but the Cambodian people depend heavily on the resources delivered by the rivers and wetlands (interview 3.2, interview 4.4, interview 4.5), as it has been claimed that 75% of Cambodians get 75% of their protein intake from the Tonle Sap and its waterways (Öjendal 2000:138, footnote 54; or Badenoch 2002:3, for similar figures). During the flood season, the lake is an important breeding ground for fish, to the extent that ‘when the lake start to empty in late October of each year [,] vast quantities of fish pour out of the lake at a rate of 50,000 fish per minute swimming past a given point’ (Osborne 2004:18).

Political relations to the region and international actors

Cambodia has historically been heavily influenced by Vietnam, although Thailand also has tried to include her in her sphere of influence (Pouvachy 1986:440, 450). Relations were tense between Thailand and Cambodia even in the 1990s, with Phnom Penh suspecting the Thai military to continue to support the Khmer Rouge and weariness of Thai business interest in Cambodian natural resources (Makim 2002b:24, footnote 57). Both Thailand and Vietnam had border disputes with Cambodia in 2000 (Makim 2002b:35, footnote 86). Currently, Vietnam is eager to limit Chinese influence and investment in Cambodia (interview 3.5). The Paris Agreement of 1991 that led to the readmittance of Cambodia into the international society also opened the country up to international actors. The donors interested in projects relating to water management and especially the Tonle Sap have been plentiful, resulting in an enormous amount of reports written on this particular issue (Dore [2001]:42; Öjendal 2000:185). International actors such as the EU, FAO, UNDP, ADB, GEF and MRC, as well as national development agencies from Finland, Belgium, and Denmark, and international NGOs such as OXFAM, CIDSE, AFSC amongst others have been involved (Dore [2001]:43; Öjendal 2000:185). Öjendal (2000:207) lists four agencies which have exercised determining influence on Cambodian water policies through their planning processes: the MRC, various UN agencies, FAO, and the World Bank. Cambodia became a member of ASEAN in 1999.

Relationship to the MRC: ambitious demands

Cambodia is one of the least developed members of the MRC in terms of bureaucratic procedures and capacity (interview 3.3, interview 4.2), which allows her to benefit from the MRC through access to international financial assistance and technical assistance (interview 3.2, interview 3.5, Browder 2000:243). Her reliance on the Tonle Sap and its wetlands induces her to attach importance to the MRC cooperation, and she successfully insisted that the natural reversal of the Tonle Sap should be guaranteed by the Agreement of 1995 (*The Agreement 1995:Article 6 B*). She is also in favour of a detailed plan for flood management (interview 3.4), and the headquarters of the MRC Flood Management and Mitigation Programme, the Regional Flood Centre, is based in Phnom Penh. The MRC Fisheries Programme, which gathered data on fisheries in Cambodia and brought various stakeholders together, has been regarded as a success (interview 4.2).

Perceptions of the MRC: uninterested and disappointed

Incidents in the past such as the Yali incident⁷ 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 concerned 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).

My impression is that Cambodia suffers from the aftermath of decades of civil war. Her population is highly dependent on the Mekong River and adjacent wetlands and she has the potential to benefit substantially from the regime, but her current unorganised government is unable to voice her concerns. She is only able influence the regime to a limited extent. She benefits from the human and financial resources that are available to her through the regime, and she (like Laos) wishes to use the regime to ameliorate her status on the international arena.

*4.3.4 Vietnam**Political background*

Vietnam gained independence from the French colonial reign in 1954, which also marked the partition of Vietnam along the 17th parallel into the communist North Vietnam and US-backed, non-communist South Vietnam (Turner 2006:2003). During the 1960s, the conflict and tension in the region escalated to a full-scale war with the US fighting the communist north. The US troops withdrew following the peace agreement in 1973, and the communist forces gained control over south Vietnam in 1975 where a socialist republic of the united north and south was declared in 1976 (World Encyclopedia 2005b). The country has remained socialist since. She sided with Soviet in the Sino-Soviet split, tension and hostility towards China growing from 1965 onwards (Makim 2002b:15, footnote 31). This relationship is less strained today. The Vietnamese government does not tolerate freedom of expression or association (Amnesty International 2005). Some claim that the long-term trend regarding human rights is positive, with the society moving towards a higher degree of openness, but it has also been noticed that recent developments are of a negative kind (Embassy of Sweden, Vietnam 2003:12, 34). State research institutions play the role of NGOs in Vietnam (interview 3.4, see Eccleston and Potter 1996:52 for an example), and the country is opening up (interview 3.5). In 1986, the political leadership initiated an economic, market-based reform under state regulation, the so-called *doi moi* reform, which liberalised foreign trade and encouraged foreign investment (Krongkaew 2004:981). These policies have been successful at reducing the general poverty level and helping those that were worst off through reducing the food poverty (Embassy of Sweden, Vietnam 2003:9-10). The Vietnamese legal system focuses on stability and order rather than securing each citizen's rights. Corruption is widespread and serious problem at all levels of society, but moves have been made to counter this (Embassy of Sweden, Vietnam 2003:38; McCormick 1998:139). Vietnam

has a population of around 80 millions, where of approximately 68% of the labour force work in agriculture, forestry and fishing (Turner 2006:2004, 2008; World Encyclopedia 2005b). The GDP per capita is \$3,000 adjusted for purchasing power parity (Central Intelligence Agency 2006g).

Geography

Approximately 20% of Vietnamese territory lies within the Mekong River basin (Dore 2003:423), most importantly the Mekong Delta in the south, close to Ho Chi Minh City. The delta is inhabited by 17 million people (Browder 2000:241). It covers approximately 39,000 km² (Quang 2002:263) and produces significant amounts of rice both for domestic use and for exports (Badenoch 2002:3). It is 'one of the most important regions for economic development in Vietnam', producing 90% of the rice and 53% of the shrimp and fish export of the country (Quang 2002:263). The area accounts for 27% of Vietnam's total GDP (Minh [2001]:1). During the dry season, the low flow levels of the Mekong River allow salt water from the South China Sea to enter the delta, inhibiting agricultural production (Jacobs 2002:356). About 16,000 km² are affected by this problem (Makim 2002b:29, footnote 69), with salination reaching as far back as 60 km from the coast (Osborne 2004:21). Other parts of Vietnam within the basin include the Central Highlands, home to Mekong tributaries like Se San and Sre Pok that have great hydropower potential, and where there are concrete plans for dam construction (Quang 2002:263). This is also where the Yali dam is located.

Political relations to the region

Vietnam invaded Cambodia in 1978, overthrew the Khmer Rouge government and installed a government with friendlier intentions towards Vietnam. She had thus secured both Cambodia and Lao PDR under her patronage (Makim 2002b:20). Her influence in Cambodia could be diminishing after Cambodia established free elections, but she remains influential in Lao PDR. She is regarded as one (of two) regional powers (interview 3.1) that have been contending for hegemony in the region throughout history (Makim 2002b:11, 20). Her economy was of similar size to that of Thailand (Hirsch 1995:256), although Thailand is bigger at present⁸. Vietnam is, however, insisting on processing raw materials herself and resists becoming a supplier to the Thai economy (Hirsch 1995:256).

The ADB has financed major technical and economic feasibility studies for hydropower dams in Vietnam in the Se San and Sre Pok Basins which have influenced the site selection process (Öjendal et al. 2002:35). The bank also considered co-financing one of the projects, but withdrew – or was forced to withdraw. There have been speculations that the Vietnamese government refused to accept the ADB's rising environmental standards, which after the Yali Falls incident also included an assessment of transboundary effects, and therefore decided to finance the dams without loans from the ADB (Badenoch 2002:27, footnote 17; Wong 2001:43; Öjendal et al. 2002:35).

Vietnam became a member of the ASEAN in 1995. She is improving her relations to the international community, emphasising economic and trade connections (Embassy of Sweden, Vietnam 2003:9). She has been receiving an increasing amount of development aid after the US embargo was lifted in 1994, with Japan, the World Bank and the ADB as the main contributors (Embassy of Sweden, Vietnam 2003:56, 57).

Vietnam has expressed concern about the Chinese development of hydro-power dams on the upper parts of the Mekong River, fearing that this may harm agriculture and fisheries (Yu 2003:1230).

Relationship to the MRC: 'my right to water'

The importance of the delta and Vietnam's position as the extreme downstream of the Mekong riparians makes her attach importance to the cooperation (interview 4.4). She is eager to see a detailed flow management regime (interview 3.4). However, her human capacity and financial resources also means that she does not need the organisation as much as the smaller states do (interview 3.2, Browder 2000:243). Vietnam provides technical assistance to the MRC (interview 3.2).

Perceptions of the MRC: not accomodating

It has been suggested that Vietnam has an arrogant attitude towards difficult issues within the MRC and particularly towards concerns raised by Cambodia and Cambodian interests (interview 3.4, interview 3.5, interview 4.6, interview 4.7). The Vietnamese government is perceived as nationalistic and unwilling to share information (interview 3.4).

All in all, Vietnam, with her size, population and regional influence, is able to raise her voice in the Mekong River regime. However, as the furthest downstream country, she makes demands that it is difficult for the others to accept, particularly when she does not seem to be willing to abide by them herself in situations when she is upstream of other riparians. Additionally, some of the regime policy recommendations are unacceptable to her as a one-party state. She thus has both a strong and a weak position within the regime.

4.3.5 China

Political background

The communist, one-party China is the biggest of the Mekong riparians with a population of 1.3 billions, of which a little less than 43 millions live in the Yunnan province (Turner 2006:436). The province is situated in the south western corner of China, far away from the political capital Beijing and the economic engine Shanghai, and, according to Makkonen (2005), it hosts 26 of the 52 recognised ethnic minorities in China. China has experienced an enormous economic growth the past decades, with the official GDP increasing by 9% on average every year the last quarter-century (The Economist 2006:9). However, the level of economic development in Yunnan is lower than other parts of China (Makkonen 2005;; McCormack 2001:14), as the GDP per capita for all of China is \$6,200

adjusted for purchasing power parity (Central Intelligence Agency 2006b), whilst for Yunnan province only it is less than \$1,000⁹ (The Economist 2006).

Responsibility for environmental issues rests primarily with the State Environmental Protection Administration (SEPA) and various sector ministries (Jahiel 1998:763), with the Ministry of Water Resources being responsible for the management and development of water quantity (Dawei and Jingsheng 2001:370) through the *Water Law* (Ongley and Wang 2004:272). Major development projects, such as damming international rivers, involve the central government and thus give less space for the provincial level (interview 1.3). Generally, runoff regulation and water allocation projects must be approved by a government one level higher up than the level concerned (Shen 2004:359), and national regulations requires EIAs for all new industrial projects and expansion of existing facilities (Zhao and Ortolano 2003:720). The central government, hereunder SEPA, must approve the EIAs for hydropower dams and other projects transcending administrative areas (interview 1.1, *Regulations on the Administration of Construction Project Environmental Protection* 1998:Article 11), and the final decision regarding development projects is made at the central level or by authorised departments (interview 2.1, *The Water Law* 2002:Article 17). The national EIA law, which entered into force in September 2003, requires all relevant parties, including the general public as well as experts, to evaluate the likely impacts of development projects and plans on the natural and human environment (Liu 2005). Provincial governments tend to favour economic self-interest above environmental protection (Jahiel 1998:782) and supports hydropower development because it normally brings more tax money, increased job opportunities and economic development (interview 1.3, interview 2.3). China monitors the flood level of most of her major rivers (interview 1.2) and the *Water Law* from 2002 states that 'basic hydrologic materials shall be publicized pursuant to the relevant provisions of the state' (*The Water Law* 2002:Article 16). Nonetheless, only certain data on the Chinese international rivers are public as the Ministry of Water Resources has passed a regulation that classifies river data as state secrets (interview 2.1¹⁰).

Private companies and enterprise in China are powerful and able to influence the central government to favour hydropower development (interview 1.1, interview 1.3, interview 2.1, interview 2.2, interview 2.3). Corruption also appears to be a serious problem, as, for example, '[g]aining a licence or permit is apt to require a bribe' (McCormick 1998:139).

Geography

The Mekong River runs through Qinghai Province, Tibet Autonomous Region and Yunnan Province, and the basin constitutes approximately 3% of the total Chinese territory (Öjendal 2000:15), whilst 23,3% of Yunnan Province's total land area is found within the Mekong River basin (Zuo 2001:1). The basin area in Yunnan is narrow compared to the rest of the basin, and the river descends rapidly through steep valleys and gorges, making the engineering of dam construction easy (McCormack

2001:17) and the river suitable for hydropower development (Osborne 2004:1). It has a theoretical potential of 25,000 MW (megawatt), for comparison, the Three Gorges dam will have an installed capacity of 18,200 MW (Magee 2006a:29). Plans for hydropower development will take advantage of an 800 meter¹¹ drop over a stretch of 750 km in the middle and lower sections of Yunnan (Dore and Yu 2004:19; McCormack 2001:15). There are confirmed plans for eight dams, with six more proposed (Makim 2002b:37, footnote 94). Two dams, Manwan and Dachaoshan, are completed and operating, whilst a third, the gigantic Xiaowan with a wall 292 m high and a reservoir stretching 169 km back from its origin, is under construction (Dore and Yu 2004:19). When all eight dams are complete, the cascade will have a maximum installed capacity of 15,000 MW, about 80% of the Three Gorges Dam (McCormack 2001:15).

Political relations to the region

China is a member of the GMS program where initially only Yunnan Province was participating, but from 2004/2005 all of China joined the program (Bando 2006). The border province Guangxi became an active member working with Vietnam in a similar manner to the cooperation already taking place between the Mekong countries (interview 1.2, interview 1.3). The GMS program seemed generally to be regarded as covering several sectors and important issues (interview 1.2, interview 2.1), though mainly with a focus on economic or trade related issues (interview 2.2). Delegations to GMS are usually headed by representatives from Beijing, but there are representatives from Yunnan in the delegation (interview 1.3). Yunnan may receive permission from the central government to embark on international cooperation through the GMS program, even if Yunnan is only a province (interview 1.3).

China is positive to broader and looser forms of cooperation, such as the ASEAN + 3 (China, Japan, South Korea), because they usually involve less obligations (interview 1.3). She prefers to discuss matters relating to the Mekong River within the ASEAN framework (interview 1.3). China also participates in the Golden Quadrangle (interview 1.3). There are a number of small-scale cooperation projects between local governments within Yunnan Province and local governments in Lao PDR regarding fire control, trade in forest products and farmer-to-farmer exchange that take place independently of any larger institutional framework (Zuo 2001).

When the resolution on the *UN Convention on International Watercourses* was put before the UN General Assembly for adoption in 1997, the vote was 103 in favour, and three against, whereof China was one¹². This is 'probably attributable to [the Chinese] position [...] as [an] upstream state [...] in ongoing controversies' (McCaffrey and Sinjela 1998:105) and implies that China is reluctant to surrender any leverage her position as the extreme upstream country gives her (McCaffrey and Sinjela 1998:104).

Relationship to the MRC: cooperation with reservation

The responsibility for China's relationship with the MRC lies with the Ministry of Foreign Affairs (interview 1.2). China and the MRC have an agreement on technical cooperation, signed in 2002 and operational since 2004, to share data on the flood level on the Mekong River during the wet season. The MRC has equipped two hydrological stations at Yunjinghong and Man'An in Yunnan, and established a Data Centre in Kunming (MRC 2004:104). This cooperation is apparently working to a satisfying degree (interview 3.1), although it sometimes proves difficult to gain access to data from the Chinese. China has shown little interest in consulting with the downstream countries about her plans for development of the river (McCormack 2001:18; Osborne 2004:7-8). For example, China has not been willing to allow MRC staff to visit the sites where the hydropower dams currently are being built (Manwan and Dachaoshan) (interview 3.3, Osborne 2004:15), although Osborne (2004:15) also claims that 'there have been offers to provide a visit to Jinghong'. The flood data that China provides to the MRC on the Mekong River is publicly accessible data, whilst classified data is not shared. Furthermore, China provides data to the MRC on request, but only smaller parts at the time (interview 2.1), and only at their own discretion (interview 1.3). China has also been arguing that her development of the river's resources, mainly hydropower dams, will not affect the water quality (Osborne 2004:15) and that downstream impacts will prove beneficial (Lebel et al. 2005; Osborne 2004:15). If any transboundary negative impacts have been considered, they have been dismissed or neglected as undesirable effects of essential and necessary economic development (Dore 2003:431).

The Navigation Affairs Bureau in Yunnan has expressed interest to cooperate with the MRC on navigation between the upper and lower parts of the Mekong River (MRC 2004:109).

Perceptions of the MRC: small yes and big NO

On question, some of the interviewees suggested that the MRC had little, if any influence on Chinese policies (interview 1.3, interview 2.1, interview 2.3). One interviewee claimed that the Chinese both understood the concerns raised by the downstream riparians, expressed in international forums and at the technical level, and refused 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).

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 proves her interest in the MRC and her intention to be a good neighbour (interview 3.1). Some interviewees mentioned that the Chinese government had 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). It was also suggested that China uses her position as an observer to assess the strength of the cooperation in the lower Mekong Basin (interview 3.5).

Several reasons for why China was not a member of the Mekong River Commission were suggested. *Firstly*, the historical background of the MRC as an organisation established to contain communism makes China suspicious of the organisation (interview 1.3). *Secondly*, China has many international rivers, 15 mainstems, 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). *Thirdly*, 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). *Fourthly*, if China was to join the MRC, she would have to accept the agreement as it is (*The Agreement* 1995:Article 39). This is unacceptable 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). *Fifthly*, it was suggested that some of the donor agencies and some of the MRC member countries did not want China to participate in the MRC (interview 2.1). Thus, China was not seriously considered as a potential member. *Sixthly*, China has to deal with the upstream-downstream difficulties within her own territory too. If she had to consider downstream areas outside of her territory, it would make matters much more complicated (interview 1.3). *Seventhly* 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).

In my view, China is undoubtedly the most powerful of the Mekong riparians. She uses her parts of the river as she pleases, and does not recognise the others' interests for how her upstream developments might affect the water quantity and quality. She has no wish or intentions to join any organisation that puts restrictions on her control of the river and its resources. Nonetheless, she realises the benefits of remaining on friendly terms with the downstream riparians and makes just enough effort to achieve this.

5 A discussion of the effectiveness of the Mekong River regime

This chapter addresses the effectiveness of the Mekong River regime, using the research questions and the hypotheses to organise the discussion. The first part of the chapter addresses research question 1). The achievements of the regime are explained on basis of the empirical chapter, and compared to the accomplishments of the regime during the Mekong Committee-phase. Subsequently, the effectiveness of the regime is assessed and related to output and outcome, before the operationalisation of the dependent variable is evaluated to set the answers to research question 1) into perspective. A summary of the main points regarding the effectiveness of the Mekong River regime finishes off this part of the chapter. The three following parts attempt to answer research questions 1a), 1b) and 1c) respectively, and incorporates discussions of the relevant hypotheses for each question as specified in section 2.3. The arguments will also draw on aspects of the explanatory framework. A brief summary of the answers to the research questions leads the chapter to its final part, comments on the theoretical, explanatory framework. This section revisits and highlights the experiences where the empirical findings differed from the model's prediction, after a discussion of the understanding of *effectiveness* in the Mekong setting.

5.1 Research question 1: Is the Mekong River regime an effective regime? How?

5.1.1 Achievements

The Mekong River regime has made important accomplishments after the 1995 Agreement came into effect. The riparians of the lower Mekong River basin have invigorated their commitment to a joint basin organisation, China and Burma have agreed to become dialogue partners, and programmes or projects in several sectors mentioned in the Agreement of 1995 have been initiated or restructured to better match present needs and organisational norms. More specifically, the construction of the hydraulic model of the Mekong River, which required members to submit data on water levels and floods on the mainstream and tributaries that may previously not have been shared¹³, is now almost complete and has been tested to the satisfaction of the member states. The construction and completion of this model is an important step for the management of the Mekong River and a significant achievement for the regime. The completion of the information base on the Mekong River is a similar accomplishment, as is the Agreement from 2002 on sharing information on flow levels during the wet season with China. Data-gathering projects appear generally to bear fruits, albeit slowly.

Nevertheless, only three of the five Rules for Water Utilization and Inter-Basin Diversions have been approved, some of them with serious lack of detail, as described in the previous chapter. The member states have difficulties with reaching agreement on the level of commitment and adjustment within the regime, as the progress on the guidelines for transboundary EIAs suggests that they need time to come to unity on policies and rules. The effectiveness of the Mekong River regime thus seems to be a

rather mixed picture, where the members are more interested in providing input to create a knowledge centre for their own use and benefit, than to adjust to common policy recommendations. The issue of effectiveness of the regime overall is perhaps not as much a question of making an effort or not, but rather one of in which field and with what purpose the effort is made, where the aspects of the regime relating to knowledge and capacity generation seem to have a higher level of effectiveness than those relating to domestic policy adjustment. But how does this compare to the level of effectiveness of the regime in an earlier period, the era of the Mekong Committee? The next paragraph will compare these two, and is based on the assessment of the Mekong Committee as described in chapter 2.

Comparing the achievements with those of the Mekong Committee phase of the regime

The Mekong Committee (MC) had a narrower scope than the present Mekong River Commission, as its activities mainly focused on the engineering aspects of hydropower development, the White report being the main exception to this. The current regime consequently has a broader perspective as basis for its activities. Nonetheless, also the present regime appears to be most successful with activities relating to gathering data, although there are some important differences: *firstly*, the data collection is more in the hands of the regime itself. The data is gathered and processed in the name of the MRC, and not initiated and led by exterior actors to the same extent as in the earlier phase of the regime. This does not suggest that the MRC does not hire external consultants to complete tasks, but the initiative rests with the regime rather than with UN or US related bodies. The present regime is more in control of the processes going on in its name than in the MC phase of the regime. *Secondly*, the data is/was gathered for different purposes. The MC phase of the regime focused primarily on preconditions for hydropower development, and certainly mainly on economic development, thus defining the flavour of the basin cooperation. The current process of gathering data focuses on producing tools which the riparians may use as a basis for their policies. The hydraulic model is at the kernel of this work, as it will allow the riparians to estimate costs and implications of various paths of development of the river's resources. This suggests a major distinction between the MC and the MRC phases of the regime: in the earlier period, there was consensus on the main lines of development for the basin: the member states and the donor agencies were jointly enthusiastic about the prospects for large-scale hydropower development. Now, the members (and perhaps the donors?) have differing priorities for the use of the water, although they unite behind a broad slogan for poverty alleviation. The *third* main difference between the effectiveness of the MC and the MRC regime illustrates this: the present regime is trying, albeit slowly and with difficulties, to agree on and establish a flow regime, whereas this was not on the agenda during the earlier phases. The development of the Rules for Water Utilization and Inter-Basin Diversion is the prime example of this effort. The present Mekong River regime seems both to be more sophisticated, and more effective in terms of achievement on its own initiative than it was in its earliest phase during the Mekong Committee. It is a slow and difficult process for reasons that will be explained below, but for now it suffices to state that the effectiveness of the current regime is

at a higher level, with a broader scope, than what was the case in the earlier phase.

5.1.2 An assessment of the dependent variable

The majority of the achievements of the Mekong River regime in its present phase are output, such as the information base and the hydraulic model. Output relating to information gathering and capacity generation is achieved more effectively than output that directly aims to alter the regime members' (the target group) behaviour, such as the Rules for Water Utilization and Inter-Basin Diversions. However, the Agreement from 2002 between the MRC and China regarding data on the flow levels during the wet season is output (a rule) of the regime, and has also led to specific change of behaviour, outcome. China has been providing the data as described in the agreement from 2004. It might be argued that because China is not a member of the regime, she is not in its primary target group and the output and outcome relating to the 2002 Agreement is what Underdal would characterise as a 'positive side effect' (2002:5). However, the Agreement is a formal agreement specifically between China and the MRC and it is therefore more plausible to suggest that it is a part of the 'regular' effects of the regime, even if it has caused a non-member to alter its behaviour. It seems as if the effectiveness of the Mekong River regime so far has resulted mainly in output, although it also has spurred outcome. Whether the terminology output and outcome describe the Mekong River basin context to a satisfying degree will be discussed further later in this chapter, but for now, this description is sufficient.

The operationalisation

The operationalisation of the dependent variable, the effectiveness of the Mekong River regime, as the implementation of its Hydropower Development Strategy, proved to be more complex than what originally thought. *Firstly*, it only provides insight into one aspect of the MRC. This is problematic because the MRC is not funded on a general basis, rather, the donor agencies chooses certain programs which they want to fund. The availability of resources therefore varies between the different programs. A program with an abundance of resources will have better odds at being efficient than one without, and assessing one program is therefore unlikely to provide an accurate picture of the effectiveness of the entire organisation. To get an impression of the overall effectiveness of all the programs of the MRC would have required an investigation beyond the scope of this study. *Secondly*, the programs interact despite their separate funding. For example, the hydraulic model of the Mekong River is mentioned in the Hydropower Development Strategy, however, it is also a project placed under the Water Utilisation Programme. Should its completion be regarded as a token of the effectiveness of the HDS, of the Water Utilisation Programme, or of the technical (as opposed to the political) cooperation that takes place under the umbrella of the MRC? This applies to several of the indicators subtracted from the HDS, and it thus proved more difficult to limit the dependent variable than anticipated. *Thirdly*, projects within the hydropower sector require huge, one-time investments that at least two of the member countries are unable to provide. This opens up for other actors and especially for international

financial institutions like the World Bank and ADB that usually have their own safeguard policies with which they request compliance as a condition for their resources, and hence, the space for policy recommendations originating from the MRC is curbed, as is its effectiveness.

5.1.3 *Summing up the effectiveness of the Mekong River regime*

This assessment has tried to make three main points: *firstly*, the effectiveness of the present Mekong River regime is at a higher level than that in its earliest phase. The regime has a broader and more sophisticated scope than previously, it is more in charge of its own investigations, and it is trying to establish rules for the use of the water. *Secondly*, the achievements of the regime relate mainly to collecting information and processing data. This is an important aspect of the regime, but not one which changes the behaviour of the regime members' management of the basins' water and resources. *Thirdly*, the regime has made few achievements that have led to change in the member states' domestic policies. The effectiveness of the regime could thus be regarded as not very substantial or concrete.

5.2 **Research question 1a: Why, why not is the Mekong River regime an effective regime?**

Hypothesis A: The lack of information and the complexity of the ecosystems of the Mekong River Basin limit the effectiveness of the Mekong River regime.

The last sections showed that the regime does not seem to have significant impact on the domestic policies of its member countries, but that it has some success in collecting knowledge and developing capacity on resource management. These two tendencies are linked because the intellectual malignity, which makes policy formation more difficult and cumbersome, also is the basis for the aspects of the regime where most achievements seem to be made, the collection and processing of data. The qualities of the basin that makes its management an intellectually malign issue constitutes common difficulties the riparians may join forces to overcome and approach in the context of the regime. The problematic issues of sovereignty and property rights are less dominant in this area. Intellectual malignity thus contributes to the effectiveness of the regime in a positive way, because it is a problem the members unite to solve, but also in a negative way, as sound policies for the basin are more difficult to construct. Hypothesis A seems both to be strengthened and weakened, depending on which area of the regime is in focus.

Hypothesis C: The institutional setting of the Mekong River regime limits the effectiveness of the regime.

Decision-making rules

The phrasing of the Agreement of 1995 emphasises sovereignty and territorial integrity and denies the regime enforcement power, and the rules for allocation of water are highly specified in terms of mainstream/tributary and season and restricted in their mandate and authority. The

regime has no mandate to overrule the will of the member states and compliance rests solely with the respective member governments. These weak rules for decision-making prevent an effective regime, a rather common situation.

Administrative/organisational issues

How does the capacity of the MRC organisation itself influence the effectiveness of the Mekong River regime? Two aspects are highlighted: the impact of the head of the organisation, the CEO, and the qualities of the organisation itself. The current MRC CEO has argued for a fundamental adjustment of the vision of which role the MRC should play, from one as a knowledge centre to one as an investment facilitator. Not all actors agree with this change, and the discontent with the new vision and the leadership style of the CEO appears to have led to some unrest within and around the organisation. Dissatisfaction may prevent the regime from being as effective as it otherwise could have been at present, because energy is spent at other issues than policy formulation and collaboration within the regime. However, general flaws of the organisation, such as inflexibility and lack of openness to public participation¹⁴ also affect the capacity of the MRC Secretariat in a negative way. These weaknesses in the institutional setting limit the effectiveness of the regime.

Funding

Availability and source of funding as an aspect of the institutional setting may also influence the regime effectiveness. The regime is only partially financed by its members and relies on contributions from the donor agencies and financial institutions, which provide funding on a programme basis. This may lead certain programmes to be more effective than others, depending on availability of funds and resources. It also means that the MRC Secretariat has to deal with several systems of reporting to account for how the money is spent, implying less time spent on actual program work. However, the availability of external funds may also inspire the regime members, particularly the smaller and less affluent Lao PDR and Cambodia, to put effort into the regime in order to gain access to these funds. The empirical findings of this study are, however, not sufficient to any conclusions regarding the impact of funding on the effectiveness of the Mekong River regime, but it is reasonable to believe that the *availability* of external funding, as opposed to none at all, has a positive impact on its effectiveness.

Hypothesis C, suggesting that the institutional setting, particularly the decision-making rules and administrative/organisational issues of the Mekong River regime limit its effectiveness, seems to be strengthened.

Hypothesis D: The many years of cooperation within the Mekong River regime increase the effectiveness of the regime.

Underdal's model proposes that time has a positive impact on the effectiveness of the regime, because a tradition for joint efforts will make the participants expect long-term cooperation, and because the regime

will mature with time, providing a better framework for cooperation. The 'Mekong Spirit' has also been cited as reason for keeping up with the regime. However, the past of the regime might also present hindrances for an effective regime if it causes suspicion and insecurity about its purpose, even if the regime framework as such matures. This was pointed out in two different cases: *firstly*, China might be more reluctant to join or adjust to the regime, given that one of the reasons for its founding was to contain communism. She might be unwilling to cooperate with a regime with this background even if it is no longer valid. The fact that particularly Vietnam, but also Cambodia and Lao PDR, sided with Soviet in the Sino-Soviet split rather than with China, and created their own socialist bloc in mainland Southeast Asia, might enhance the Chinese unwillingness to cooperate with these countries. Strained relations in the past might influence those of the present. *Secondly*, and as mentioned several times, the Mekong River regime was mainly concerned with large-scale hydro-power development in its earlier years, not recognising social and environmental issues. External actors, such as interest groups and donors, might be sceptical whether the present regime is willing and capable of incorporating these issues into its policies to a satisfying degree. This prevents smooth workings of the regime, and restrains its effectiveness. The history of the Mekong River regime thus appears to have both a positive and a negative impact on its effectiveness.

Hypothesis G: The other forms of cooperation in mainland Southeast Asia limit the effectiveness of the Mekong River regime.

Other forms of cooperation in the region play an important role in determining the effectiveness of the Mekong River regime in three ways. *Firstly*, they shape the space in which the Mekong River regime acts, providing opportunities but also restrictions to the work of the MRC. The navigation agreement between China, Burma, Thailand and Lao PDR, the Golden Quadrangle, is an example of this, as the navigation programme of the MRCS has to take this agreement into account when outlining its programme. However, these agreements also form a platform from which the MRC might start its work. They limit, but also form a framework which further cooperation within the Mekong River regime may be based on. *Secondly*, some forms of regional cooperation might undermine the work of the MRC and make the regime less relevant for the development in the region. The planning and building of the Nam Theun 2 hydropower dam in Lao PDR is a good example of this. There are important development projects going on in the basin where other regional and international institutions are heavily involved, but in which the Mekong River regime plays no role. Situations like these undermine the importance and influence of the Mekong River regime in favour of other regional actors, perhaps particularly the ADB's GMS program. The empirical section showed that the ADB through this program is involved in all of the Mekong riparians. Despite its lack of a legal basis, or perhaps because of it, the ADB supports development projects that border or overlap with the programmes of the MRCS. This restrains the impact of the Mekong River regime on regional development and policies. *Thirdly*, the bilateral memorandums of understanding between the member states, and between the member states and China, might weaken the MRC policy suggestions and the regime as a framework for cooperation. The MoUs regarding

power trade and development between Lao PDR and Thailand is an example of this. All in all, it is clear that the other various forms of regional and bilateral cooperation that takes place in the Mekong region has implications for the Mekong River regime, shapes the space in which it operates, excludes it from certain arenas, or forces it to adjust to other plans than its own. This mainly affects the effectiveness of the regime in a negative way, strengthening hypothesis G.

In sum, the Mekong River regime struggles to be effective because of a weak institutional setting, because of other forms of cooperation in the region, and possibly because of a negative image of the regime from its previous phases, however, it is able to make accomplishments because of the lower riparians' tradition for cooperation and because the regime enables them to deal with understanding and researching the complex ecosystems of the basin together.

5.3 Research question 1b: How does the geopolitical location of the regime members affect their role in the regime?

Hypothesis B: The downstream regime members act as pushers within the regime, whilst the upstream members are laggards.

The regime members are all very different; in size, culture, history, language and system of government, and significantly and obviously, they are situated on different positions within the river basin. This seems to have a critical impact on their commitment to the regime, where Lao PDR and Cambodia, whose territory is almost completely within the basin, are more dedicated to the regime than particularly Thailand, but also Vietnam, who only have a fraction of their territory within the basin. The upstream/downstream dimension is also important, where upstream Thailand and Lao are less committed to a rigid flow regime than downstream Cambodia and Vietnam. This may be illustrated by a 2x2 table, where the upper right corner ought to be the most committed to the regime, and the lower left the least:

Table 1: Geographical position in the basin

	Location on river		
		Upstream	Downstream
Fraction of territory within basin	High	Lao PDR	Cambodia
	Low	Thailand	Vietnam

These two geographical factors seem to explain the distribution of potential pusher and laggard roles amongst the Mekong River regime member countries. Thailand, who is upstream and has a small fraction of her territory within the basin, is a laggard in the regime. She has few in-

centives to work for a strong regime with binding policies. Cambodia, however, who is downstream and has the majority of her territory within the basin, ought to be a pusher of the regime. Vietnam and Lao PDR are both somewhere in the middle. Nonetheless, the domestic conditions in each country determine whether and to which extent these roles are acted out. Thailand, the most upstream of the four, and the most developed economically, argues that she has the right to use some of the water if she wishes, and that the regime should be limited to the mainstream. This is disputed by Vietnam, the other regional power, but also the furthest downstream, who claims that the water is needed in her delta. The quantity and quality of water is not defined. Vietnam wants a strong regime but is not willing to abide by it herself in cases where she is upstream. Thailand argues for sharing of benefits, Vietnam wants sharing of water. The two strongest members, that both could have provided the regime with leadership, seem to have a different perception of what the regime may deal with, and both heterogen and asymmetrical preferences for the use of the basin's resources. This makes it more difficult to reach agreement and thus prevents the effectiveness of the regime. Lao is unable to work for an effective regime because she is so small both in terms of size, population, and economy. She wants a regime in order to ameliorate her international reputation, but seems not to be willing to accept all proposals, such as public access to participation, made by the other members. She might not really want a strong regime, as this could restrict her development plans for the many tributaries. Her engagement in the regime is somewhat ambiguous. Cambodia, however, would like to see a strict flow regime, but due to domestic unrest, size and political turbulence in recent history, as well as lack of political initiative and governmental concern for sound natural resource management, is not able to make her voice heard. It thus seems as if the member that geographically has the best potential to act as a pusher is restrained by domestic conditions. Vietnam, the other member which might have been a pusher, seems not to be interested enough to compromise with the laggards to fulfil this role. Geographical location understood in two ways form the basic division between pushers and laggards whilst domestic conditions determine whether the potential is to be fulfilled or not. Both political will and exterior conditions play a role in this. The implications of these prevent an effective regime from emerging from the weak foundation of the Agreement of 1995.

Energy and skill

The member states' lack of energy seems to explain a great deal of the limited effectiveness of the Mekong River regime. They are unwilling to sacrifice control over domestic policies and to provide the regime with sufficient power to enhance the regional cooperation. Why are the countries unwilling to put energy into making the regime more effective? Why are compromises so hard to attain? The member states all guard their sovereignty fiercely, and this preoccupation with sovereignty is rooted in the turbulence of their history and historical relations. Neighbouring countries have often interfered in others' internal unrest, or hostilities have spread from one country to another. The US-Vietnamese war, which spread into Cambodia and Laos, is the most obvious example of both. This has taught the political leaders to treasure independence and

sovereignty. Equally important and closely linked is the historical patterns of influence at the regional level, where the two biggest and most powerful riparians in the lower Mekong basin, Thailand and Vietnam, have struggled to dominate the smaller two. Cambodia and Laos are therefore cautious to agree to policies that bear nuances of ceding sovereignty, fearing increasing influence by the two larger. Lao's tendency to develop the tributaries rather than the mainstream of the Mekong River illustrates this. The two larger regime members may on their side feel uneasy about arrangements that restrict *their* respective influence and create space for the other sub-regional power. This particularly applies to Vietnam, as Thailand also bases her confidence and influence on her liberal market economy and economic strength, and is perhaps less reliant on a political sphere of influence. The historical turmoil and fight for influence have made the regime member states value sovereignty more than regional cooperation. Concerns about sovereignty have been instrumental in curbing the effectiveness of the Mekong River regime.

The differences between the regime members may also contribute positively to the effectiveness of the regime when circumstances are as difficult as in the Mekong setting. A high level of skills was predicted by the model to have a positive influence on the effectiveness of the regime. However, the empirical findings suggest that unevenly distributed skills, where some members of the regime generally are more skilled than others, might also contribute to an increased effectiveness. The lack of skill in some states may lead to fruitful cooperation with the skilful members if they agree to transfer and build knowledge. This increases the cooperation within the regime, leads to higher overall level of skill and may bring on a higher level of trust, all which would contribute to higher effectiveness. A high level of skills does thus not have to be evenly distributed amongst the regime participants to contribute positively to the effectiveness, as far as the regime members are willing to share their knowledge and cooperate to the benefit of the purpose of the regime.

Capacity

The qualities and capacity of the administration and bureaucracy of the member states seem to have ambiguous influence on the effectiveness of the Mekong River regime. Generally, the model predicts that high administrative capacity and developed systems of government increase the effectiveness of a regime. However, on several occasions it was pointed out that states with less developed systems of government and bureaucracy accepted policy recommendations from the regime with less fuss. These governments may not have the capacity to develop their own policies, and are more inclined to comply with suggestions developed by others. Low governmental capacity may thereby lead to higher regime effectiveness. It was also indicated that a more sophisticated administration and developed bureaucracy often needed more time to organise public hearings and consider policy suggestions from the regime. In some cases, this could also be used as an excuse to postpone difficult decisions, which makes the regime proceed more slowly and leads to limited effectiveness. There are thus indications that low capacity in the regime members' governments may enhance its effectiveness, whilst high governmental capacity curbs it, without the two necessarily being dependent or

linked. Nonetheless, further research is needed to confirm these suggestions.

In sum, hypothesis B is only partially strengthened. Both geographical location and political conditions influence the role of the riparians within the regime. Those with a geographical location that would induce them to be pushers are prevented by domestic policy restraints, whilst the states that have the domestic strength to act as pushers do not have incentives to do so because of their geographical location. None of the riparians seem to take the role of pushers, whilst they all are, at least on certain issues, laggards. The regime does benefit, however, by the training and transfer of skills that takes place amongst the skilled and the unskilled riparians.

5.4 Research question 1c: What is the impact of China not being a member of the regime?

China participates in the annual dialogue meetings with the MRC, and technical cooperation, where data on flood levels from two measuring stations on Chinese territory is transmitted to the MRC during the wet season, is established. Intentions to expand this have been declared from both sides. The impression is positive, yet the influence of China on the Mekong River regime is complex and when the whole picture is considered, China's impact on the effectiveness of the Mekong River regime appears mainly negative. She has not expressed any wish to become a member of the MRC and a party to the Agreement of 1995. She has not granted MRC staff permission to visit her development projects of their choice, and she has this far not been willing to share flood data during the dry season, which is critical for the lower riparians. The annual dialogue meetings do not seem to be a forum for substantial exchange of information. The provincial government in Yunnan is possibly less concerned with the downstream reactions to the development on the upper parts of the Mekong River than the central authorities, as they focus on the domestic economic benefits these developments may bring. Yunnan is not in charge of the Chinese cooperation with the MRC, and has therefore no incentives to improve this relation. The provincial government puts more effort into the trade and infrastructure-related projects within the ADB's GMS program, where the province is a member. This suggests that the Mekong River regime has limited influence on China and Yunnan, because both are unwilling to take requests from the regime into account.

Hypothesis E: The effectiveness of the Mekong River regime is limited because the most powerful riparian, China, is not a member of the regime.

The policies and programs of the Mekong River regime are not pertinent to China. Neither the central government in Beijing nor the provincial government in Yunnan seem to be interested in adhering to any suggestions from the lower Mekong countries or the Mekong River regime, despite the rapprochement since the change of leadership in 2003. It may be that the Chinese government pays attention to the lower Mekong countries in international settings because they wish to give the impression that they are a reputable country, however, when put to the point, they are in general unwilling to give in to any demands. This situation limits the

potential effectiveness of the Mekong River regime. Nonetheless, it is one of the preconditions for the regime that has always been present, although with less momentum than now. China's upsurge in development activities in the upper Mekong River basin in general and her rapid construction of hydropower dams in particular has made her position in relation to the Mekong River regime more precarious, and it may therefore be claimed that her recent policies have revealed, and perhaps even fulfilled, the potential of her impact on the regime. The general influence of China on the effectiveness of the regime is negative. Her refusal to provide the MRCS with data on the dry season flows in the upper parts of the Mekong makes it difficult for the member countries in the regime to make accurate flood forecasting and to draw an image of the hydraulics of the entire river, and thereby to agree on flow levels within a flow regime for the lower parts. Although the limited technical cooperation between the MRC and China enhances the effectiveness of the regime, the overall influence of China on the regime is negative, which strengthens hypothesis E.

Hypothesis F: The Chinese developments on the upper parts of the Mekong River forces the regime members to cooperate to deal with the downstream impacts, which increases the effectiveness of the regime.

The empirical findings show little support for this hypothesis, rather, there are indications that the Chinese development projects create further differences amongst the regime member states. This is because it necessitates a discussion and decision of who has the right to how much water, where particularly Thailand but also to some extent Lao feels that the countries furthest downstream are demanding too much restraint of their use of the water. Thailand has for example been unwilling to agree to a flow regime with fixed limits, which is strongly supported by Vietnam and Cambodia, because it implies that she will have to be a buffer for changes in the flow caused by the Chinese developments, restricting her use of the water. Thailand has regarded this as constraints on her sovereignty that she has been unwilling to grant. The Chinese development and their consequences on the flow regime of the river thus seem to highlight the difficulties between the Mekong River regime member states, rather than inspire and trigger increased cooperation. Hypothesis F therefore appears to be weakened.

In sum, the effectiveness of the Mekong River regime is limited by China not being a member of the regime. It is nonetheless uncertain how the effectiveness would be influenced should China, as the regional superpower, join the regime.

5.5 Summing up

The overall picture of the effectiveness of the Mekong River regime is one of a regime situated in an extremely complex political landscape. The geographical location and qualities of its members and most important non-member determine their respective potential to be laggards or pushers, but the domestic political situation decides whether the role will be played out. All riparians guard their sovereignty fiercely. Most forces work against an effective regime, including its institutional setting. How-

ever, the regime has made important accomplishments. It has gathered and processed substantial amounts of data on the river and its basin, obtained through cooperation by all member states. This is a significant achievement in a region torn by war and political suspicion, and indicates that the regime is effective in areas that are less sensitive and require smaller or no sacrifices of national sovereignty. To be a regime with overall high effectiveness it still has a few important bridges of peace and trust to build.

5.6 Comments on the theoretical framework

This section will comment on the applicability of Underdal's model to the Mekong River regime, discussing both what *effectiveness* means in the Mekong setting, and certain aspects of the explanatory framework that were found to have other impacts than those predicted.

5.6.1 What is effectiveness in the Mekong setting?

Regimes situated in conditions marked by recent war and low levels of trust necessitate a different understanding of what regime effectiveness is than regimes initiated in more benign situations. This report suggests that cooperation induced by the regime, even if it is only to gather and process data, should be regarded as proof of effectiveness provided that this cooperation had not taken place without the regime. Similarly, the definitions of output and outcome need to be reconsidered. Change in behaviour of the regime members, the outcome, may not necessarily have an impact on the biophysical environment, but rather pave the way for further cooperation and perhaps more extensive output from the regime. This output may in turn induce outcome that influences the biophysical environment. An example from the Mekong River regime might be the hydraulic model, which in the traditional terminology would be considered output. The construction of the model required the regime members to change their behaviour (outcome) because they had to provide and share information to a greater extent than previously, but this in itself does not change the biophysical environment in the basin. However, the hydraulic model may be used in the future as a policy tool that influences the regime members to change their behaviour, and *this* change may have an impact on the environment. The point is, however, that a change in behaviour incited by the regime takes place both *before* and after the hydraulic model, the output, is produced. The purpose of inducing the regime's target group to alter their behaviour might be to produce or agree on something that paves the way for more extensive collaboration. In this sense, outcome may produce *output* understood in a broad sense which in turn causes further adjustment of behaviour. The intricacy and sensitivity of policies in a politically malign region suggest that it may be necessary with several sessions of output and outcome before the confidence level within the regime is stable enough to allow adjustment of behaviour and domestic policies. Effectiveness at this level may be little, or low, compared to what is traditionally considered effectiveness in the regime context, however, the theoretical definition of outcome as change in behaviour as a result of regime output also leaves room for this understanding. It seems fair to give the regime members credit for small changes when the conditions are particularly difficult.

5.6.2 *The explanatory framework*

Some of the factors in the explanatory framework influence the dependent variable differently, or in a more ambiguous manner, than what Underdal's model stipulates. The intellectual problem malignity can, in politically malign cases, have a positive effect on the regime effectiveness because it represents a common obstacle to all members. It is nonetheless important to note that the influence of the intellectual malignity is not necessarily only negative or only positive, and it will probably vary with external conditions as well as with the degree of malignity. Whether the positive impact of difficult conditions is greater than those a benign situation would have allowed for is difficult to say, but it is likely that benignity permits a higher level of effectiveness than a malign situation does.

As for the problem solving capacity, the factors time, capacity and skill require commenting. A long history of cooperation was perceived by Underdal as contributing positively to the effectiveness of the regime, however, the empirical findings from the Mekong River regime suggest that this depends on a positive impression of both members and non-members of the regime in its earlier days. The model also predicted the capacity of the members to have a positive impact on the regime effectiveness. This, however, might not be the case. Members with less capacity could be more welcoming of the regime policy suggestions because their government then does not have to spend resources on developing policies. Regime members with advanced bureaucracy and systems of governance might be less inclined to change their current system. These two trends are not covariant. However, these findings raise questions about whose suggestions the countries with less capacity adopt, and whether the regime perhaps functions as a clearinghouse for the preferences of the most powerful members. As for skill, an even distribution is not a precondition for high level of skills to have a positive influence on the regime effectiveness. It suffices that one or a few members possess skills that they are willing to share with other regime members. This cooperation for capacity building will enhance the regime effectiveness, but it is uncertain whether its effect matches the possible impact of a high level of skills amongst all regime members.

Nonetheless, the model with a few supplements proved useful both for organising the empirical data, and for predicting their influence on the effectiveness of the regime.

6 Concluding remarks

This study attempted to evaluate the effectiveness of a regime set in a complex and vibrant region. The organisation of data and the explanatory framework were based on Underdal's (2002) model for analysing regime effectiveness, with the problem malignity and the problem solving capacity, hereunder the institutional setting, the distribution of power and the skill and energy, as the main explanatory factors. A third factor was added to the framework to account for the impact of other forms of cooperation in the region on the effectiveness of the Mekong River regime. The study showed that despite the lack of a solid information base on the basin and a weak institutional setting, the regime has initiated fruitful cooperation on less sensitive issues such as capacity-building and gathering and sharing information, and engaged the most powerful riparian, a non-member, in dialogue and cooperation. However, its effectiveness is restricted by the riparians' concern with sovereignty, lack of leadership within the regime, and other forms of cooperation in the region.

The report proposed that when analysing regimes concerned with specific, shared natural resources such as a river, the geographical location of the participants, influenced by the historical relations between them and domestic political conditions, determines their roles as pushers or laggards within the regime. It furthermore suggested that in politically malign situations, the threshold for effectiveness should be lower than in more benign cases because the effort required to achieve the same level of effectiveness is greater.

The geographical location of the riparians and their historical relations is the setting of the regime, nothing can alter these preconditions. But what could be done to make the regime more effective given these circumstances? The riparians could possibly treasure the regional cooperation about their gigantic ecosystem more. The regime members need to agree to greater detail on what the purpose of their efforts is, and they ought to find a way to share both costs and benefits amongst the riparian peoples without favouring any nationality or ethnic group. The donors could work for more sophisticated coordination within the donor group, push harder for results, and be more prepared to withhold resources if achievements are not accomplished. And, significantly, the position of the MRC in relation to other forms of cooperation in the region must be clarified. If its status is not enhanced so that it serves as a clearinghouse and centre of competence on the region, it could be undermined by other forms of regional collaboration. It is therefore important that the Mekong River regime receives support from other organisations and actors that are engaged in mainland Southeast Asia. The donor states play a crucial role in this as they have access to several of the other regional forms of cooperation, for example through membership in ADB or the WB. The donors must have a coherent agenda for the region, not only towards each actor in the region. I recommended that the donors try to influence the Mekong River regime both directly, through working with the MRC, and indirectly through other channels and organisations in the region. The donors could also engage in dialogue with private investment companies from their home states that have interests in the region. The task of enhancing

the effectiveness of the Mekong River regime is a challenging one. It rests primarily with the riparians, but the donors are important facilitators for the process.

As for 'the China issue', it is difficult to know what to recommend. If China is not a member, the regime has to adjust to her actions in the upper parts of the Mekong River. However, if she became a member of the regime, would it make the regime policy recommendations easier to phrase, accept and implement? Or would China, given her size and political weight, simply force the regime to adhere to her preferences? Perhaps it is better that China remains an observer and partner for technical collaboration, rather than becoming a member. Her dominant position is not matched by any of the other regime members, and given her plans and goals for the development of the river, it is not certain she would contribute to the aims of the regime as they are presently phrased. However, it is important that China and the Mekong River regime continue their cooperation on technical issues, after all, they are all riparians in the same river basin.

The Mekong River basin is likely to change rapidly and significantly the coming years. Huge plans for increasing transport of persons and goods are about to be carried out, hydropower dams are on the drawing-board and being constructed both on tributaries and on the mainstream of the river, and all countries are eager to speed up their economic development rates, bringing political adjustments in the fairway. This will have impacts on the environment and those who depend on it. How these challenges will be handled is up to the riparians and their governments, but should they want it, they have a basin organisation at their disposal that may act both as a bargaining table and a knowledge centre. The choice of using it or not is theirs to make.

Is the Mekong River regime then a paper tiger? Possibly. Its framework is far more ambitious than what its members have allowed it to be until now, and its impact smaller than what its donors would like to see. To achieve sustainable development, the riparians must be more accommodating and willing to compromise than they have shown themselves to be so far. In the future, it may turn to life, but that depends on whether its members and masters are willing to provide it with a cutting edge or not. Presently, it appears to be more of a paper tiger than a real tiger.

But is the regime a white elephant? Perhaps in moments, its members and its donors wish it was showing itself more useful and less of a showcase for a 'Mekong Spirit' that has haunted the regional scene for years. However, all actors involved seem to recognise that the regime has a function. In this war-torn region, it is after all better that the riparians feed and nurse a white elephant together than ride towards each other mounted on war elephants.

Notes

¹ The Mekong River is called Lancang Jiang in China, but for simplicity, this thesis will refer to it as the upper parts of the Mekong River.

² Makim speaks of the Committee years from 1964 to 1975, and has thus divided the regime's phases differently from this study. The assessment, however, is still valid.

³ Lao and Thai languages are somewhat similar, and Lao people living in the Mekong valley often understand Thai (partly due to Thai TV broadcasting in the area). The Laotian script has the same roots as the Thai script, but today the two are different.

⁴ The headquarter of the Mekong River Commission alternates on a five-year basis between Vientiane, Lao PDR, and Phnom Penh, Cambodia.

⁵ Turner operates with absolute numbers when describing the workforce employed in agriculture/hunting etc for Thailand and Vietnam, but with relative numbers for Cambodia and Laos. I have made all the numbers relative so they are easier to compare, using Turner's figures to calculate the values.

⁶ There are several other ways to indicate the level of economic development in a country, such as GDP per capita and GNI. I have chosen to use GDP per capita adjusted for ppp because I believe this standard of measurement is both accessible and well know, and provides a more correct indication than GDP per capita only.

⁷ The 'Yali incident' happened in 2000 when Vietnam, without prior notice to Cambodia, opened the gates at the Yali Falls Dam in Vietnam, 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, and Sithirith 2002:18-19).

⁸ Hirsch' figures might be slightly outdated. Turner states that Thailand's total GDP for 2003 was US\$ 143.2 billions, whilst that of Vietnam was US\$ 39.2 billions (Turner 2006:1583, 2007). The CIA World Factbook estimates that the GDP for Thailand for 2005, adjusted for purchasing power parity, is US\$ 545.8 billions (Central Intelligence Agency 2006e), whilst the same estimate for Vietnam is US\$ 253.2 billions (Central Intelligence Agency 2006f).

⁹ The Economist does not state whether this figure is adjusted for purchasing power parity. Their source is the Regional Statistics Bureau, whilst the figure for all of China is from the CIA World Factbook. The dollar-denomination may hence be from different years, but the point remains the same: Yunnan Province is amongst the poorest in China.

¹⁰ I have been unable to confirm this through written sources, however, Magee has had similar experiences with this only being referred to in interviews (Magee 2006b). When discussing access to water *quality* data, Ongley and Wang (2004:277) claim that SEPA 'appears to be limiting [...] what information should be made available' and that a local Environmental Protection Bureau (EPB) 'may, as its option, declare the data to be 'State Secret' or make the data available on payment of a fee'.

¹¹ McCormack claims the drop is 700 m.

¹² Turkey and Burundi were the other two.

¹³ The consultant collecting the data had to 'beg, borrow and steal' to get the required data (interview 3.6).

¹⁴ Public participation does not necessarily contribute positively to effectiveness, but given the magnitude of the *lack* of it in some of the riparians, increased participation, for example through the NMCs, is in this context believed to have a positive impact on the regime effectiveness.

List of interviewees

This list presents the interviewees in alphabetical order. The numbers found in the report do not correspond to this list. Some made comments based on their personal capacity and experiences, and the views expressed by some are thus not representative for the body they work for. I have chosen to include their title and affiliation to make it easier for others to locate and contact them.

Chounlamouny, Kongngeun, National WUP Coordinator, Director of Water Utilization & Management Division, Lao National Mekong Committee.

Chufamane, Pakawan, Director, Thailand National Mekong Committee Secretariat.

Dethrasavong, Chandavanh, Environment and Social Specialist, Independent Researcher, Lao PDR.

Ding, Lingling, Senior Regional Economist, Thailand Resident Mission, Asian Development Bank.

Dore, John, Coordinator for Asia, IUCN – The World Conservation Union, Asia Regional Office.

Feng, Yan, Ph. D, Asian International Rivers Centre, Yunnan University.

Geheb, Kim, Research Coordinator, Agriculture, Irrigation and Forestry Programme, Mekong River Commission.

He, Daming, Director, Asian International Rivers Centre, Yunnan University.

Holtsberg, Christer, Counsellor, Director of Swedish Environmental Secretariat for Asia, SIDA, Embassy of Sweden, Thailand.

Jia, Feng, Deputy Director, Center for Environmental Education & Communications of State Environmental Protection Administration of China.

Jun, He, Centre for Mountain Ecosystem Studies, ICRAF – China, Kunming Institute of Botany CAS.

Katima, Suchat, Executive Director, Management and Executive Recruitment Consultants Ltd, Thailand.

Lazarus, Kate, Senior Programme Officer – Mekong Region, IUCN – The World Conservation Union, Lao PDR Country Office.

Li, Fang, Director, Regional Environment Cooperation Division, International Cooperation Department, State Environmental Protection Administration, P.R. China.

Mathur, Vikrom, Research Fellow, Stockholm Environment Institute – Asia.

Metzger, John, Advisor, Water Utilisation Programme, Mekong River Commission.

Schiefer, Wolfgang, Chief, Programme Coordination Section, Mekong River Commission.

Skofteland, Egil, Chief Engineer, International Section, Norwegian Water Resources and Energy Directorate.

Sukhsri, Chaiyuth , Professor, Head, Department of Water Resource, Faculty of Engineering, Chulalongkorn University, member, Thailand National Mekong Committee.

Yongsong, Chen, Director, Yunnan EcoNetwork.

Zuo, Ting, Deputy Dean, college of Humanities and Development, Professor in development studies, Department of Development Studies, Senior Researcher, Center for Integrated Agricultural Development, China Agricultural University.

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