



Mekong River Commission

Progress In Water Management at the River Basin Level: Mekong River Basin



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A. INTRODUCTION

The Mekong River Commission (MRC) is pleased to be associated with the International Network of Basin Organizations (INBO). By taking part in many sessions of INBO at the 3rd WWF, the MRC is also to gain more insight and experience from other parts of the world in this important effort for developing integrated water resource management.

It is the MRC's great pleasure to share with all participants a brief report on its progress and planned activities for improving water management at the level of River Basin.

At 4800km long the Mekong River is one of the world's longest rivers and the longest international river in South East Asia. Its biodiversity is equal only to that of the Congo and Amazon. The Mekong flows through 6 countries China, Myanmar, Lao PDR, Thailand, Cambodia and Viet Nam before reaching the South China Sea. The people of the Mekong region are among the poorest in the world, the majority of whom live a rural subsistence life where lack of food security, risk to life from severe flooding and reduced access to natural resources including safe water is increasing, due to slow economic growth and rapid increase in the population of the region.

The Mekong River Commission (MRC) is an inter-governmental agency of the four countries of the lower Mekong basin, Cambodia, Lao PDR, Thailand and Viet Nam. The case study aims to illustrate the establishment of the MRC as a trans-boundary river basin organization by explaining how MRC (in its current structure) works to manage an international river basin in an integrated and sustainable way. The MRC replaces the Mekong Committee (1957-1976) and the Interim Mekong Committee (1978-1992), and was formed following the signing of the 1995 Agreement on "Cooperation for the Sustainable Development of the Mekong River Basin".

The MRC consists of three permanent bodies: The Council, Joint Committee and the MRC Secretariat. National Mekong Committees are established in each member country and act as the key focal point for liaison with the MRC Secretariat and coordination with national ministries and line agencies. Important stakeholders include the donor community (supporting the organization with US\$15-20 mil annually), international organizations, civil society, research institutes and national organizations.

During the early decades of Mekong cooperation, the focus was largely on economic development activity. Considerations for social and environmental aspects were minimal. Work was undertaken on a project and national basis and the transboundary impacts of development (social and environmental) were not considered. The need for regional development that was sustainable and holistic in nature and managed and decided upon by the political masters of the region emerged only at the end of the cold war and the Cambodia decade of conflict in the early 1990's when regional cooperation was once again a real possibility. At the same time the concept of sustainable development emerged in international policy and law making, and became a means of synthesising conflicting needs. This concept is at the core of the '95 Agreement. With the signing of the '95 Agreement, increased importance was put on ensuring the delicate balance between socio-economic development and the need for environmental protection and maintenance of the ecological balance of the river basin.

MRC is now established to holistically manage policy, technical and administrative matters of river basin management. It is guided by a programme approach to development and does so through three core¹, five sector² and one support programme³. The three core programmes represent the

¹ Water Utilisation, Environment and Basin Development Plan Programmes

² Water Resources Management; Agriculture, Irrigation and Forestry; Fisheries; Navigation, Tourism Programmes.

³ Capacity building programme

strategic focus of MRC's work and the priorities of the '95 Agreement. The Water Utilisation Programme develops an appropriate decision-support framework for sustainable development, rules for water utilisation and a system for monitoring and management. The Basin Development Plan identifies trans-boundary development opportunities that are sustainable and environmentally sound. The Environment Programme provides the environmental information base from which WUP and BDP are able to decide upon priorities and appropriate levels and areas for development. MRC now has formal partnerships with a range of organizations and institutions both within the region and internationally. From 2002 selected civil society representatives have also been invited to attend MRC's Joint Committee and Council meetings.

The achievements of MRC are many and the positive impacts of the programme approach focused on integrated and sustainable river basin management are now being realized. Achievements so far include: adoption of an agreement on data and information sharing among the four countries; establishment and use of web-based flood forecasting and dry season river monitoring; historic hydrological data exchange agreement between China and MRC (signed April 2002); development and adoption of water utilisation rules, the latest being the preliminary procedures for notification, prior consultation and agreement; formulation of a regional flood management programme; hydropower strategy; research coordination within the Mekong under CGIAR Challenge Programme; communication strategies that have raised the profile and increased awareness of the organization, internet communication, technical publication and media exposure; integrated training and junior riparian professional programmes; implementation of the basin development planning process with a focus on a sub-area approach; development of an integrated approach to agriculture, irrigation and forestry; support for development of a navigation programme; establishment of the inland fisheries research institute in Phnom Penh.

Lessons learnt by MRC which ensure implementation of the 95 Agreement and conflict prevention include: facilitation of accepted, quality scientific data and information; an holistic trans-boundary programme based approach that is adaptive; commitment to capacity and institutional building of MRC and National Mekong Committees; maintenance of the role of neutral mediator and facilitator; participatory in understanding and addressing the concerns of all stakeholders; and encouraging of ongoing and increased dialogue with upstream countries China and Myanmar.

MRC has produced a corporate video "Mekong the Mother" and a wide range of technical and information publications. All can be viewed at www.mrcmekong.org. The new MRC website soon to be launched will allow online browsing and ordering of publications.

B. MEKONG RIVER COMMISSION: ACHIEVEMENT, KEY ISSUES AND OPPORTUNITIES FOR ENHANCED COOPERATION.

The Mekong River Commission (MRC) was established in 1995 to replace the previous Mekong Committees by the four countries of the lower Mekong basin – Cambodia, Lao PDR, Thailand and Viet Nam – through the signing of a relatively short but powerful treaty - the Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin (hereafter called The 1995 Agreement)

This note attempts to describe progress made by the Mekong River Commission (MRC) towards the important and ambitious goals set by the four member countries in the 1995 Agreement. Political conditions within and between the basin countries are presently more favourable for true collaboration than they have been throughout the 20th century, which has been such a troubled, dramatic and violent century for the Mekong region.

The 1995 Agreement establishing the MRC is probably unique in its scope and trendy in the world of international river basin management. Reaching this agreement can be considered as a great achievement. Importantly, the agreement establishes high-level political mechanisms for dialogue, building trust and reaching agreements. At the same time the 1995 Agreement presents the tough tasks for the MRC - "make it or break it", that requires strong political will, and good faith efforts by all

member countries in fulfilling the obligations arising from the 1995 Agreement. Through it, the four countries of the lower Mekong basin undertake to work in collaboration to develop and safeguard the river ecosystem, to share information on all aspects of mutual importance, to agree on water sharing rules, and to seek mutually beneficial development of the region's water and related resources. The agreement represents a significant move away from a narrow view of river management and the development of one or two major economic opportunities such as hydropower and irrigation, to the broad and modern view of integrated, sustainable development of the entire ecosystem. This view is to take joint action now to manage and develop this relative healthy and rich river basin in a more responsible and proactive way, before it is too late and too costly to restore it.

At the very start, the start-up of the implementation of the 1995 Agreement was painfully slow due to at least the following reasons: i. relocation of the MRC headquarters to Phnom Penh, Cambodia in 1997; ii. many qualified staff opted out from moving to Phnom Penh out of security concern prevailed at that difficult time; iii. serious management flaw; and iv. donors' confidence began to evaporate out of the concern over the lack of strong sense of ownership by the member countries, and lack of clear strategic direction and objective by the organization.

Building on strategic plans of 1998 and 2001 and supported by a major restructuring of the MRC secretariat in 2000, MRC has somehow reshaped itself from its earlier image of being sectoral, slow, closed, and hydropower-focused, to become a modern organization poised to support a broad-based, integrated and participatory approach to river basin management. From being an organization lacking focus and with an uncertain future, MRC has become clear about its goals, and equipped itself with the structure, staff, skills, morale and external network to reach them. And the cash-strapped MRC member countries themselves have agreed to gradually increase their funding to ensure self-financing of MRC administrative costs by 2012. As a result, international donor confidence in MRC has seen a dramatic increase, with pledges more than double between 1999 and 2000, from US\$ 12.7 million to US\$ 28 million.

The proactive and adaptive management approach, and the "Mekong Cooperation Spirit" has so far helped MRC member states in preventing and turning the potential conflicts to a mutually beneficial cooperation and sustainable development of the Mekong River Basin. Such cooperation was tested during the cold war period. The future looks promising – and exciting. The political commitment to collaboration will be put to the test during the next 2-3 years, when the tough decisions that the member countries have committed themselves to make in the context of MRC programmes have to be made.

MRC is under pressure to provide tangible development benefits to its member countries, while its core task as a transboundary river basin commission is to provide the data, knowledge and institutional and political support needed to share and develop water resources in an equitable and mutually beneficial manner. It must help provide real development opportunities, while safeguarding and reconciling the sometimes contradictory needs of the member countries, such as the need for more dry season irrigation and the need for maintaining dry season water flow downstream, regional flood issues and land use impact, and issue of dam development, blasting Mekong river bed for improving navigation upstream, and impact on fishery and flow regime downstream, and so on.

To maintain focus on its core task, MRC has structured its work in three core programmes, including the Environment Programme (EP), the Water Utilization Programme (WUP), and the Basin Development Plan (BDP). They are supported by five sector programmes and capacity building program. Each programme is defined by a set of overarching objectives in line with the 1995 Agreement, while allowing for flexibility in implementation. In this way, strategic focus is combined with flexibility to respond to emerging knowledge and shifting priorities, as well as to the needs and perceptions of the key stakeholders.

Adoption of agreement on data and information sharing among the member countries in late 2001 was one of the concrete milestones achieved since the signing of the 1995 Agreement. Data and information sharing is the platform of any effective regional cooperation. In the Mekong region, in-

formation has, however, often been held tightly by the member countries. This agreement is therefore an important step towards closer collaboration in order to move away from "data rich, but information poor" by making data and information more accessible and reliable to the users. In July 2003, the Joint Committee of the MRC adopted the Guidelines on Data Custodianship and Management of Information System to formalize the detailed procedures for data exchange among the MRC member countries, and for allowing access to MRC data and information by the users. MRC is now attempting to develop an information system by relying on the state of arts of technology. This proves to be more complex and challenging than first thought.

At the 2002 Council meeting, the four Ministers in the MRC Council signed on behalf of their Governments, the Preliminary Procedures for Notification, Prior Consultation and Agreement, nearly seven years after the signing of the 1995 Agreement. These Procedures provide long awaited guidelines on the conduct of notification, prior consultation and specific agreement before any proposed use of the Mekong River waters can be started in line with the provisions of 1995 Agreement. The 1995 Agreement provides different legal requirement (notification, prior consultation or specific agreement) for different type of uses – use of water on mainstream or tributaries, during wet or dry season, use of water in the basin or diversion of water for use outside the basin, and the diversion of the "surplus quantity" of water. Since they are only preliminary rules, more detailed and specific provisions need to be agreed upon no later than late 2004. It is one of the toughest challenges for this organization. The countries have to agree on a more workable and clear cut definition of "wet and dry seasons", "what branches of river constitute "tributary", and "what types of uses are (consumptive vs. non consumptive uses) subject to notification, prior consultation and agreement", etc.

MRC is increasingly called on to take the role of "honest broker" in trans-boundary problem issues (including the Se San hydropower project, involving Viet Nam and Cambodia, and a proposed major navigation channel improvement in upper Mekong, involving China, Lao PDR, Myanmar and Thailand, and two very concerned parties Cambodia and Vietnam.)

Due to the great complexity of the Mekong River and related resources, and the tremendous technical, political and institutional challenges faced in properly managing these resources, most of the achievements made by MRC so far are of an intermediate nature. That is, they have laid the groundwork for realizing future goals, rather than representing final achievements. Many challenges remain.

C. Current Development Opportunities and Challenges

The Mekong River is one of the least spoiled and least developed of the world's great rivers and the potential for development is far from utilised. However, considerable challenge lies ahead if sustainable social and economic development is to be realised. The MRC has to address the following challenges:

- To manage greater pressure on water resources from a growing population's needs for clean and adequate water, food and energy supplies to support economic development, without causing serious damage to the environment and ecological system.
- MRC has to meet many more concrete milestones that are much more complex and challenging, in a relative short period of times, in ensuring dedicate balance between the development and the need for the environmental protection, and reconciling sometime competing or conflicting goals of the national development policy of the member countries.
- To achieve reasonable sharing of available resources to satisfy the requirements of the riparian countries and its people and to cope very effectively with the requirement from its member countries for more tangible and immediate outcomes.
- To ensure that funds are used effectively and that programmes are being implemented in co-ordination with other national, bilateral and international development efforts in the basin.

- One of the greatest challenges for the Mekong countries during the 21st century will be to manage the Mekong River and its related resources in a wise way. With six countries involved, each with different legal and institutional systems and cultures, this is no easy matter. Two upstream countries are not members of the Mekong River Commission. But the task is clear. Not only does the livelihood of the people depend on proper and shared management of the Mekong waters; so too does friendly relations between the six countries of the Mekong basin.
- To interact and coordinate with other Mekong initiatives, such as ADB initiated Greater Mekong Sub-Region (GMS), ASEAN Mekong Basin Development Cooperation Framework and so on. All concerned initiatives and MRC have expressed their intention to keep each other informed and ensure coordination. However, in reality, it is easy said than done. For example, a partnership arrangement was signed in March 2000 between MRC and ADB whereby both sides committed to cooperate at both policy/programming and project implementation levels through sharing of data and information on the river basin and people, and the information and document on the GMS activities and studies. So far, both sides are still struggling to translate that good intention into real and concrete cooperation.

D. CONFLICT PREVENTION & RESOLUTION

The 1995 Agreement sets objectives, principles, procedures, functions and structures to implement this agreement and other related projects, programs and activities, and to address and resolve issues and problems that may arise from the development of water and related resources of the Mekong River Basin. It seeks to achieve the "sustainable development, utilization, management and conservation" of the Mekong River Basin water and related resources. Its underlying principles are those of sustainable development and equity – that derived from the following key principles: sustainable development, for social and economic development consistent with the needs for environmental protection and maintenance of ecological balance, cooperation and mutual benefits, basin wide management and equitable use. The term "water and related resources of the Mekong river Basin" spelt out the Agreement itself, reflects the commitment to provide legitimacy for integrated river basin management, and itself is the greatest challenge for the MRC as an organization.

The 1995 Agreement was designed as the "framework" agreement approach. While, it spells out general principles, procedures, obligations and organizational arrangements, but the framework agreement requires that State parties to work out other detailed sub-agreements through further processes, such as the development of Water Utilization Rules, required standards & guidelines, and other by-products of the Basin Development planning process.

The MRC member countries have also to agree upon more detailed principles for water use such as the maintenance of flow levels during dry season and flooding flows to meet different requirements and needs, and the maintenance of reverse flows into the Tonle Sap Great Lake during wet season. Though these principles set measurable criteria, the risk is there. They may be subject to different interpretation.

Another potential area for conflict is how to ensure "use and development of water and related resources" be consistent with the needs "to protect, preserve, enhance and manage the environment and aquatic conditions and maintenance of the ecological balance". Even in one riparian country, there are at least two poles holding different opinions as to priority or balance between development and protection or preservation of environment. Some commentators suggested that the 1995 Agreement is based fundamentally on the primary need for environmental protection, and the cooperation is based on the concept of mutual benefits of all cooperating countries and for social well-being of the peoples of the riparian countries of both present and future generation. And the implied mutual benefits are to develop and manage the natural resources in a way that would ensure long term and sustainable use. How to achieve that remains an open question and can be a source of conflict.

Though it places great emphasis on the need to prevent the conflict from happening in the first place, the 1995 Agreement also provides for a mechanism for the conflict resolution, out of understanding that with growing needs for development and stress on the environment, such transboundary conflict is inevitable.

At the time of this writing, the MRC member-countries have developed an interesting set of programmes, such as Water Utilization Program, Environment Program, Basin Development Plan, Flood Management Program, Data and Information System Development, Integrated Capacity Building Program, and many other sector programs. These programs/activities are based on the primary objectives set in the 1995 Agreement, though these objectives may be subject to different if not conflicting interpretation. The future looks promising – and exciting. The political commitment to collaboration will be put to the test during the next 2-3 years, when the tough decisions that the member countries have committed themselves to make in the context of MRC programmes have to be made.

E. LESSONS LEARNT IN CONFLICT PREVENTION AND RESOLUTION

From the recent development of the MRC Flood Management and Mitigation Programme, it seems to suggest that the threat and severe damage caused by abnormal flood that hit this region three year in a row, increases the perception of the need for improved regional cooperation. This need comes from the understanding that: i. severe flood damage causes by both natural and man-made factor, and ii. Flood is transboundary issue required regional and balanced approach to address it effectively. This Flood Management Program succeeded in relatively short period of time to gain full support from the MRC member countries, but also very active support from the donor community. This seems to support the cooperation theory that there is no escaping from the need for sustained regional cooperation as one component of the overall human response to global environmental change, increasing scarcity of resources and a worsening of transboundary and global environmental conditions that would negatively affect their respective national interests.

From the Mekong experience, regional cooperation which lacks adequately workable legal and institutional mechanism to support it will find it very difficult to move beyond the level of meetings and plans to the real world of concrete political agreements and joint programmes. A legal agreement itself is, of course, only a piece of paper, unless its letter and spirit are used as a guide for actions, and unless an effective institution is in place to support those actions. Building effective institutions is, however, more difficult than reaching an agreement to do so. Hence, despite the emphasis on cooperation and mutual benefits, the 1995 Agreement may contain the basis for future conflict if it is managed properly and effectively. The prevention of conflict over the interpretation of the 1995 Agreement, and over the development and utilization of the resources, require that:

1. Accepted scientific data and information, as well as other relevant decision support tools should be in place to ensure that the decision is made in a timely manner with all required support and facts. Data collection and knowledge generation must be regarded as one of the important parts of the international cooperation efforts. For example, the hydrological data collection on the flow regime of the Mekong river basin over time and in both the mainstream, major tributaries, and the associated development of the decision support framework (comprehensive modeling package and knowledge base) have been implemented and improved over the past few years by the MRC. The primary focus is the gaining of data for determining the required "accepted natural flows" based on the principle of meeting the existing use, protecting in stream needs, water quality and other beneficial uses, as well as to understand the intimate link between the volume and pattern of flow in the river and its conditions in terms of goods and services it provides. This work will lead to a recommendation on minimum flow regime being put to the MRC Joint Committee.
2. All parties have to the agreed adaptive approach. The 1995 Agreement is a framework agreement which is subject to further fulfillment, refinement and change within the agreed framework, as new needs arise and new knowledge about the basin becomes available. The Basin Development Planning (BDP) process and the development of the

Rules for water utilizations (at least five sets of them: data information sharing and exchange; Procedures for Notification, Prior consultation and Agreement; Rules for Water Use Monitoring; Rules on Maintenance of Water Flow; and Rules/guidelines on Maintenance of water quality) are supposed to help the MRC member countries to agree on more detailed rules to implement the key provisions of the 1995 Agreement. They prove to be very time consuming, highly sensitive, and politically and technically complex process. Of course the development of these "Water Utilization Rules" and agreement on the specific development projects and programs through the BDP process is to provide the best method for proactively addressing the potential conflict. This process can be itself a source of conflict, if it is not properly designed and carried out, and if there is no real and sincere political will from and no all required support and information are available to the member countries, and their national agencies concerned.

3. Capacity and institutional building for MRC and National Mekong Committees (NMCs), and political will and commitment from higher level of the Governments and their respective national agencies are very important. First of all, it is very crucial to have an improved institutional structure and process, and the willingness and ability of the national agencies and other key stakeholders to participate in good faith in these structure and processes, to prevent and resolve conflict over competing resources uses and other transboundary issues. However, there are always certain risks involved. For instance, some key stakeholders in the structures may be not willing to use the structures, agreed principles and processes in the agreement to their full potential. Another risk is the sectoral agencies may resist structural change resulting from the adoption of the concept of integration across the region, and the development of different sectoral policies in different member states may not lead to integrated policies. An encouraging sign is the four member countries are prescribing to the concept of integrated water resources management, though the translation of this concept into real life is a tough challenge and there is still a long way to go.
4. Availability of external and independent means for defusing the issues or conflict: Mediation and fact finding are a useful means to assist with preventing conflict, problem-solving and conflict management in complex conditions as the Mekong. In 1992, when the four lower Mekong countries reached a deadlock over the issue of reactivation of the Mekong Committee, the UNDP provided mediation assistance to the four countries to reach an important political commitment to return to negotiating table and to keep alive the Mekong cooperation by hammering out an improved institutional framework. While designing its core programs, the MRC has included a component on the role of external experts' panel in assisting the member countries, and the MRC's Council and Joint Committee to anticipate complex and difficult potential issues, and to plan processes for addressing them, and in clarifying issues or problems that are in dispute. In some case, the issue in dispute is over issue of facts. This confirms once again the importance of the data and decision support system mentioned in point one above. If all necessary information is shared, and if additional fact-finding is conducted, the potential benefits for each side are maximized in preventing and solving the conflict.
5. Inclusiveness of all concerned stakeholders is very crucial in preventing the conflict. China and Myanmar are still outside the Mekong cooperation framework. Their active participation in the Mekong cooperation regime will contribute to a more comprehensive river basin management. Participation of other key stakeholders is also a must.

F. Conclusion:

The Mekong River has for decades been a natural symbol of the regional cooperation among its riparian countries. The Mekong River Commission and its predecessors, is one of very few only regional institutions to survive the difficult period of cold war and ideological confrontation. Regional cooperation in the Mekong basin has increased dramatically since the end of World War II and especially after the end of the cold war area. Cooperation among the lower Mekong countries began in 1957, with the establishment of the Mekong Committee. Though out its history, the Mekong cooperation has contributed to turning the potential conflicts to the cooperation potential.

The establishment of the Mekong River Commission in 1995 constitute a dramatic turn in the history of the Mekong cooperation. Judging from indications such as the number and quality of exchanges taking place in the context of MRC's programmes, the progress being made in MRC core programmes, and the speed with which a regional flood management strategy was put in place in response to the 2000 floods, a gradual shift from earlier suspicion to trust and collaboration is evident, promising well for the future.

With the progress on the development of the Basin Development Plan, and the Flood Management Programme, the window of opportunity is open up for more investment in the region. This make the MRC activities and decision can positively and negatively affect many stakeholders in the region. That alone requires MRC to be more open and more proactive. One important pillar of the "new MRC" has to open up and embrace participatory planning. MRC has carried out all its recent planning exercises through broad, participatory processes. While costly and time-consuming, this has proved invaluable in creating the necessary agreement on priorities and ownership of the programmes at all levels of national governments. Reflecting the modest tradition of public participation in government decision-making in the region, MRC has a lot of things to catch up with and prepare for such involvement. Public participation has been ad-hoc. As delivery of the new programmes accelerated and the next generation of plans are developed, public participation is an integrated part of the MRC planning and implementation process. Important preliminary steps have been taken. Partnership agreements have been established with major international organizations and NGOs.

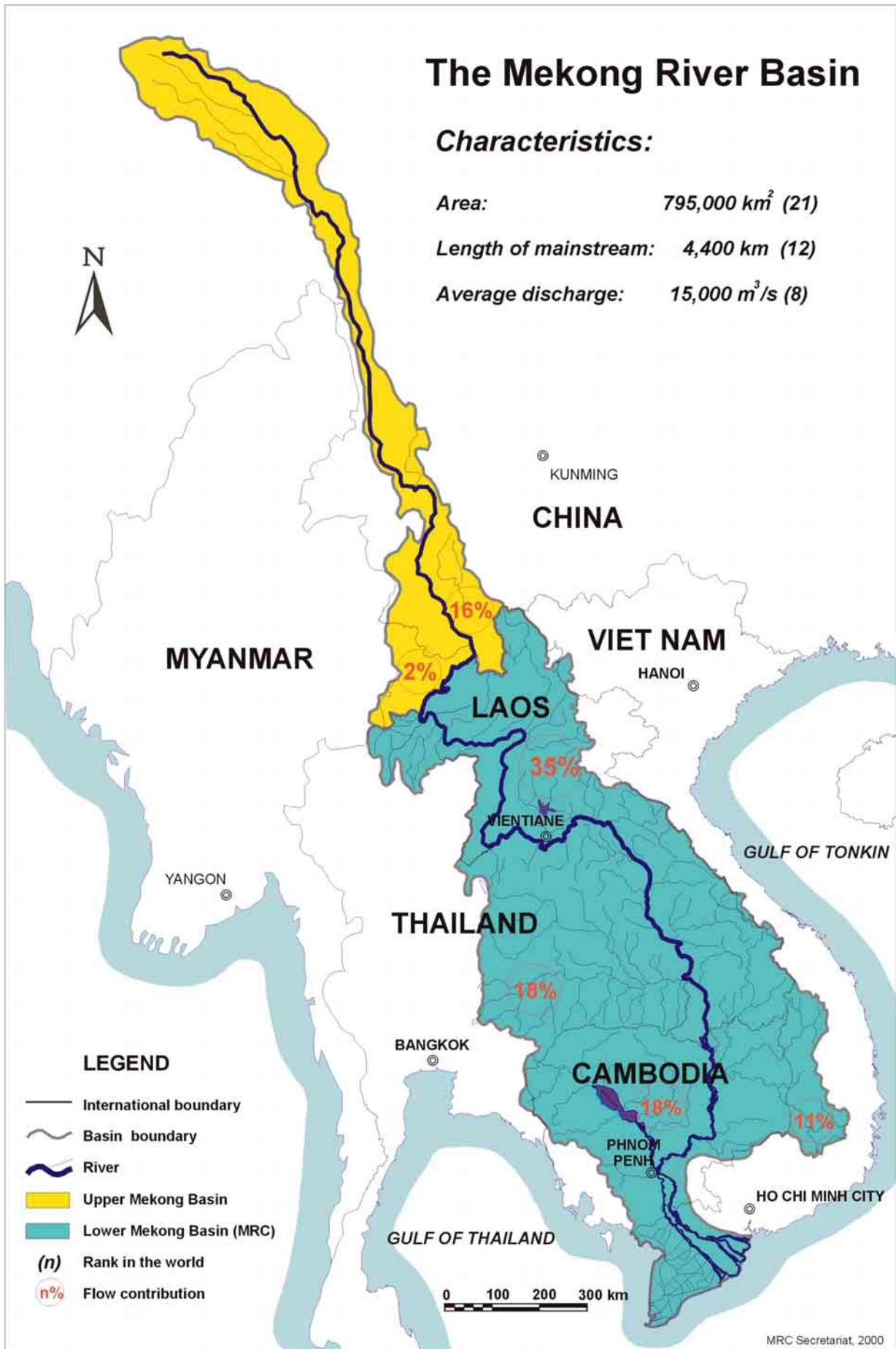
For the last few years, the MRC has become much more open, and paid more attention to the integration of environmental, socio-economic, poverty reduction and gender concerns within its programs. However, implementation of a more open and integrated approach is highly demanding. For the coming decades, the MRC will have to pay greater attention in ensuring that the secretariat staff is not only technically qualified but also have appropriate knowledge of the integrated water resources management, good facilitation skills and equipped with hydro-diplomacy. The NMCs are vital, but they are characterized by shortages in human and financial resources, and in some case, are largely isolated from the main decision-making processes at the national level. This institutional and human capacity of the NMCs is expected to be another daunting task for the MRC member countries to tackle in the coming years, if they are serious for a stronger and effective MRC networks.

The proactive and adaptive management approach, and the "Mekong Cooperation Spirit" has so far helped MRC member states for the last 47 years in preventing and turning the potential conflicts to a mutually beneficial cooperation and sustainable development of the Mekong River Basin. Such cooperation was tested during the cold war period. The future looks promising – and exciting. The political commitment to collaboration will be put to the test during the next 2-3 years, when the tough decisions that the member countries have committed themselves to make in the context of MRC programmes have to be made.

The Mekong River Basin

Characteristics:

Area: 795,000 km² (21)
 Length of mainstream: 4,400 km (12)
 Average discharge: 15,000 m³/s (8)



MRC Secretariat, 2000