An alternate past/future for Mekong River dams under the UN Watercourses Convention

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This is a three part article looking at dams on the Mekong. Part 1 examines the existing legal framework for regulating dam development in the Mekong and how its legal gaps and ambiguities have led to ongoing disputes, specifically regarding the Xayaburi Dam under construction in Laos. Part 2 investigates the practical implementation of the Mekong Agreement and PNPCA via the Xayaburi Dam ‘prior consultation’ process, examining the specific contested procedural and legal elements. Part 3 concludes with potential next steps for improved transboundary cooperation in the Mekong.

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Part 1: The lifeblood of the region, the Mekong River (known as the Lancang in China) and its many tributaries flow through six countries: China, Myanmar, Laos, Thailand, Cambodia and Vietnam. Its resources affect the lives of over 70 million people who rely on it daily for food and/or work, but these livelihoods are facing growing threats. Today, the mighty Mekong is at an unprecedented juncture in its ongoing survival, particularly from hydropower dam development.

Damming the Mekong: Unprecedented threats to the river and its people

Much of the focus of the Mekong is divided between the upper Mekong, which includes China and Myanmar, and the Lower Mekong, encompassing the remaining four states. Eleven dams are being planned or built on the Lower Mekong Basin’s mainstream with many more anticipated along its extensive tributaries. Most of these dams come with significant social and environmental impacts.

Introducing dams on the Mekong will severely impact fish migration and reproduction along the world’s largest inland fishery. The Mekong River Commission’s (MRC) three-year study released in 2015 found the eleven mainstream dams will wipe out approximately half of all its fisheries, severely impacting the communities relying on fishing for protein and/or employment.
Most dams trap fluvial sediment, creating erosion and reducing nutrients in the river, directly affecting agricultural production, so each additional dam means less rich soil downstream.\textsuperscript{11} Agricultural outputs from Vietnam’s Mekong Delta, particularly rice, have already been severely impacted via China’s Lancang dams scheme.\textsuperscript{12} The situation has become so critical that Vietnam recently went to the extent of asking China to discharge water from the Jinghong Dam on the Lancang in Yunnan Province to help alleviate conditions in the Delta and seems intent on requesting other upstream states to do similarly regarding river flows.\textsuperscript{13,14} Thailand’s need for water during the current drought has led it to set up temporary pumping stations to divert 47 million cubic metres of water from the Mekong, causing concern for other downstream countries.\textsuperscript{26} Additional Mekong dams, compounded by ongoing drought and rising sea levels due to climate change, will only exacerbate these issues.\textsuperscript{11,15}

While some riverine communities may be displaced as their fishing or farming lifestyles become unsustainable, other communities, often indigenous peoples with a strong cultural connection to their ancestral land, are being relocated to make way for dam reservoirs.\textsuperscript{16,17} Thus, it is no wonder that disputes have emerged between various Mekong basin states as to the domestic, transboundary, environmental, and social impacts of certain dams. Part 1 of this three-part article examines the existing legal framework for regulating dam development in the Mekong and how its legal gaps and ambiguities have led to ongoing disputes, specifically regarding the Xayaburi Dam under construction in Laos.

**1995 Mekong Agreement and MRC**

Entering into force on 5 April 1995, the Agreement on the Cooperation for the Sustainable Development of the Mekong River (Mekong Agreement) for the Lower Mekong Basin states of Cambodia, Laos, Thailand, and Vietnam was the celebrated river basin treaty of its time and a major legal milestone.

Divided into six chapters, the Mekong Agreement’s provisions broadly set out the roles and responsibilities of riparian – being ‘of the river’ – states in governing the seasonal flows and major uses of the Lower Mekong Basin. It is accompanied by the Procedures for Notification, Prior Consultation and Agreement (PNPCA), which sets out key timeframes, standards, and processes for states regulating dam development. It contains separate procedures for projects on Mekong tributaries, plus intra-basin uses on the mainstream (proposing states are only required to notify fellow riparians of planned projects) versus inter-basin and other mainstream developments (proposing states must submit the project for prior consultation with MRC member states with the aim of reaching an agreement on any contested aspects). The PNPCA Guidelines elaborate further on implementing these processes. Both the PNPCA and Guidelines are not ‘international treaties’ in the strict legal sense as they are supplementary to, and thus sit outside of, the Mekong Agreement ratified by MRC member states.\textsuperscript{18,19}

The Agreement also established the MRC as an inter-governmental institution with the aim to foster cooperation between basin states to effectively manage river usage. Having not yet decided to join, China and Myanmar hold official observer status as MRC ‘Dialogue Partners’.

As Bearden (2010)\textsuperscript{18} aptly suggests, the Mekong Agreement and the MRC have successfully epitomised what a transboundary watercourse agreement and river basin commission should be in many respects, especially given the ever-changing geo-political and environmental contexts of the basin and its member states. However, twenty years later, the Mekong
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Agreement and PNPCA have collectively shown identifiable legal weaknesses.

Legal gaps and limitations for governing dams

The following critical legal gaps in the Mekong Agreement and the PNPCA have led to varying interpretations on its basic standards, timeframes, and processes for dam construction thus fostering subsequent disagreements among MRC states:

• Lack of clear specifics for key processes under the Agreement and PNPCA’s standards, timeframes, and procedures thus leading to inconsistency in their practical application;

• Exclusion of tributary dams from ‘prior consultation’ regulations under the PNPCA; and

• PNPCA and Guidelines being widely perceived as not legally binding on states.2,18,19,20,21

Another significant limitation of the Mekong Agreement and the MRC is its circular mechanism for dispute resolution. As it stands, the Agreement requires states to peacefully resolve disputes or, when necessary, to refer the dispute to the MRC for further negotiation. However, the MRC refers unresolved matters back to states to use diplomatic means unless, as a last resort, they chose to invite third party involvement. Eventually, if no resolution is reached, states can essentially ‘agree to disagree’ as has occurred with the Xayaburi Dam and its PNPCA process (explored in Parts 2 and 3 of this article). Such stalemates often leave the disputing parties dissatisfied and can breed distrust for future processes.

Frustrated at the perceived inability to efficiently resolve disputes and clarify processes for dam developments, including the PNPCA, bilateral ‘Development Partners’ have considerably reduced their funding to the MRC for the 2016-2020 budget.22,23 Large-scale restructuring is scheduled and relocation of the Secretariat headquarters from Laos has even been suggested as a possibility.22,24 After years of calls for greater transparency and improved efficiency, the MRC is currently undergoing such significant changes that its ability to effectively govern the river’s resources long-term is at stake.24,25

Mekong in 2016: A basin under threat, agreement under scrutiny, institution undergoing change

As dam construction on the Mekong rapidly accelerates, states’ legal obligations under the Mekong Agreement and PNPCA, as well as the mandate of the MRC to help guide and resolve disputed procedural matters, need clarifying and strengthening to evolve and cope with these challenges.

Given the issues outlined above, Part 2 of this three-part article will next investigate the practical implementation of the Mekong Agreement and PNPCA via the Xayaburi Dam ‘prior consultation’ process, examining the specific contested procedural and legal elements. The potential benefits of the 1997 United Nations Convention on the Law of the Non-navigational Uses of International Watercourses (UNWC) – the most authoritative global treaty concerning management of international rivers – being applied to the Lower Mekong Basin are subsequently explored.

Part 2: Part 1 of this article discussed the key threats to the Mekong River and its people, specifically hydropower dam construction, before summarising the legal gaps in the Agreement on the Cooperation for the Sustainable Development of the Mekong River (Mekong Agreement) and its supplementary Procedures for Notification, Prior Consultation
An alternate past/future for Mekong River dams under the UN Watercourses Convention and Agreement (PNPCA) which together regulate dam development.

Part 2 now investigates the application of the Mekong Agreement and PNPCA to Laos’ Xayaburi Dam project ‘prior consultation’ process, examining the specific contested procedural and legal elements and the role of the Mekong River Commission (MRC). Additionally, Part 2 will explore how these issues would be addressed under the 1997 United Nations Convention on the Law of the Non-navigational Uses of International Watercourses (UNWC): the most authoritative global treaty concerning management of international rivers.

The Xayaburi Dam dispute

The Xayaburi Dam project has received significant regional and global attention. It was the first Lower Mekong mainstream hydropower project submitted to the MRC for prior consultation under the PNPCA. Such a milestone was due in part to China not having signed the Mekong Agreement, thus its dams on the Lancang fall outside the MRC’s purview, while the scope of the prior consultation process does not incorporate projects on Mekong tributaries. The Xayaburi PNPCA process itself has been widely analysed and critiqued, mainly in terms of its inability ‘to reconcile the competing interests of the States concerned’ based on the Xayaburi project proposal1-2.

As highlighted in Part 1, many stakeholders are still deeply concerned about the dam’s impending significant environmental and social impacts3-4. The controversy over the project extends to the MRC’s perceived inability to resolve disputes or to clarify timeframes and requirements regarding the different PNPCA processes. Key aspects of the Xayaburi dispute are separated into their key legal and PNPCA elements below.

Submission for prior consultation and reply

Under the PNPCA’s procedural framework, Laos submitted the Xayaburi Dam project proposal for prior consultation to the MRC on 20 September 2010, and the MRC officially began the consultation process on 22 October 2010, whereby the other MRC states had six months to formally reply with any concerns about the proposal.5 On 14 Feb 2011, Laos released the initial Xayaburi Dam environmental impact assessment (EIA), which had actually been completed six months earlier before the proposal was submitted to the MRC. Due to this timing, there has been criticism that the EIA was not part of the original proposal submission; additionally, the EIA has been criticised for its overall poor quality, particularly its failure to take account of cross-border environmental impacts6. Between 13 and 15 April 2011, Cambodia, Thailand, and Vietnam each submitted formal replies raising concerns and calling for further investigation.

Obligation to cooperate in good faith and exchange information

Under the PNPCA, all states should cooperate in good faith with all potentially affected states and supply to them any available information relevant to a proposed dam project in a timely fashion. The MRC Secretariat’s independent technical review of the Xayaburi Dam released on 24 March 2011 and entitled ‘Prior Consultation Project Review Report’ identified significant gaps and concerns in Laos’ documentation and recommended further collection of baseline data and transboundary impact studies7.

Downstream states, international non-government organisations (INGOs), civil society groups, and independent experts additionally claim that Laos’ subsequent releases of Xayaburi project information, especially several EIA-related studies, have been variously incomplete,
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minimal, sporadic, and inconsistent – such as the Pöyry report discussed below\textsuperscript{8,9,10}. That key project information has been released through media statements and not via direct communication to the other states or through the MRC is an example critics cite to demonstrate Laos has not engaged in the PNPCA process in good faith at all times\textsuperscript{11,12}.

Finally, the PNPCA is silent on whether project implementation is prohibited after submission (while waiting for replies) and during consultation. Nonetheless, eyewitness accounts, press reports, and records from the dam’s construction company indicate that initial implementation began in late 2010 and continued throughout the MRC consultations held in 2011 and years subsequent which critics argue at the very least shows disinterest in following due process as agreed under the Mekong Agreement and PNPCA\textsuperscript{8,13,14,15}. Moreover, all of the actions detailed above when considered individually, even more so collectively, could be construed as directly at odds with the legal principle of states cooperating in good faith at all times, incorporating consultations and negotiations. This principle will be examined in more detail in Part 3.

Consultation & negotiation

A special session of the MRC Joint Committee was convened on 19 April 2011 to address states’ concerns. Cambodia, Thailand, and Vietnam reiterated their apprehensions about the dam project and called for a six-month extension to the standard six-month prior consultation period (which had just ended) in order to conduct broader studies and consultations, but Laos said any concerns would be accommodated without an extension\textsuperscript{5}.

Notwithstanding this assertion, Laos halted implementation and commissioned a Finnish engineering firm, Pöyry to conduct a study in May 2011 regarding whether the Xayaburi complied with the MRC’s dam safety standards and a 2009 report, ‘Preliminary Design Guidance for Proposed Mainstream Dams in the Lower Mekong Basin’ \textsuperscript{6,16}. However, construction soon resumed with Laos citing Pöyry’s advice that the prior consultation process had been completed; the dam complied with MRC safety standards and guidelines in the 2009 report; and any other necessary design changes could be incorporated at a later stage\textsuperscript{6,9}. These assertions were strongly rebuked by independent experts and INGOs, plus an MRC Secretariat review of the Pöyry report (released in August 2011) contested key technical design elements\textsuperscript{6,16,17}.

A subsequent study by a French consulting company which was commissioned by Laos to build on Pöyry’s report in order to allay dam design and transboundary impact fears was also widely discredited by INGOs\textsuperscript{18,19}. All the while, Cambodia and Vietnam both continued to consistently deny that there had been fulfilment of the prior consultation period and of Laos’ validity in unilaterally proceeding with dam implementation\textsuperscript{20,21}.

Dispute resolution

In April 2011, the MRC Secretariat resolved to determine whether the PNPCA prior consultation period was concluded for the Xayaburi Dam project. The disputed issues could not be resolved via Secretariat-level negotiations, so the states agreed to table a decision, leaving it for the ministers from each member country to come together to debate and hopefully reach a consensus\textsuperscript{5}. Despite preliminary studies and ongoing calls for the MRC to clarify both the status of the Xayaburi consultation period and PNPCA processes generally, these issues still remain largely unresolved\textsuperscript{22,23,24,25}. As of early 2016, the dam is over halfway complete, but updated project designs have yet to be made public\textsuperscript{26}.
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UN Watercourses Convention

When Vietnam ratified the UNWC in 2014, as the 35th party, it triggered the UNWC’s entry into force. Though all MRC member states voted for the UNWC adoption in 1997, Vietnam is the only Mekong basin state to accede to the UNWC so far27. Covering all of the generally-accepted principles and procedures of international law for water, the UNWC represents the global ‘rules of the game’ for managing rivers shared by two or more countries. Its central feature is detailed but flexible processes requiring basin states to: cooperate in good faith; prevent pollution and protect ecosystems; notify, negotiate, and consult with each other on projects that can have major impacts to the basin; and try to avoid or peacefully resolve disputes through a variety of forums28.

The UNWC’s clearer processes and regulations stand out in contrast to the results of the Xayaburi project highlighted above. Unlike the Mekong Agreement and its PNPCA, the UNWC clearly defines the rights and responsibilities of all basin states for dams and other projects with possible cross-border impacts and is unequivocally binding on all parties. Moreover, Part III of the UNWC views ‘notification’ and ‘prior consultation’ as sequential stages within a larger process regarding any planned measures. The UNWC does not differentiate between tributary or mainstream projects whereas the PNPCA prior consultation process only applies to mainstream projects. Compulsory procedures under the UNWC include:

- Notification to all states with all available data before planning or building a dam, including EIA results;
- Six months for reply (plus six months more if requested) during which the dam project is suspended;
- Six months consultation and, if necessary, negotiation (may ask for additional six months) with no dam construction if requested.

The UNWC is also much clearer on dispute resolution mechanisms. While the Mekong Agreement makes a circular loop permitting states to ultimately ‘agree to disagree’, the UNWC lays out a logical sequence of forums – including direct negotiation and third party mediation or conciliation – that states can essentially choose from to reach a resolution with a clear outcome. If six months after requesting negotiations the states cannot agree through these forums, an independent fact-finding body collects and verifies all available information applicable to the proposed project before providing impartial recommendations to the disputing parties. At any time, a state can apply to a third party to hear the case, including an arbitration tribunal and/or the International Court of Justice (ICJ) in The Hague.

A framework treaty, the UNWC is intended to support, not replace, existing and future basin agreements by filling in legal gaps and clarifying processes. All of which begs the question: what if the Mekong dam processes were clarified and strengthened? What if riparian states had more specific, and binding, expectations for the Xayaburi Dam process?

Part 3 of this article imagines an alternative reality where the UNWC along with the Mekong Agreement and PNPCA are collectively applied to the Xayaburi Dam process. This scenario reveals a potentially different outcome to certain disputed procedural aspects and legal elements. Consequently, a revitalised framework for the future sustainable development of the Mekong River is proposed.

Part 3: The following scenario is a simplified alternative history where the basic elements of the Xayaburi Dam dispute discussed in Part 2 are applied to the United Nations Convention on the Law of the Non-navigational Uses of International Watercourses (UNWC) framework
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operating alongside both the Agreement on the Cooperation for the Sustainable Development of the Mekong River (Mekong Agreement) and its supplementary Procedures for Notification, Prior Consultation and Agreement (PNPCA). An alternative legal framework and vision for the future of Mekong dam development is thus proposed. This three-piece article concludes with potential next steps for improved transboundary cooperation in the Mekong.

Notification, consultation & negotiation

As proposed in the PNPCA and required under the UNWC (Arts. 12-13), Laos would be legally bound to notify potentially impacted riparian states of its plans for the Xayaburi Dam because of the possible significant transboundary impacts this ‘planned measure’ might have on the Mekong River. Hence, Laos’ written submission, complete with available information and any initial Environmental Impact Assessment (EIA) results, would have been directly provided to the other Mekong River Commission (MRC) states’ governments, ideally up to six months prior as stated in the PNPCA, before any construction or permits were obtained (UNWC Arts. 11-12). Under the UNWC, the other riparians would then have had six months to reply in writing during which time Laos could not advance any aspect of the dam project without their consent (Arts. 13(a), 14(b)).

Given the actual voiced concerns, it is most probable that the downstream states of Cambodia and Vietnam would have requested a delay in the project initiation, so further studies could be conducted on the dam’s cross-border impacts. Laos would then have been obliged to extend the reply period by an additional six months (Art. 13(b)). It is also highly probable that these delay requests would have required under the UNWC Article 17(3) for Laos to cease any planning for the dam project, including contract negotiations, clearing land, building roads, or initiating construction. As is their right under the UNWC, Cambodia and Vietnam may have likely replied before the extended deadline with justification for their findings that the dam would cause significant transboundary harm, therefore recommending possible alternatives or improved designs be investigated (Art. 15).

After the six-month extension, if no agreement were reached, Laos and the other states would have officially entered into consultations and negotiations, as required under the UNWC (Art 17(1)), with the primary facilitation forum still being the MRC.

Obligation to cooperate in good faith and exchange information

Laos may have then, as they did, commissioned another EIA, this time investigating cross-border impacts. Ideally this would occur at the outset of the proposal given it is a global due diligence — demonstrating reasonable steps to avoid harm — obligation upon states, endorsed by the ICJ. No construction would have been allowed during this study (Art. 17(3)), and all available information and EIA results would have had to have been released to the other states in a timely fashion (Art. 11).

Concurrently, throughout the notification, reply, consultation, and negotiation stages, all states would have cooperated in good faith by adhering strictly to all procedures under the Mekong Agreement and the PNPCA, including the open and timely exchange of available information to work to peacefully settle issues (Art. 17).

All of the above would have been beneficial to Cambodia and Vietnam as potentially impacted states having timely access to all the available data in order to be best informed to meaningfully engage in consultations but also to Laos in terms of fostering political goodwill from its fellow MRC members. It could also have been much more efficient for Laos in seeking to avoid potential project delays – as experienced in reality in relation to the various disputed dam designs and inadequate environmental impact
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and resettlement studies (see Part 2) – if they could have demonstrated full adherence to all applicable UNWC (and PNPCA) processes. This may have given fewer grounds for process-related disagreements between states, and in-turn diminished the need for retrospective actions such as multiple EIAs and the Pöyry report (see Part 2) to seemingly rectify procedural and information-related gaps.

Dispute resolution

What if, despite all of these positive improvements, disputes about the project were to still arise? Perhaps, as actually occurred, Cambodia and Vietnam would have disputed the new EIA results saying Laos did not share all project data to which Laos would have responded that these states were unreasonably blocking development of its legitimate hydropower energy potential (see Part 2).

The first step would have been to take the issue to the MRC, but resolution may not have been achieved. Under the Mekong Agreement, the matter would then be referred to bilateral channels to seek a diplomatic solution although under Article 33 of the UNWC a request for mediation would also be possible at this juncture. If resolution were still elusive, a third party fact-finding body could impartially gather and analyse all the available information and then provide its key recommendations (Arts 33(3)-(9)). If the states still failed to reach agreement concerning the Xayaburi Dam, the UNWC would permit any of the dispute parties to seek arbitration by an independent tribunal or to appeal to the ICJ for a final ruling (Art. 33(10); Annex). All dispute parties would consequently be obliged to implement all of the findings from any ruling.

An alternative future vision for Mekong River dams with the UNWC in force

With so many variables, it is impossible to know if any of the Xayaburi Dam issues would have turned out differently from the current reality if the UNWC had been in force between the relevant states. Even having the UNWC and Mekong Agreement with its PNPCA operating collectively is unlikely to resolve all disputes. Nevertheless, the above fictional scenario demonstrates that having both treaties – the UNWC and Mekong Agreement – operating concurrently and complementing each other would certainly improve predictability and transparency by guiding expectations about how states can act regarding project proposals on both the Mekong’s mainstream and tributaries.

Moreover, it would underpin the PNPCA with clearer, legally-binding and largely time-bound sequential procedures, while allowing the MRC to continue to be the primary negotiation forum with additional dispute outlets available through third-parties. Such changes would not only have impacted the Xayaburi Dam proposal process but also the processes for the other ten dam projects currently being planned or built that might harm regional development as a whole.2

Previous academic research examining controversial dam projects on the Mekong mainstream (the Xayaburi Dam in Laos) and its tributaries (the Yali Falls Dam in Vietnam) supports this assertion that having the UNWC in force would have clarified some divisive substantive and procedural, legal elements.3-4 Moreover, many researchers argue that having the UNWC in force in the Mekong would go a long way to ensuring international best practice standards for due diligence and cooperation regarding future hydropower projects, especially regarding the PNPCA framework and Mekong Agreement dispute resolution procedures.5,6,7,8,9,10,11

In sum, the UNWC would provide a strengthened legal foundation of detailed and binding principles and procedures upon which the Lower Mekong Basin states could improve water governance and resolve ongoing conflicts. Accordingly, as a globally-recognised platform,
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the UNWC would support a balanced and level ‘playing-field’ for all the MRC states to govern the lower basin more equitably, especially between upstream and downstream riparians. In-turn, hopefully many of the major threats to the river and its people might be alleviated via a clearer and compulsory set of rules to abide by for hydropower development.

Revitalising processes for sustainable development that people can believe in: The time is now

As the pace of dam construction rapidly accelerates and as the region’s economies develop, it has become evidently clear that the legal obligations of the Mekong Agreement and the PNPCA urgently need significant clarifying and strengthening to evolve and cope with these and other regional trends.

In November 2015, the Lancang-Mekong Cooperation Mechanism (LMCM) was launched by foreign Ministers from all the Mekong River basin states with the inaugural leaders’ meeting held on 23 March 2016. Not only is this the first multilateral agreement between all Mekong riparians that incorporates water resources, but China – Asia’s upstream superpower or ‘hydro-hegemon’ – rarely signs treaties or establishes institutions for joint-management of shared rivers.

China is pushing the LMCM as a viable water cooperation platform uniting the Upper-Lower Mekong Basins and was very quick to signify its own strategic position upstream and future importance to Mekong water relations downstream, especially negotiations over water supply, by opening a dam days before the March meeting supposedly in response to Vietnam’s request for increased flows (see Part 1). Portrayed as a symbolic act of goodwill and ‘hydro-diplomacy’, critics dispute China’s supposedly benevolent rationale with some saying it was simply a fortuitously-timed routine exercise and others highlighting that it will have no major benefits downstream, especially in the Mekong Delta where it is needed most.

Despite the LMCM emerging on the regional agenda and seemingly being positioned by China as a legitimate alternative to the Mekong Agreement, MRC member states finally appear to have recognised strengthening the existing PNPCA as a crucial priority. A workshop entitled ‘Dialogue of Lessons Learnt from the Implementation of the PNPCA and Guidelines’ was convened in February 2016 by the MRC Secretariat. Its stated aim was to draw lessons from states’ PNPCA experiences of both the Xayaburi and Don Sahong dams in order to improve the procedures and guidelines. One of the workshop’s thematic sessions specifically investigated how guidance from the global water conventions and applicable international case law might support implementing legal ‘best practice’ standards for notification and prior consultation procedures within the PNPCA and its Guidelines.

Additionally, several NGOs, including WWF and IUCN, have led calls for all Mekong basin states to join Vietnam in acceding to the UNWC for enhanced transboundary cooperation on sustainable dam development. Awareness-raising and technical capacity-building events around this goal have increased in recent years.

A number of legal studies and policy papers have also been produced investigating the role, relevance, and application of the UNWC within the Lower Mekong Basin. One just published in March 2016 by IUCN entitled ‘A window of opportunity for the Mekong Basin: The UN Watercourses Convention as a basis for cooperation’ is a comparative legal analysis of how the UNWC complements the Mekong Agreement. Interest in the UNWC is clearly building across the region, and the time is now to seize upon it to improve water cooperation and processes for sustainable river development.
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Hopefully the newly appointed MRC CEO – the first national from a riparian state – will see the value added and be bold in encouraging all member states to support and revitalise the Mekong Agreement and PNPCA framework through adoption of the UNWC.27

Just over 21 years since adopting the feted Mekong Agreement, a renewed opportunity has arisen for all the lower basin states to help strengthen water governance across the Mekong mainstream and its tributaries. Should all MRC states be politically willing to further clarify and make binding their cooperative commitments within and between each other, the UNWC offers the global legal framework with balanced procedures which, operating alongside the Mekong Agreement and PNPCA, could collectively guide an alternative vision for the Mekong’s future sustainable development; one that all the people in this region may be able to believe in once more, as they did back in 1995.

References Part 1:

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