

Indo-Pacific Conference on Strengthening Governance of Transboundary Rivers

October 15-16, 2020



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Acknowledgments



The **Mekong-U.S. Partnership** promotes the stability, peace, prosperity, and sustainable development of the Mekong sub-region and cooperation in addressing transboundary challenges among Mekong countries and the United States. It further reinforces the strong and longstanding relationship among the United States, Cambodia, Lao PDR, Myanmar, Thailand, and Viet Nam. The Partnership builds upon 11 years of cooperation and progress from 2009-2020 through the Lower Mekong Initiative (LMI) to expand collaboration in the face of new challenges and opportunities. The Partnership supports the implementation of the ASEAN Community Vision 2025 and is an integral part of support and cooperation between the United States and ASEAN.



The **East-West Center** promotes better relations and understanding among the people and nations of the United States, Asia, and the Pacific through cooperative study, research, and dialogue. Established by the U.S. Congress in 1960, the Center serves as a resource for information and analysis on critical issues of common concern, bringing people together to exchange views, build expertise, and develop policy options. The **East-West Center in Washington** advances US-Indo-Pacific relations by creating innovative content, publications, exchanges, and outreach activities.



Meridian International Center is a nonpartisan, nonprofit diplomacy center that connects leaders through culture and collaboration to drive solutions for global challenges. Founded 60 years ago, we've equipped thousands of leaders with the networks, insights and cultural context essential for non-partisan work on shared issues.

The East-West Center gratefully acknowledges the Department of State and Meridian International Center for support and the opportunity to partner on this conference. In particular, I would like to acknowledge the excellent cooperation with Jerrod Hansen of the Department of State and Sarah Yagoda of Meridian International Center in helping to pull off this event amidst a global pandemic. We thank all the officials, presenters, and participants who shared their time and insights during the conference and through published analyses. Ross Tokola drafted this report on the basis of careful consideration of the presentations, publications, and discussions of the conference. It is no easy feat to distill several hours and elements of rich content into a single, readable report, but he has managed to do it with excellence. Matthew Sullivan worked tirelessly and with outstanding results to identify and invite conference participants, working closely with the Department of State and Meridian International Center. Michele Reyes provided the excellent design and final publication.

A handwritten signature in black ink, appearing to read "Satu Limaye".

Dr. Satu Limaye
Vice President, East-West Center
Director, East-West Center in Washington



The *Indo-Pacific Conference on Strengthening Governance of Transboundary Rivers* was a half-day, virtual conference organized by the East-West Center and hosted by the U.S. Department of State on October 15-16. The virtual conference convened partners and stakeholders from across the Indo-Pacific region to share best practices and lessons learned related to the cooperative development and management of transboundary rivers. The engaging and constructive discussion with leading experts, institutions, and opinion leaders drew lessons from experiences of other partners beyond the Indo-Pacific, including from the European Union, to address rising environmental, economic, development, and political challenges in the Mekong River Basin.

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Executive Summary

The *Indo-Pacific Conference on Strengthening Governance of Transboundary Rivers* organized by the East-West Center and hosted by the U.S. Department of State convened partners and stakeholders from across the Indo-Pacific region as well as leading experts, institutions, and opinion leaders from beyond the region to share best practices and lessons learned on cooperative development and management of transboundary rivers to address rising environmental, economic, development, and political challenges in the Mekong River Basin.

Policy recommendations made during the conference included:

Strengthen the role and capacity of the Mekong River Commission (MRC); support the MRC as it engages with dialogue partners; encourage the MRC to expand its responsibilities and legal mandate with respect to independent dispute settlement capacities and public participation.

Support Mekong region countries' autonomy and local law enforcement capacity; hold countries accountable to honor data-sharing commitments; ensure government ministries and departments are staffed with the necessary expertise; and encourage pursuit of alternative development opportunities that are less dependent on hydropower.

Enhance the role of ASEAN, other multilateral Mekong region mechanisms such as the Ayeyawady-Chao Phraya-Mekong Economic Cooperation Strategy (ACMECS), and international partners to raise the profile of the region, to support sustainable development, and to share global best practices through joint programming and international technical collaboration.

Key debates across conference discussions included whether the 1995 agreement establishing the Mekong River Commission needs to be renegotiated; how transboundary river governance challenges are and can be managed through mechanisms other than the MRC; whether the various international organizations managing the Mekong need to be consolidated; and the extent to which it is possible to include civil society and subnational actors in national and regional decision-making processes.

In the opening session, U.S. Assistant Secretary of State for East Asia and Pacific Affairs David Stilwell established the conference framework by highlighting the launch of the Mekong-US Partnership (MUSP), the toll of the 2019 drought along the Mekong River, growing evidence of China's upstream dams contributing to the drought, and steps the United States is taking to assist Mekong region countries. Dr. Somkiat Prajamwong, Secretary-General of Thailand's Office of National Water Resources, spoke to the importance Thailand places on good governance and Thailand's own contributions to transboundary river governance, including ACMECS.

In the first session on transparency and partnerships, Mekong River Commission CEO Dr. An Pich Hatda described the evolution and work of the MRC from its earlier narrower focus on development and technical discussions to reasonable and equitable water diplomacy solutions. Mr. Ivan Zavadsky, Executive Secretary of the International Commission for the Protection of the Danube River (ICPDR), explained how a high degree of member cooperation had addressed development, hydromorphological alterations, and climate change, through a firm legal mandate, the work of a small secretariat, dozens of expert and task groups as well as inclusive, multi-sectoral teams of observers. Dr. John Dore, Lead Water Specialist for Australia's Department of Foreign Affairs and Trade, presented the core elements of Australia's management of the Murray Darling Basin after a 12-year drought.

In the second session on negotiating transboundary governance, Commissioner Jane Corwin, U.S. Chair and Commissioner of the International Joint Commission (IJC), described how the IJC is empowered to manage bilateral U.S.-Canada riparian and water issues, including via subnational stakeholders. Ms. Khin Ohnmar Htwe, Director of the Myanmar Environment Institute, outlined Myanmar's bilateral approach to negotiating transboundary water agreements. Ambassador Rajiv Bhatia, Distinguished Fellow in the Foreign Policy Studies Program at Gateway House and former Indian Ambassador to Myanmar and Mexico, explained the complexities of India's transboundary river management and negotiations with South Asian countries, Myanmar, and China.

In the third section on stakeholder engagement, Mr. Matus Samel of the Blue Peace Index highlighted the comparative importance of transparency and inclusivity across select international riparian basins, including the Mekong. Dr. Leonie Pearson, Senior Research Fellow for Water at the Stockholm Environmental Institute, argued that civil society inclusion in decision-making processes enhances outcomes. Mr. Jake Brunner of the International Union for Conservation of Nature (IUCN) highlighted civil society successes in the Mekong region while noting the difficulty in assessing the precise impact of NGOs and CSOs.

In the closing session, Dr. To Minh Thu, Deputy Director General of the Institute for Foreign Affairs and Strategic Studies at the Diplomatic Academy of Vietnam, spoke to the importance of international organizations, rules and norms, and transparency. Mr. Jae-Kyung Park, Director-General for ASEAN and Southeast Asian Affairs at the South Korean Ministry of Foreign Affairs, outlined some of Korea's cooperative efforts in the Mekong region. Ambassador Michael G. DeSombre, U.S. Ambassador to the Kingdom of Thailand, further described U.S. efforts to support the Mekong River Commission.

Policy Recommendations



Photo: Jason South/Fairfax Media/Getty Images

Strengthening transboundary river governance along the Mekong River is both necessary and urgent because the livelihoods, prosperity, rights, and lives of millions of people who depend on effective management of the river hang in the balance. Actions that impede, obstruct, or divert river resources for narrow national interests cause grave danger and damage to the shared interests and rights of other stakeholders.

This conference was designed to bring together a range of government and non-government expertise to chart a path forward to strengthen transboundary river governance on the Mekong. To that end, specific policy recommendations were made for key stakeholders that can serve as a roadmap for measurable next steps. The key stakeholders include the Mekong River Commission (MRC); Mekong region national governments; regional organizations such as ASEAN and ACMECS; international stakeholders active in the region; and local and civil society organizations.

The policy recommendations articulated at the conference also are aligned with key objectives of the September 2020 Mekong-U.S. Partnership (MUSP) agreed to by the foreign ministers of the Mekong countries and the U.S. Secretary of State. Key alignments between the conference recommendations and the official work of the MUSP include:

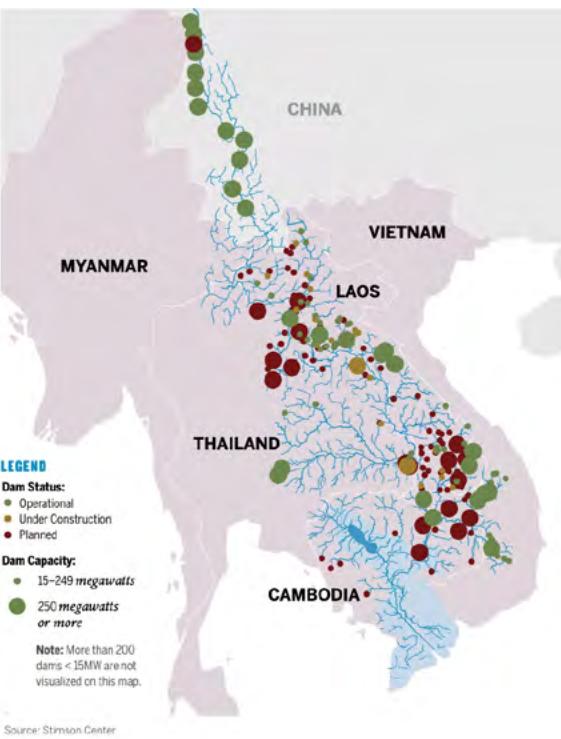
- Prioritizing the Mekong region as an integral part of ASEAN whose development is key to ASEAN achieving its vision of a Community;
- Synergizing and creating complementarities between the Mekong River Commission (MRC) and other sub-regional cooperation frameworks such as ASEAN and ACMECS;
- Strengthening efforts on economic connectivity, sustainable water, natural resources and environmental protection and conservation;
- Addressing non-traditional security challenges such as health, transnational crime, and illicit trafficking in persons, drugs, wildlife, and expanding human capital development including women's empowerment;
- Creating transparent and cooperative water data sharing mechanisms via tools such as the MekongWater.org and Mekong Water Data Initiative in order to improve coordination and response to natural disasters from floods and drought; and
- Improving cooperation among Mekong countries, the United States and development partners such as Japan, Australia and the Republic of Korea as well as members of the Friends of the Mekong.

The following is a list of specific policy recommendations made by conference speakers and participants to ensure that transboundary river governance is conducted in such a way as to maximize outcomes that benefit all stakeholders and aligned with the objectives of the MUSP:



Mekong River Commission (MRC)

- **Strengthen the role and capacity of the Mekong River Commission** to promote reasonable and equitable use of the Mekong river's resources. Promote **good governance**, based on **rules and norms**, as a principle for effective, efficient, and sustainable development. Support the MRC as a **knowledge hub** and a **transboundary river management mechanism** with the capacity to resolve conflicts within and outside the region, rather than simply a repository of data and tools.
- Support the MRC as it continues to **engage with its dialogue partners China and Myanmar**. When conditions are met, Mekong region stakeholders and partners should **find avenues for collaboration with China** for which the MRC **should play a central role in dialogues**.
- Encourage Mekong region countries and the MRC to consider **adopting the principles of international legal treaties** such as the 1997 UN Convention on the Law of Non-Navigational Uses of International Watercourses or **adopting the conceptual frameworks and legal guidance of other transboundary treaties** such as the Columbia River Treaty and the Boundary Waters Treaty, particularly with respect to **independent dispute settlement capacities**.
- The MRC could also reconsider **amending** the 1995 Mekong Agreement to **incorporate legally binding principles and procedures** as well as **permanent platforms for local stakeholder engagement that include these stakeholders in decision-making mechanisms**. Current Mekong region countries' systems for local stakeholder engagement have been non-permanent, ad hoc, and lacking in tangible impact on policymaking. Strengthening governance by **sharing responsibility, delivery, and power among key non-state actor stakeholders** will reduce marginalization of these stakeholders, enhance transparency and perceptions of impartiality, improve water solutions, encourage local ownership, and create opportunities for bottom-up innovative inclusion practices.



THE MEKONG MATTERS FOR AMERICA

The Mekong River Basin produces 20% of the world's freshwater fish catch, sustaining life and driving the heavily agricultural economies of Vietnam, Cambodia, Laos, and Thailand. However, Mekong countries are moving ahead with uncoordinated plans to construct dams—which create local and transboundary impacts by changing water flow, capturing sediment, and blocking fish migration. Already more than 100 dams are operational in the Mekong Basin with over 300 more under construction or in the planning stages.

To protect the Mekong's natural resource base, countries must consider alternative power sources to reduce the cumulative impacts of dams and coordinate with one another on the planning and operation of dams deemed essential.

Source:
The Mekong Matters for America/America Matters for The Mekong
asiamatters.org/mekong

Mekong Region Countries

- Support Mekong region countries' **autonomy** by holding international neighbors to account in respecting **international law** and **international borders**.
- **Support local law enforcement capacity** to combat criminal activities along the Mekong river.
- Provide for transparent **water data-sharing** (e.g., mainstream river and tributaries flow data, dam construction and operations data) as a basic form of transboundary collaboration, and a critical need to **address challenges posed by climate change, shifting hydrological conditions, chronic droughts, and natural disasters**.
- Hold countries **accountable** to honor their data-sharing commitments. Failure to share data on upstream conditions limits governments' ability to **prepare for and mitigate damage caused by dam operations** as well as to **conduct effective disaster management**. At the national and local level, transparency in **providing information for public consultation** creates an enabling environment for local stakeholder participation.
- Government stakeholders should ensure that their departments and ministries are **staffed with water, energy, and expertise** necessary to inform negotiations, to support policy formation and implementation, and to recognize the needs of other stakeholders.
- Mekong region countries should also be encouraged to **pursue alternative development opportunities that are less dependent on hydropower and extensive water-use production**. New technologies and regional cooperation can deliver energy security at significantly lower social and environmental costs, and be more economically viable than environmentally destabilizing dams combined with more frequent droughts.

Regional Organizations and International Partners

- Support ASEAN's efforts to **raise the profile of the Mekong region** as a core component of ASEAN centrality. ASEAN could potentially play a more central role in regional development, facilitating policy coordination and **elevating water governance and water diplomacy of the Mekong region to Southeast Asia's regional agenda**.
- External partners already engaged in strengthening transboundary governance of the Mekong river should **complement existing ASEAN efforts** such as ASEAN MPAC 2025 and ASEAN's Vision on the Indo-Pacific.
- **Support other multilateral Mekong mechanisms**, such as ACMECS and CLMV, to help solidify political will and capability to promote sustainable use of the Mekong River's resources alongside international partners.
- Support **engagement of international partners** such as Japan, South Korea, Australia, India, and countries in the European Union to **support sustainable development** and to **share global best practices** related to data sharing, scientific analyses, remote sensing, and integrated water resource management. Lessons learned from **international technical collaboration** through the International Commission on the Protection of the Danube River contributed to the development of Eastern European countries after the Second World War. **Strengthening programming with international partners** in Mekong region cooperation can help narrow the development gap among ASEAN member states.

Local Stakeholders (continued)

- **Encouraging greater inclusion of non-state actors** in consultations and decision-making processes can reduce risks, improve planning processes, help governments and economies more quickly reach development goals, and give a sense of identity and ownership of processes and outcomes that work for all stakeholders. The benefits of public stakeholder engagement impact the economic, health, social, and environmental domains.
- **Support NGOs as they engage various stakeholders** through briefings for senior government and party officials, trainings for multi-agency technical staff, consultations with think tanks and CSO networks, diplomatic engagement, analytical and media op-eds.
- Foster opportunities for **academic exchanges** among universities across the Mekong region and with international academic institutions through seminars, workshops, training, and collaborative scientific research.
- **Invest in capacity-building** efforts to encourage greater inclusivity, raise public awareness, and help **curb predatory infrastructure development**. Programs that **engage and educate local communities** can include scholarships, vocational education and training, fostering civil society organizations, and raising local environmental concerns.
- Stakeholders should make efforts to **enhance the role of women**. Including gender specialists when conducting local stakeholder engagement will ensure that women are effectively empowered to participate in the process.
- **Inclusion of indigenous peoples** ensures policy decisions respect their rights, values, and water uses. It also contributes traditional knowledge to scientific analyses.
- **Encourage and empower local media reporting** on the value of the river and the effects of unsustainable practices.
- **Enhancing opportunities for citizen science** provides further accountability, validity to credible transboundary river governance tracking, encourages local ownership of river management, and highlights the priorities of local stakeholders.

Local Stakeholders

- Policy formation and decision-making must **account for local issues** such as pollution, inadequate resettlement logistics, and damage to livelihoods that have affected water infrastructure developments across the world. By **expanding the problem space beyond water** to include protected areas, forestry, fisheries, etc., water diplomacy can move away from being zero-sum to bringing in new actors and opportunities for mutually beneficial solutions on the basis of **transparency, trust, and good will**.
- Ensure **inclusive participation of legitimate stakeholders** in pursuing sustainable and collaborative management of transboundary waters. Tensions over water resources often arise between governments or commercial developers on the one hand, affected communities on the other, or between the communities themselves. Exclusion of local and non-state actors risks negatively impacting these stakeholders by neglecting to recognize their legitimate interests, or by alienating them due to their exclusion from decision-making processes.



Key Debates

Over the course of the *Indo-Pacific Conference on Strengthening Governance of Transboundary Rivers*, while there was a significant degree of agreement among speakers and participants on steps that can be taken to strengthen governance of the Mekong River, there were also key areas of debate.

Throughout the conference, speakers and participants expressed admiration for the Mekong River Commission and the progress it has made since its founding to its leading role as the premier platform for transboundary governance of the Mekong River.

However, the question was raised as to whether the 25-year-old agreement establishing the MRC should be renegotiated and updated to strengthen its legal mandate, including mechanisms for greater public participation. This question was raised in the context of the significant economic development of Mekong region countries in recent decades as well as newly available technologies and regional concerns over climate change.

Related to this debate was the question of whether a renegotiated agreement should involve Mekong region countries ceding a degree of their national sovereignty to strengthen transboundary river governance through the incorporation of a robust dispute settlement mechanism as well as public participation in decision-making processes.

Recognizing the potential risks of Mekong region countries engaging in renegotiations, conference speakers and participants also debated the extent to which limitations to the 1995 Agreement that founded the MRC can be managed through other outside frameworks. Questions were raised as to whether new institutional arrangements are required for the various organizations responsible for transboundary Mekong river management, and whether there should be a single management platform for basin-level dialogue.

Counterarguments to this approach were that many organizations in the region have come and gone, and the ones that exist along the Mekong river perform unique functions. Others highlighted the central role that the MRC already plays in transboundary river governance, emphasizing that the focus should be on supporting and strengthening the MRC's role rather than creating new institutions and mechanisms.

Central to strengthening transboundary governance of the Mekong river was the issue of greater public participation. Many participants argued for the need to have increased public ownership and community buy-in to managing rivers. They cited other transboundary river governance organizations in North America, Europe, and Africa that had performed well on increasing public input and oversight.

Speakers and participants debated to what extent civil society organizations and other nongovernmental stakeholders should be included in Mekong river transboundary governance decision-making processes that currently consist solely of the national governments that constitute the Mekong River Commission. While there was agreement that this should be seriously considered, it was recognized that building in such mechanisms would likely require renegotiation of the 1995 Agreement, or the consideration of alternative institutional arrangements. Nevertheless, speakers and participants noted that there are steps that can be taken to enhance public participation in transboundary river governance.

Does the 1995 agreement establishing the Mekong River Commission need to be renegotiated?

How are and can transboundary river governance challenges be managed through mechanisms other than the MRC?

Do the various international organizations managing the Mekong need to be consolidated?

To what extent is it possible to include civil society and subnational actors in national and regional decision-making processes?

Conference Session Summaries



Photo: Spencer Platt/Getty Images

Session I: Transparency and Partnerships in Transboundary River Governance

Dr. An Pich Hatda, CEO of the Mekong River Commission (MRC), described the evolution of the MRC since the 1995 Agreement on Cooperation for the Sustainable Development of the Mekong River Basin—signed by Cambodia, Lao PDR, Thailand, and Vietnam—from its earlier narrower focus on development and technical discussions to reasonable and equitable water diplomacy solutions and a greater emphasis on the 1995 Agreement's Article VII "Prevention and Cessation of Harmful Effects." While the MRC is no exception to the charge that transboundary river governance commissions have been "toothless," Dr Hatda stated that, as the MRC continues to evolve, we will see a more relevant MRC emerging that will realize real benefits for all its member countries and upstream dialogue partners.

Mr. Ivan Zavadsky, Executive Secretary of the International Commission for the Protection of the Danube River (ICPDR), introduced the Danube as the most international river in the world—shared by 19 countries with diverse histories and at different stages of economic development—stretching from western to central and eastern Europe. Over the 25 years since the ICPDR's founding after the collapse of the USSR, the Commission has achieved a high degree of member cooperation to address challenges presented by development, hydromorphological alterations, climate change, etc., through a firm legal mandate, the work of a small secretariat, dozens of expert and task groups as well as inclusive, multi-sectoral teams of observers addressing the myriad technical and operational issues across the length of the river.

Dr. John Dore, Lead Water Specialist for Australia's Department of Foreign Affairs and Trade, presented the core elements of Australia's transboundary water reforms in its intra-country experience facing an unprecedented 12 years of drought along the Murray Darling Basin, and another drought in 2019. These elements include: 1) a negotiated national water initiative across the federation; 2) legislation; 3) entitlements and allocations; 4) a transboundary river basin organization; 5) science-based sustainable diversion limits; 6) transparent transboundary river basin plans that respect aboriginal values and uses; 7) transparent pricing; 8) water trading markets; 9) a national water information system; 10) a common national hydrological modelling plan; and 11) compliance, including through policing and independent auditing.

Session I discussions with experts and participants began with addressing steps that the MRC can take and issue areas it needs to address to become more effective. Discussion then turned to how the MRC is working to strengthen its cooperation and build trust in its relations with China, including working toward an agreement whereby China share its hydrological data. Trust in international cooperation along the Danube resulted from bottom-up technical cooperation on joint projects, which have provided platforms for learning best practices and speeding reforms, which have in turn contributed to EU accession of developing countries. The ICPDR also has a legally established technical expert group on public participation and communication. Australia's Murray-Darling Basin Authority increases trust through greater transparency, inclusivity, and separating the roles of developers and auditors to avoid "marking your own homework." The Mekong region was noted as being fortunate in having a huge amount of good will among the transboundary knowledge community to better understand the Mekong river system.

Session II: Negotiating Transboundary River Governance

Ms. Jane Corwin, U.S. Chair and Commissioner of the International Joint Commission (IJC), described how Canada and the U.S. share a fluid border with 150 water bodies comprising 40 percent of the boundary, including the Great Lakes. The IJC, created by treaty in 1909, operates by creating multi-stakeholder, inclusive boards that are equal parts U.S. and Canadian that foster shared, consensus-based decision making. However, despite significant commonalities between the U.S. and Canada, it was not until recent IJC-led “data harmonization” that U.S. and Canadian data were able to be matched up. The treaty creating the IJC, in addition to giving the IJC other functions and authorities, relinquished a degree of sovereignty from the U.S. and Canada in order for the IJC to play a quasi-judicial role in approving applications for permission to “use, divert, or obstruct boundary waters” as well as binding decision-making authority, which has never been used, in the event that U.S.-Canada negotiations require arbitration.

Ms. Khin Ohnmar Htwe, Director of the Myanmar Environment Institute, outlined how Myanmar—bordering China, India, Bangladesh, Laos, and Thailand; and sharing four transboundary rivers, including the Mekong river—needs to be aware of integrated water resource management. The 2014 National Water Policy of Myanmar, which created a national level committee on water resource management chaired by the Vice-President, stated that Myanmar should negotiate and enter into agreements on a bilateral basis, including for exchange of data; and play an active role in international water conventions and conventions. The currently pending Myanmar National Water Law details areas for comprehensive collaboration.

Ambassador Rajiv Bhatia, Distinguished Fellow in the Foreign Policy Studies Program at Gateway House and former Indian

Ambassador to Myanmar and Mexico, stated that river management in South Asia has been complex and challenging due to regional geopolitics and to demography. Shortly after the partitioning of India and Pakistan, the leaders of the two countries, despite hostilities, swiftly negotiated the Indus Water Treaty with assistance from the U.S., the World Bank, and with international financial support. The Ganges Treaty between India and Bangladesh as well as the Bhutan and Indian Water Treaty respectively improved bilateral relations. Yet India as a middle riparian country faces many challenges, including limited dialogue and inadequate data shared from upstream China. As such, India’s approach in the last few years has shifted to adopting a comprehensive approach for river basin development and management that underscores the role and inclusion of civil society.

Session II discussions began with the case of US-Canadian cooperation highlighting the importance of including representatives of national, state and provincial agencies with on-the-ground technical expertise as well as local communities in developing negotiated recommendations and solutions to encourage community buy-in. In Myanmar, particular government departments and specific working groups negotiated agreements with the MRC and with the Lancang-Mekong Cooperation, respectively. Lessons learned from India’s negotiated bilateral efforts demonstrate the need to form a common template where countries realize it is in their larger interest to manage water resources and to respect agreements, such as to share data. To address a lack of access to accurate data, Myanmar seeks greater cooperation with the MRC—at which it is an observer—as well as ratification of the UN Watercourses Convention.

Session III: Stakeholder Engagement in Transboundary River Governance

Mr. Matus Samel, a public policy expert at the Economist Intelligence Unit, presented

findings from the Blue Peace Index that includes the Mekong region in a comparative study on transboundary river governance. He highlighted that while there are regional, basin-level meetings with actors outside of government, these have been ad hoc and have faced boycotts over the extent to which these actors feel their perspectives are included and reflected in decision-making processes. Other transboundary river governance organizations have addressed such concerns through both top-down structures and innovative bottom-up inclusion practices, particularly with respect to specific projects. Current Mekong region platforms are undermined by the lack of accountability in terms of transparently accounting for comments and recommendations made by participants in existing consultation processes and mechanisms.

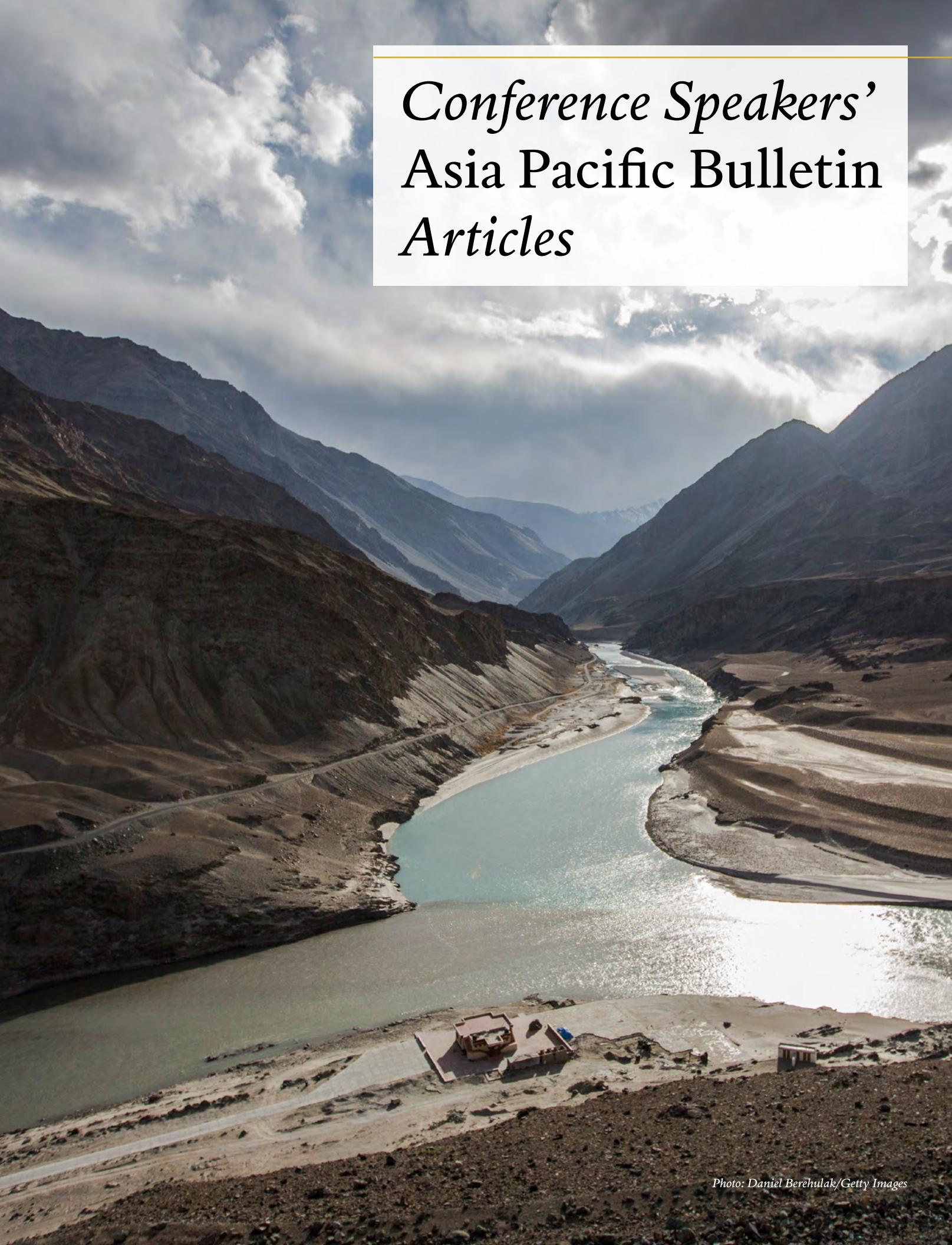
Dr. Leonie Pearson, Senior Research Fellow for Water at the Stockholm Environmental Institute,

argued that transboundary river “governance” in Asia is better characterized as transboundary river “government,” given that these organizations’ decision-making mechanisms consist solely of government actors. Furthermore, with its noninterventionist approach and with its members not relinquishing any degree of national sovereignty, the MRC is not designed to impact national bodies. As a result, the current structure is not delivering the social, environmental, or economic outcomes for which it was designed to achieve feasible, equitable, credible, and lasting water solutions. The latest Mekong Development Strategy, being finalized through to 2030, stipulates that the future of the Mekong region requires a whole-of-society approach. Proactive stakeholder inclusion, particularly with respect to civil society, in MRC decision-making mechanisms will achieve these objectives and ensure ownership in water solutions across the Mekong basin.

Mr. Jake Brunner, Head of the Indo-Burma Group of the International Union for Conservation of Nature (IUCN),

described the Mekong Basin Connect initiative, launched with the Stimson Center, as a multi-stakeholder effort that focuses on harnessing new emerging energy generation technologies and increasing regional power trade. In February 2020, Vietnam issued a resolution opening the door for a significant increase in wind and solar energy, thereby reducing the need for coal. In March 2020, Cambodia issued a moratorium on Mekong river mainstream dams, and calling for increased imports in hydropower energy from Lao PDR. While the extent to which NGOs and CSOs impact such governmental decisions is unclear, they do have an impact. The question was also raised as to whether the 1995 Agreement should be amended, weighing the risks of such negotiations versus the benefits of strengthening the MRC’s legal mandate across the Mekong river basin.

Session III discussions began with the observation that the depth and breadth of stakeholder engagement are critical aspects to transboundary water management performance. Meanwhile, CSOs have had successes in recent years, including in halting China’s golden triangle rapid blasting project, postponements of dam projects in Cambodia as well as in promoting solar and wind alternatives. Participants debated the nature of CSO communication with governments, the importance of cross-sectoral networks, and the significant role that diplomacy and the media play in broadly communicating nongovernmental stakeholder engagement. Lastly, participants raised the importance of including private business and citizen science in stakeholder engagement to speak to local concerns and to achieve the desired outcomes of transboundary river governance.



Conference Speakers' Asia Pacific Bulletin Articles



This *Asia Pacific Bulletin* series of analyses on Strengthening Governance of Transboundary Rivers is being released as part of the *Indo-Pacific Conference on Strengthening Governance of Transboundary Rivers* organized by the East-West Center in Washington, U.S. Department of State, and Mekong-U.S. Partnership. The invitation-only conference, to be held virtually on October 15-16, 2020, brings together practitioners, experts, and national and civil society representatives to focus on *Enhancing Transparency, Partnerships & Stakeholder Engagement*.

The *Asia Pacific Bulletin* (APB), produced by the East-West Center in Washington, is a series of 1,000 word analyses focusing on policy-relevant Indo-Pacific developments and US-Indo-Pacific relations. APBs are designed to provide insights, information, and perspective for the busy professional or policy maker.

The views expressed in this publication are those of the authors and do not necessarily reflect the policy or position of the East-West Center or any organization with which the author is affiliated.



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Forward the Mekong-U.S. Partnership

On September 11, 2020 the United States, Cambodia, Laos, Myanmar, Thailand, Vietnam, and the ASEAN Secretariat launched the [Mekong-US Partnership](#), a regional cooperation framework which upgrades the Obama-era [Lower Mekong Initiative \(LMI\)](#). The U.S. Department of State says the Partnership will expand on the success of the LMI "by strengthening the autonomy, economic independence, and sustainable development of the Mekong partner countries and promote a transparent, rules-based approach to transboundary challenges." The new Partnership comes with an initial pledge of more than \$150 million of U.S. funded programming to support COVID-19 recovery, counter transnational crimes, develop efficient energy markets, and counter trafficking in persons.

A revitalization and upscaling of U.S. engagement in the Mekong is long overdue, particularly given China's increasing engagement in the region and the economic challenges that Mekong countries will struggle with as a result of the coronavirus pandemic and chronic drought conditions. While the Partnership is still in its formative stages, there are several actions that would go a long way towards bolstering its effectiveness.

First, in consultation with Mekong countries and other development partners, the United States should articulate a solution-oriented vision for transboundary river governance. U.S. Government (USG) officials have repeatedly voiced concerns over the operations of 11 Mekong mainstream dams in China, which

an [Eyes on Earth report](#) in April 2020 found had restricted tens of billions of cubic meters of water in the 2019 wet season at a time when downstream countries were suffering extreme drought. In response, Chinese officials and academics have doubled down on their justification for regulating the Mekong's natural flow by issuing unsubstantiated claims that China's dams provide flood control and drought relief for the benefit of downstream countries. China has launched a charm offensive to find downstream supporters who agree.

Many stakeholders active in the region, including the [Stimson Center](#), have long demonstrated why maintaining the Mekong's natural flow is critically important for fisheries and agriculture. The Mekong produces 20% of the world's annual freshwater fish catch, a phenomenon driven by flooding in the wet season and a subsequent transition to low river levels in the dry season. It is precisely the Mekong's extreme variation in water and sediment flow that drives its extraordinary natural productivity. A regulated river threatens regional food security and political stability.

Criticism of Chinese manipulation of the Mekong's flow must be accompanied by proposed solutions, but USG officials have yet to articulate a compelling, solution-oriented vision for how transboundary river governance can address this challenge. The maintenance of natural flow should therefore be central to a U.S. vision for transboundary river governance. Best practices related to data sharing and scientific

analysis, remote sensing, and integrated water resource management should buttress this vision. Conceptual frameworks and legal guidance from U.S. transboundary agreements like the [Columbia River Treaty](#) and the [Boundary Waters Treaty](#), and historic protocols that define US-Canada relations, could be adapted to the Mekong region.

Given the U.S. emphasis on quality infrastructure, the Partnership should explicitly link the renewable energy transition, freshwater conservation, and food security by connecting energy-focused initiatives like [AsiaEDGE](#) and [Clean Power Asia](#) with water-related projects like the [Sustainable Infrastructure Partnership](#), [Wonders of the Mekong](#), and the [Mekong Water Data Initiative](#). More solar and wind power and improved transmission can obviate the need for further large dams, but only if the link is clearly articulated.

Second, through effective messaging and programming measures, the United States should assure stakeholders that the Partnership does not seek a zero-sum game of U.S.-China competition in the Mekong. Supporters of both the LMI and the new Partnership have noted the omission of direct cooperation with China. Critics claim this intensifies the US-China rivalry, exacerbating risks and vulnerabilities. Without a doubt, China's troubling actions in the region generate numerous opportunities for the United States to respond to the region's needs for timely, high quality assistance. But as China's dams and other activities have posed problems, inducing changes in Chinese behavior could contribute to solutions; when conditions are met, the United States should find avenues for collaboration with China. If this involves water collaboration, then the Mekong River Commission, which China has tried to marginalize, should play a central role in the dialogue.

Finally, the Partnership should energize and build a broad coalition of partners. The LMI was a vehicle of the Department of State and as such it often under-emphasized programming in the Mekong led by other USG agencies such as USAID. This was a missed opportunity to strengthen the LMI and demonstrate broad USG goodwill toward the region. Since 2009, USAID's Mekong funding has far exceeded LMI's. Taken together, these provide a much more accurate picture of U.S. foreign assistance. The Partnership should be packaged and publicized to show a family of USG agencies hard at work in the Mekong. It should also capitalize on the work of effective NGOs active in the region, as well as key U.S. academic institutions like the University of Wisconsin, Arizona State University, University of Washington, and scores of others which do research and promote cooperation on issues relevant to the Partnership.

To reinforce multilateralism, the United States should further strengthen programming with development partners like Australia, Japan, the EU, Korea, and India. Australia and the EU have a long history on water resources management in the Mekong that the United States should build on and complement. Finally, the Mekong countries wait in anticipation for the first U.S. flagship quality infrastructure project in the region. The [Japan-U.S. Mekong Power Partnership](#) (JUMPP) launched in 2019 could achieve this milestone and assist the new [U.S. Development Finance Corporation](#) to rapidly expand its infrastructure portfolio in the Mekong.

The announcement of the Mekong-U.S. Partnership is a welcome first step. The next steps require a solution-oriented vision for transboundary river governance to maintain natural flow and reduce the need for large dams, cooperate multilaterally with partners and other stakeholders including where possible China, and real progress on a flagship quality infrastructure project.



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From Transparent to Transparency: The Evolution of the Mekong River Commission's Prior Consultation Process

Chapter III of the [1995 Mekong Agreement](#) outlines the objectives and principles that underpin transboundary governance in the Lower Mekong Basin (LMB). But the powers and functions outlined in the Agreement and the Rules of Procedures for the standing bodies, and the non-interventionist approach that underpins diplomacy in the region, dictate how this is done.

While Chapter III of the Agreement outlines the intentions of transboundary governance, the more detailed processes that underpin water diplomacy were deferred to agreement on Rules for Water Utilisation and Inter-Basin Diversion, now the five MRC Procedures. These took another 20 years to finalize.

The [Procedures for Notification, Prior Consultation, and Agreement](#) (PNPCA) may pose some of the biggest challenges for the [Mekong River Commission](#) (MRC). The Member Countries envisaged three forms of inter-State dialogue: Notification: applied to all uses on the tributaries and intra-basin use in the wet season; Prior Consultation (PC): applied to intra-basin use in the dry season, and inter-basin diversion of water in the wet season; and Agreement: applied to inter-basin use in the dry season.

The three principles underpin these engagements. First, the extent of inter-State engagement through the MRC should be

kept at a minimum; second, there was so much water available in the wet season that transboundary impacts would be unlikely; and third, provided that minimum dry season flows on the mainstream were maintained and existing downstream use would not be compromised.

There are several challenges to this approach. Sediment transport and fish migration are not accommodated. Most of the sediment is transported in the wet season, and the impacts of barriers to fish migration are not limited to the dry season. Tributary dams also trap sediment and change flow regimes, but escape the rigour of the PC. Additionally, there is no agreed definition of the wet and dry seasons. The mainstream hydrology is changing, affecting the timing and volume of reverse flows into the Tonle Sap Lake, and making any definition of the wet and dry seasons a moving target. Finally, climate change could complicate the situation via more intense droughts extending into the "wet season". Thus, there is a need to think differently about the way the PNPCA is applied.

What is Prior Consultation?

The PC is defined as neither a right to veto the use, nor unilateral right to use water by any riparian without considering other riparian States' rights. The Joint Committee (JC), which is empowered to undertake PC, therefore,

cannot reject any proposed use, and must reach a decision through consensus. The MRC's approaches to these challenges have evolved over the last 10 years, ever since the first notification for PC for the [Xayaburi project](#) in 2010.

The Xayaburi and Don Sahong Processes

The Xayaburi project was proposed as a "transparent dam" (i.e. without impact on the mainstream), driven by several factors: It's run-of-river nature would not impact on flow regimes; fish passage facilities were provided, and were assumed to be effective; sediment pressure flushing facilities were provided and sediment transport through the dam would eventually establish an equilibrium; and navigation facilities were provided.

There was also the perception that the Agreement required "no transboundary impacts". As such, the first PC process focused on whether there was an impact, rather than whether Xayaburi was an acceptable use. Ultimately, there were calls for a 10-year moratorium on hydropower development on the mainstream. This was unacceptable to the notifying country and could be seen as a de facto veto. The PC was concluded without any agreement. Nonetheless, the process did prompt a redesign of the project and considerable additional investment in sediment transport and fish migration measures based on the review undertaken by the MRC. The process also prompted the Council Study, which has now added considerably to our understanding on the impacts of the Mekong System development.

The [Don Sahong](#) project followed much the same path. While the process outlined various measures to address expected impacts, the JC did not reach any conclusion. But the process flagged a key principle for transboundary water governance: There is no obligation in the Agreement to have zero impact, but rather the

The mainstream hydrology is changing, affecting the timing and volume of reverse flows into the Tonle Sap Lake, and making any definition of the wet and dry seasons a moving target

use must be reasonable and equitable, and every effort must be made in limiting any harmful effects.

The Pak Beng, Pak Lay, Luang Prabang and Sanakham Processes

In response to JC's calls to improve the implementation of all the Procedures, the Pak Beng process focused on identifying measures to avoid, minimize, and mitigate the harmful effects (as per Article 7), focusing on potential transboundary harm. This process, for the first time, introduced a "Statement", inviting the notifying country to take note of the review outcomes and make every effort to implement the measures. Importantly, there was no "yes or no" decision and the approach focused on building a better hydropower project rather than a "transparent" hydropower project.

This approach has evolved further in the subsequent processes. Specifically, by building in a post-PC process, it has helped promote transparency throughout the final design, construction, and operational phases. Ultimately, the agreed operational measures (or conditions as per the PNPCA) would be captured in the MRC's Procedures for Water Use Monitoring. Each successive process also saw increasing engagement of external stakeholders.

It was also recognized that some transboundary harmful effects cannot be eliminated. But transboundary compensation was not viable. The concept of a financing mechanism, or Mekong Fund, was therefore introduced, as was the concept of internalizing the external costs. While it is recognized

that the concession model of hydropower development must be a viable business, it would not be consistent with Chapter III of the 1995 Mekong Agreement for concessionaires to make disproportionate profits while avoiding operational measures that could further limit harmful transboundary impacts.

Conclusion

The PNPCA process has shifted from a technical discussion on whether the proposed hydropower project is 'transparent' to greater 'transparency' in the way that the PC and post PC processes are implemented. This reflects a shift from technical to water diplomacy solutions in transboundary river governance. Maintaining transparency and engagement in the post PC process through the implementation of Joint Action Plans and Joint Environmental Monitoring is critical in claiming the true success of PNPCA implementation in the LMB.

The MRC's transboundary river governance is much better aligned with the non-interventionalist ethos or realpolitik of the region, and the intentions of the 1995 Mekong Agreement, which is developmental in nature. It is essential to further strengthen the MRC' Knowledge Hub as a transboundary management tool, rather than just a repository of data and tools.



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United States-Canada Transboundary Water Governance Prioritizes Stakeholder Engagement

Orders of Approval

Under the BWT, the two governments must agree to any project that would affect the natural levels and flows of boundary waters or raise the level of waters crossing the boundary in the upstream country. The governments must either seek the IJC's approval for the project or negotiate a special agreement.

This commitment is both unique and critical to the effectiveness of IJC work. In providing this authority both governments relinquished a measure of autonomy to the IJC, an international organization that does not represent the interests of either country, but rather serves both countries. This language is highly unusual in bilateral agreements and speaks to the trust and friendship between the two nations.

References

The BWT also provides the two governments the opportunity to ask the IJC to study and make recommendations on any subject. Studies result in recommendations, not arbitral awards. The scope of the reference is clearly defined by governments. Governments need to agree to issue the reference, and oftentimes one government is in favor and the other is not. In such a situation the IJC may work with governments to better define the scope of the

***As water knows
no boundaries nor
political authority,
collaboration
across borders is
necessary in order
to manage water
apportionment,
flood/drought
mitigation, and
water quality in
transboundary
waters***

issue in order to garner support for issuing a reference.

A third power of the IJC, in addition to Orders of Approval and References is not explicitly defined in the BWT but accepted by governments, empowers the IJC to ‘alert’ governments to potential conflicts. The IJC conducts its work by creating boards of experts, equally comprised of U.S. and Canadian engineers, scientists, and members of the public, to study and make recommendations under a Reference or execute an Order of Approval. There are currently 20 Boards functioning across the boundary.

Board members are appointed by the IJC. Change is driven through Board composition. In recent years Boards have included more members of the public and stakeholders. This speaks to the ever-growing desire by commissioners to have the public informed and to provide transparency in IJC decision making.

Another major priority of the current set of Commissioners is inclusion of indigenous peoples on its Boards. Many live in the areas affected by the work of the IJC. They also contribute traditional knowledge to the scientific analysis conducted by the Boards—and are key stakeholders.

Convening Authority Enhances Stakeholder Engagement & Transparency

Boards embody the IJC’s convening authority by bringing federal and state/provincial agencies, local expertise, and public input together. Joint fact finding and shared information increases “buy in” by stakeholders and helps break down silos of information on both sides of the border.

Convening national and state/provincial agencies with local governments also allows the IJC to address issues at the local level. Doing so has proven to reduce, and in some cases, eliminate disputes over water, as in the recent

case of the review of the Moses-Saunders Dam on the St. Lawrence River. The IJC has promoted its [International Watersheds Initiative](#) as a program designed for this purpose.

Consultation and Consensus Building

The treaty and the Commission’s Rules of Procedure call for the concurrence of at least four Commissioners to ensure that decisions can be reached only if at least one Commissioner from each country agrees. The Commission and its network of advisory and regulatory boards, in any case, strive for consensus as a means of reflecting the common interest. In practice, most Commission decisions are taken in this way and boards must refer matters to the Commission for decision if board members are unable to achieve consensus.

Objectivity and Independence

The authors of the Boundary Waters Treaty built into the Commission an expectation that its members would seek solutions in the common interest of the two nations. To that end, Commissioners “make and subscribe a solemn declaration in writing” that they “will faithfully and impartially perform the duties imposed” under the treaty. Similarly, members of IJC boards are expected to serve the Commission in their personal and professional capacities. This allows board members to explore all options, which helps promote the development of novel solutions and consensus.

Flexibility

One of the most important features of the Commission’s work has been the flexibility, inherent in its mandate and process, to be able to adapt to the circumstances of particular transboundary issues or conditions. The terms of the Boundary Waters Treaty have allowed the Commission to develop innovative mechanisms for soliciting public participation, for problem-

solving, and for working with the governments themselves.

Challenges Facing the IJC

The IJC faces the same challenge all bilateral agencies and commissions face; the asymmetry of countries causes different levels of prioritization. Different political systems and commissioner appointment processes can also affect budgeting and continuity of leadership. Finally, the relationship between each federal government and its respective provincial/state governments, as well as federal agencies, can influence decision making at the IJC. These issues are ameliorated by the friendship and trust of the two governments through their treaty relationship and the International Joint Commission.



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Negotiating Transboundary River Governance in Myanmar

Myanmar lies in the northwestern part of Indo-Chinese Peninsular or mainland South-East Asia. It is bounded by China on the north and northeast, Laos on the east, Thailand on the south-east, and Bangladesh and India on the west. There are 7 major drainage areas or catchment areas in Myanmar comprising a series of river-valleys running from north to south. The drainage areas in Myanmar are Ayeyarwady and Chindwin Rivers and tributaries (55.05%), Thanlwin (Salween) River and tributaries (18.43%), Sittaung River and tributaries (5.38%), Kaladan and Lemyo Rivers and tributaries (3.76%), Yangon River and tributaries (2.96%), Tanintharyi River and tributaries (2.66%), and Minor Coastal Streams (11.76%). Myanmar possesses 12% of Asia's fresh water resources and 16% of that of the ASEAN nations. Growing nationwide demand for fresh water has heightened the challenges of water security. The transboundary river basins along the border line of Myanmar and neighboring countries are the Mekong, Thanlwin (Salween), Thaungyin (Moai), Naf, and Manipu rivers. The Mekong River is also an important transboundary river for Myanmar which it shares with China, Laos, and Thailand.

The Mekong River, with a length of about 2,700 miles (4,350 km), rises in southeastern Qinghai Province, China, flows through the eastern part of the Tibet Autonomous Region and Yunnan Province, and forms part of the international border between Myanmar (Burma) and Laos, as

well as between Laos and Thailand. The Mekong River meets the China–Myanmar border and flows about six miles along that border until it reaches the tripoint of China, Myanmar, and Laos. From there it flows southwest and forms the border of Myanmar and Laos for about 60 miles until it arrives at the tripoint of Myanmar, Laos, and Thailand. This is also the point of confluence between the Ruak River (which follows the Thai–Myanmar border) and the Mekong.

Water Resource Management and Transboundary Rivers in Myanmar

Since the country has both national and international rivers, Myanmar needs to be aware of [Integrated Water Resources Management](#) (IWRM). Thus, Myanmar is trying to develop a [National Water Policy](#) and [Myanmar National Water Law](#) comprised of transboundary river basin issues of Myanmar. Generally, the three categories of rivers in Myanmar are national rivers, international rivers, and transboundary watercourses.

The National Water Policy of Myanmar (2014) states: 1) Myanmar should enter into international agreements with neighboring countries on a bilateral basis for exchange of data of international rivers on a near real time basis. 2) Negotiations about sharing and management of water of international rivers

should be done on a bilateral basis. Adequate institutional arrangements at the national level should be set up to implement international agreement. 3) Myanmar should play an active role in international water conventions, treaties, and water cooperation.

A Myanmar National Water Law also has been developed, and is expected to be approved by the Union Parliament and the Government this year. The objectives of this law are to ensure sustainable utilization; rationally development; fair distribution; conservation and protection of water resources; mitigations and reduction of water disasters; and contribution to national economic and social development.

This law is comprised of 14 Chapters, among which 8 Chapters are concerned with water resources conservation and water resources utilization. Water related disasters and climate change impacts, water for environment, implementation of integrated water resources management, water sciences research, data and information management and water rights, obligations and the role of citizens. Chapter 11 is prescribed for Transboundary water and International Cooperation, emphasizing: cooperation on related international conventions; central thematic areas in sharing transboundary water resources; monitoring and assessment of flow issues; flood forecasting, flood control and flood warning systems; communication and coordination mechanisms on information and data sharing; measures to reduce social and environment impacts; institutional and technical capacity to improve transboundary coordination and cooperation; multi-stakeholders' engagement and awareness; and; cooperation on transboundary aquifers.

Since the country has both national and international rivers, Myanmar needs to be aware of Integrated Water Resources Management

Priorities in Negotiating Transboundary River Governance Organizations and Agencies in Myanmar

The [National Water Resources Committee](#) (NWRC) is a national level committee for Myanmar water resources management. The Sustainable Water Resources Development standing committee was formed on November 19, 2012 for the special economic zones. After that, the National Water Resources Committee (apex body in Myanmar) was established by Presidential decree in July 2013, to maximize the benefits of water resources with equality, integrity, sustainability, and inclusiveness, and was headed by the Vice-President (2). The Advisory Group (AG) is providing advocacy to the committee in various sectors of water management.

Priority in Working for Negotiating Transboundary River Governance

Understanding all aspects of the problems, processes, and parties in transboundary water negotiations is crucial toward finding common ground around which collaboration can start. The more a transboundary water practitioner knows of the situation and of the elements that are in play, the more likely it is that they are able to work with relevant parties in order to facilitate negotiations and options for collaborative solutions. Achieving collaboration can be one of the objectives of negotiations. During the process of negotiations, parties should become clearer on their own needs and interests in order to allow them to identify the position they should take, guide their engagement in the process, and assist in finding ways to reach consensus. In the process of Negotiating Transboundary River governance, there should be dialogues among countries in the Mekong Region. Especially important is collaboration in

training, seminars, workshops, scientific research with local universities, and inclusiveness of local people (public awareness, public participation and stakeholders) among countries related to transboundary river basins in which Myanmar is located.



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Stakeholder engagement in the Mekong River: Relevant Findings from the Blue Peace Index

Water management and transboundary water cooperation affect people's rights, and projects must balance the needs of different sectors of society. The [Blue Peace Index](#), developed by the Economist Intelligence Unit (EIU) with support from the Swiss Agency for Development and Cooperation (SDC), highlights that major tensions over water resources often arise not between states, but rather governments or commercial developers on the one hand, and affected communities on the other, or between communities themselves. Protests and tensions related to issues like pollution, inadequate resettlement logistics, and damage to livelihoods, have affected water infrastructure developments across the world. In pursuing sustainable and collaborative management of transboundary waters, inclusive participation of legitimate stakeholders is essential.

In the Mekong River, top-down basin-level stakeholder engagement has been limited by the fact that the river's upstream states, China and Myanmar, are only "dialogue partners", not full members, of the [Mekong River Commission](#) (MRC), alongside the riparian neighbors Cambodia, Laos, Thailand, and Vietnam. Despite some positive developments in recent years with regards to basin-level dialogue through both the MRC and the [Lancang–Mekong Cooperation Framework](#) – a development and investment

initiative promoted by China since 2016 as a platform for all Mekong riparian states – the lack of a single comprehensive platform for basin-level dialogue remains a major challenge to transboundary water cooperation, including in terms of stakeholder engagement.

Stakeholder engagement in the Mekong region: Some progress, but much room for improvement

The MRC has active organizational structures for engagement among member states at a high political level, including regular meetings at the level of ministers and prime ministers. China has maintained cooperation with the MRC, and Myanmar attends the MRC Summit, but their engagement remains limited as they are not full members of the MRC.

Crucially, the MRC has also established basin-level regular meetings to engage actors outside national governments, including the private sector, civil society, and academia. The [Regional Stakeholder Forums](#) (RSFs) serve as platforms for governments and external stakeholders to discuss issues affecting the basin and approaches to address them. Since 2016, nine RSFs have been held. The latest one, held in 2020, involved over 100 participants, including representatives from hydropower-related

Top-down basin-level stakeholder engagement has been limited by the fact that the river's upstream states, China and Myanmar, are only 'dialogue partners', not full members, of the Mekong River Commission

companies, non-governmental organizations (NGOs), research institutions, civil society, and MRC Member Countries. The discussions focused on two critical issues of interest to public stakeholders – the proposed Luang Prabang Hydropower Project and the preparation of the [Basin Development Strategy 2021-2030](#).

However, these stakeholder engagement processes face significant shortcomings. For instance, in 2018, the Cambodia Mekong Alliance (CMA) – a coalition of 52 NGOs – boycotted an RSF on proposed hydropower projects due to the fact its request to express its concerns over the potential impacts of the dams was ignored. The CMA highlighted several shortcomings in the consultative process and argued it was far from being truly inclusive. The stakeholder engagement processes are also weakened by the fact that the MRC itself is only consulted by the member states on their infrastructure activities, but unable to halt them, limiting the potential environmental and social benefits resulting from the RSFs.

Stakeholder engagement elsewhere: No universal solutions, but some sources of inspiration

As The Blue Peace Index highlights, the processes to engage public stakeholders can be improved on across all basins and countries. However, there are some examples of strong institutionalised engagement that can serve as a source of inspiration for others. For instance, The Senegal River Basin Development Organisation (OMVS) provides permanent platforms for broad participation in the water management process through its coordination committees. The national coordination committees ensure the coordination of activities in each country and include representatives from ministries, as well as national or local civil society. Local coordination committees, which include representatives of the agricultural, livestock, fishing, hunting, and logging sectors;

women's and youth associations; NGOs; and government, ensure the mobilization of local actors to be included in the decision-making process.

At the national level, most countries in the Mekong region have some existing systems in place for local stakeholder engagement, however, engagement is often ad-hoc, takes place through non-permanent platforms, and lacks a tangible impact on policy making. There is scope for them to improve in this regard by looking to approaches taken by some other countries. For example, in Peru and Brazil, local stakeholders, including representatives from civil society, marginalized communities, education, and research organisations, participate actively in water policy, planning, and management through the Board of Directors of the National Water Authority and the [National Council for Water Resources](#), respectively, which actively shape national water policy planning and development.

Need to combine top-down and bottom-up approaches

As transboundary water management decisions tend to address multiple objectives and involve varied interests, there is a need for inclusive stakeholder engagement, particularly with non-state actors and members of affected communities. The current water governance initiatives in the Mekong region do not comprehensively engage with non-state actors, leaving the community members that are affected by water infrastructure developments and those with expertise in water resource management marginalized and unable to participate in addressing key water-related issues.

Effective engagement at the local level should focus on the pursuit of inclusive participation, which requires a combination of top-down structure and bottom-up innovative inclusion practices. For instance, the riparian states –

Botswana, Mozambique, South Africa, and Zimbabwe – incorporated into the mandate of the [Limpopo Watercourse Commission](#) (LIMCOM) an explicit provision for the inclusion of local stakeholders when planning for the basin's development. During the development of a new flood defense system in Mozambique, LIMCOM also applied innovative practices to facilitate participation, such as including a gender specialist when conducting local stakeholder engagements to ensure that women are effectively empowered to participate in the process.

Additionally, more should be done to improve the effectiveness and impartiality of the stakeholder participation process. The RSFs are undermined by the lack of accountability of the MRC's [Procedures for Notification, Prior Consultation](#), and Agreement (PNPCA) process toward accounting for comments made by participants during the consultations. Under this process, the states can effectively approve their own projects without undertaking legally binding consultations and without effectively considering issues raised during the RSFs. This undermines the critical perception of impartiality of the process. In order to ensure that the views of participants are fully accounted for, improved accountability and transparency should be encouraged.

The benefits of public stakeholder engagement in transboundary water cooperation are diverse and extensive, traversing the economic, health, social, and environmental domains. Countries should recognize the shared benefits that result from inclusive and participatory decision-making, in order to secure the future of freshwater accessibility for all.



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The Need to Move from Water Government to Water Governance Involving Civil Society

With over 780 million people dependent on transboundary rivers in South and Southeast Asia, water governance is vital to regional development. Yet, the current approach to water governance is dominated by state-centric actors (sometimes called the “hydrocracy”) and is not delivering sustainable water management for people or ecosystems.

The so-called “hydrocracy” is a mix of government, bureaucrats, politicians, and national development banks, often aligned with private developers. They have established strong processes for governing transboundary water and are focused on maintaining the cyclical planning-to-construction of large infrastructure projects, e.g. dams, hydropower plants, bridges, etc. These state-centric actors are focused on delivering water allocation, utilisation and management with a clear agenda of ‘the state has a duty to develop its water resources’ for national economic development. For many, the state-centric actors are delivering the governmental agenda. Therefore, it is not governance that is managing transboundary water in Asia, but government.

To be clear, government is just one of the arms of modern society which derives its power from taxes, spending, laws, and regulations. The other two arms are: business (which gains its power from creating jobs and paying taxes), and the civil society sector, which gains its power

by serving the public interest without profit motives. Governance is the overall process of integrating and managing using all the arms of society. Water governance requires all parts of society working together to deliver sustainable water management for people and ecosystems, necessarily debating perspectives and sharing responsibility. If only one or two arms of society are engaged in water management, with a single shared perspective, it is not water governance, but water government.

The current Asian water ‘government’ structure is struggling to deliver on the dual priorities of state development and sustainable development goals (e.g. equity, poverty, gender, jobs, clean water, and partnerships).

The changing priorities of transboundary river management in the lower Mekong require an increased role for civil society organizations (CSO). The inclusion of CSOs will move the Mekong transboundary river toward a governance structure that enables more than just governments to be part of the solution.

The Transboundary Water Governance Challenge for the Lower Mekong

The [Mekong Basin Development Strategy 2021-2030](#) is being finalized now and it is a non-government document, spearheaded by the Mekong River Commission (MRC) “to guide all

actors working on water resources management and development in the Basin toward improvements in the environmental, social, and economic state of the Mekong River Basin, with benefits to all basin countries and peoples”.

This is a new development for all parties in the Mekong – as the river has always had a split personality: the Upper Mekong or Lancang lies within China and is managed separately from the Lower Mekong where the [Mekong River Commission](#) (MRC) has managed the four countries’ interests without challenging sovereign rights (Vietnam, Cambodia, Lao PDR, and Thailand).

However, while the plan identified priorities, it does not provide clarity on how and who will be involved in Mekong Water Governance in the next decade. The MRC is a key stakeholder for the Lower Mekong, but who else will be working with them to deliver enhanced environmental and societal outcomes; is it the usual hydrocracy, or more?

Enhancing CSOs’ Roles in the Mekong River Commission

Currently, CSOs provide information and responses during MRC stakeholder consultations on predefined topics and issues via three types of engagement. First, as passive observers to specific MRC meetings, events, or activities. Second, as providing feedback at targeted sharing events which relate to a specific topic (e.g., proposed new dams or hydropower plants or strategies). And third as directly engaged input to a specific MRC activity (e.g., report review, technical input).

These roles of informing and consulting are an important start. But this does not place CSOs in a position in which they are doing more than piecemeal reactive feedback. Governance is about sharing the responsibility, delivery, and power among key stakeholders to ensure that

there is no single voice or implementation arm that is dominant or marginalized.

To deliver better water governance in the Mekong, CSOs must be granted more power and decision-making capacity to ensure public concerns and aspirations are reflected transparently. This could also allow space for CSOs to partner with MRC, and other actors in the decision-making process, to develop alternative solutions and identify preferred outcomes. CSOs could be part of delivering solutions on the ground to water management challenges; as such they would partner with MRC and other actors in all aspects of decision making including the development of alternatives, identifying preferred solutions, and shared responsibility for implementation.

The Journey from Mekong Water Government to Water Governance is Essential to Achieving Promised Results

The journey from water government to governance that includes CSOs in a collaborative partnership requires more than just current water management bodies listening to CSOs and other voices. There must be structural reasons for making the transition.

All Mekong countries have agreed to deliver the sustainable development goals, and past transboundary Mekong assessments have shown that these are not being achieved through established government structures. Change is needed and civil society organizations across the Mekong are ready to be part of the governance solution for “benefits to all basin countries and peoples.”

The change toward water governance for the Mekong is a journey for all actors, where power, resources, and responsibility are given up by some actors and shared with others. This is new and challenging times. The move away from hydrocracy will mean a move away from technocratic solutions toward livelihood options with shared responsibility for delivery.



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Stakeholder Engagement on Transboundary Water Management in Cambodia, Laos, and Vietnam

The International Union for Conservation of Nature's (IUCN) Swiss-funded [Building River Dialogue and Governance](#) (BRIDGE) program supports countries that share river or lake basins to implement effective water management arrangements through a shared vision, benefit-sharing principles, and transparent and coherent institutional frameworks. BRIDGE works in 15 large transboundary river basins globally, including the Mekong.

Within the Mekong, BRIDGE focuses on the Sekong, Sesan and Srepok (3S) river basins in Cambodia, Laos, and Vietnam. Covering 10% of the Mekong river basin, the 3S provide 20% of its flow and a similar proportion of its suspended sediment. These rivers are also spawning grounds for many migratory fish species and freshwater biodiversity hotspots.

As in the Mekong basin as a whole, water management in the 3S is dominated by government agencies and allied businesses whose interests are narrowly institutional. This has two consequences: investment decisions that only consider the institutional or national benefit may have large negative transboundary externalities, and appeals to the impact of upstream projects on biodiversity and livelihoods downstream tend to fall on deaf ears.

There is no governance framework for managing the 3S. The Mekong River Commission's mandate only extends to the mainstream Mekong, which excludes the 3S. The 1995 Mekong Agreement refers to the term "tributary" but this is defined only in the external procedures, which are not legally binding. IUCN's recommendation to strengthen the MRC's mandate by revising the Mekong Agreement to incorporate the legally binding principles and procedures of the 1997 UN Watercourses Convention was resisted on the basis that this would threaten national sovereignty, or if the Mekong Agreement were reopened, it might completely unravel.

There is no river basin organization (RBO) for the 3S or indeed any river basin in Cambodia, Laos, and Vietnam. The closest attempt was a prime ministerial decision in 2007 to establish RBOs in 10 river basins in Vietnam, including the Sesan and Srepok (2S). In the face of strong institutional resistance, the decision was never implemented, nor was a more recent attempt to establish an RBO for the 2S as part of a World Bank project. The 2017 Lao Water Law and implementation decrees mention the creation of an RBO for the Sekong but there has been no progress to date.

In response to these challenges, IUCN and partners have had to adapt. First, they have argued for freshwater conservation on the basis of economic self-interest and energy security. This formed the basis of a [water-food-energy nexus](#) assessment of the 3S that IUCN completed in 2019. The assessment presented three broad recommendations of transboundary significance: joint energy planning and investment in the 2S to maximize river connectivity; transforming coffee production in Vietnam to a less water consuming crop mix that increases dry season flow into Cambodia; and keeping the mainstream of the Sekong free-flowing to sustain regional fisheries and food security.

The [3S nexus assessment](#) was an attempt to jump-start transboundary cooperation by identifying specific ways in which the rivers' benefits could be shared equitably, and in doing so enhance regional stability and prosperity. Follow-up studies were completed on 3S energy planning and coffee transformation, which provided more detailed analyses of options and associated costs and benefits.

Given the lack of a counterpart institution, the 3S nexus assessment was guided by a regional Technical Advisory Group (TAG) facilitated by IUCN. It included six members per country from national and provincial government agencies, CSOs, and academia, whom IUCN had mentored during an earlier BRIDGE phase. The TAG met four times during the assessment preparation. TAG members ensured that the assessment built on existing data and information, provided regular updates on how to link it with policy and planning at national and provincial levels, and acted as ambassadors to disseminate the assessment results in their own organizations and more widely.

Stakeholder engagement on the nexus assessment included high-influence but

Investment decisions that only consider the institutional or national benefit may have large negative transboundary externalities, and appeals to the impact of upstream projects on biodiversity and livelihoods downstream tend to fall on deaf ears

low-interest organizations when it comes to freshwater conservation such as the Communist Party of Vietnam (CPV), International Finance Corp., World Bank, and energy ministries. The key message has been that new technologies and regional cooperation can deliver energy security at much lower social and environmental costs. These are not necessarily new concepts. A more original finding is that the transition to solar and wind power, combined with more frequent droughts, essentially make destabilizing dams uneconomic.

This engagement has been multi-faceted, including briefings for senior government and party officials, trainings for multi-agency technical staff, consultations with think tanks and CSO networks, diplomatic engagement, analytical products, and op-eds.

This engagement has had some influence. In March 2019, in response to reservoirs running dry and extended power cuts, Cambodia issued a 10-year moratorium on Mekong mainstream dams. In February 2020, in response to conflicts of interest within the Ministry of Industry and Trade, CPV issued Resolution 55, which prioritizes renewables, especially solar and wind, over coal.

Most recent was a decision by the Mekong Delta Working Group, of which IUCN was a founding member, to consider expanding its mandate to include upstream impacts on the delta. This move came in response to the perceived vacuum when it comes to nexus thinking at the scale of the Mekong, despite growing concerns over the impact of dams on fisheries, sediment delivery, and regional food security. There are numerous bilateral discussions, but no regional platform to discuss energy, agriculture, and fisheries issues of strategic significance.

Finally, because disagreements over water tend to be a zero-sum, the “problem space” has been expanded beyond water to include protected

areas (e.g., nomination of Hin Nam No in Laos as a transboundary extension to Vietnam’s Phong Nha-Ke Bang World Heritage Site), forestry, and fisheries (e.g., better managed fishing in Gulf of Thailand between Cambodia and Vietnam). By doing so, hopefully new allies and new opportunities for reciprocity and mutual benefit will arise.



John Dore

Lead Water Specialist,
Australian Department of Foreign Affairs and Trade, Singapore

Lessons from Australia’s Intra-Country Transboundary Rivers Governance

Australia is a federation of 25 million people and a pre-Covid-19 GDP of \$1.4 trillion. In practice, state and federal governments have to work together. Australia also has a highly variable climate and hydrology. Increasingly irregular rainfall and high rates of evaporation result in the lowest run-off among inhabited continents.

The Murray Darling Basin (MDB) covers nearly 400,000 square miles of south-eastern Australia, twice the land area of Thailand. It contains the largest and most complex river system in Australia, with 50,000 miles of rivers, many of which are connected. The MDB includes 16 internationally significant wetlands, 35 endangered species and 98 different species of waterbirds. First Nations people have lived in what we now call the MDB for over 50,000 years and the basin contains many sacred and spiritually significant sites. The MDB has been the site of most Australian transboundary water governance experiences, with 6 governments involved: Federal, four states, and one territory—the [Australian Capital Territory](#) (ACT).

For about 160 years there have been agreements and plans about how much water can be used from the River Murray and the Basin as a whole. Over the decades more and more water was being extracted. The health of the Murray Darling system was in decline.

The water was over-allocated. Twenty-five years ago the MDB cap on surface water diversions was introduced, and thereafter annual auditing of compliance with the cap was commenced. It became obvious that further significant changes were needed to the water law, water allocation, and water use practices. A devastating drought from 1997-2009 catalyzed community and political action. This led to a 2007 [National Plan for Water Security](#) and the [Commonwealth Water Act](#) (2007).

Australia’s Water Act is an ambitious piece of legislation that seeks to return water allocations in the MDB to sustainable levels and to coordinate planning and decision-making at the Basin level.

The Act established the [Murray–Darling Basin Authority](#) (MDBA) that was given responsibility to: prepare, implement, and review an integrated Basin Plan; operate the River Murray system and efficiently deliver water; measure, monitor, and record the quality and quantity of the Basin’s water resources; support research; advise the Minister; provide water information to facilitate water trading; and engage and educate the community.

The MDBA is responsible for assessing and monitoring Basin state compliance with Sustainable Diversion Limits (SDLs) by towns, communities, industry, and farmers. Limits are

being set for 29 surface water areas and 80 groundwater areas across the Basin.

The aim of the plan is to bring the basin back to good health, while continuing to support farming and other industries for the benefit of the Australian community. It took five years to develop and agree to a plan to manage the basin as a whole, connected system. For surface water, the Basin Plan requires, on average, a reduction of 2,750 gigaliters (GL) of water used for consumption annually across the basin.

Underpinning the Basin Plan, under preparation, are 33 sub-basin [water resource plans](#) (WRPs) for surface water and groundwater. These will be legally binding. WRPs must contain: evidence of compliance with SDLs and water trade rules; protection of water for the environment, water quality and salinity objectives; First Nations values and uses; measuring and monitoring; and, arrangements for extreme weather events.

The Murray–Darling Basin Plan, in place since 2012, and backed by \$9 billion, is one of Australia's most scrutinized pieces of public policy. Since 2012, the overall average water take is down from ~14,000 GL/year to ~11,000 GL/year. Water extractions in the Basin are capped (now to a lower level than previously) and new enterprises can only be established if they purchase existing water entitlements from others. There is no net additional water extraction as a result of such trades. Problems remain, however, including with water accounting and compliance; ecosystem health (as evidenced by recent fish kills); community support and maintaining inter-jurisdiction political buy-in. These are all areas that we recognize as requiring further attention and improvement.

Water entitlements yielding an average of 2,000 GL per year have been acquired for the environment by the federal government, via a combination of government buybacks and infrastructure modernization. There is an

additional ~1,000 GL per year of environmental water. This is a substantial transfer of water from the consumptive pool. It is the largest redirection of water to the environment in any large river basin in the world. The [Commonwealth Environmental Water Holder](#) (CEWH, created by the Water Act 2007), in concert with relevant state government agencies, now routinely and competently deliver these secure water entitlements. Over the past four years, Commonwealth and other environmental water has been used in more than 750 planned watering events to improve the health of rivers and wetlands.

In September 2020, the MDBA has committed to a new range of initiatives to further boost transparency and collaboration. These include: increasing communications about river operations; using new engagement methods tailored to suit local communities; boosting the diversity of MDBA consultative committees; and splitting out the MDBA compliance role to a separate statutory authority.

In conclusion, years of over-allocation degraded the ecosystem and climate change is making the recovery task even harder. Climate change projections indicate a small increase in total rainfall in the northern Basin is likely, however, decreasing winter and spring rainfall is consistently predicted for the southern Basin. However, of the many large transboundary water basins in the world grappling with water scarcity and conflict between users, only the Murray–Darling Basin has a strong rules-based order, including clearly defined water entitlements, a cap on extractions, a large environmental water reserve, substantial (but imperfect) transparency, and a systematic audit process. For these reasons, when it comes to the complicated business of sharing water between competing interests, basin managers from around the world look to Australia to observe a functioning example of work-in-progress.



Ivan Zavadsky
Executive Secretary,
International Commission for the Protection of the Danube River

A Role Model for Water Governance in a Shared Basin: the Example of the Danube

The [International Commission for the Protection of the Danube River](#) (ICPDR) is the largest transnational river basin management body in Europe. Its work is based on the [Danube River Protection Convention](#) (DRPC), signed on June 29, 1994 in Sofia, Bulgaria, the major legal instrument for cooperation and transboundary water management in the Danube River Basin. The ICPDR was established in 1998. The Convention was signed by eleven countries: Austria, Germany, the Czech Republic, Bulgaria, Croatia, Hungary, Moldova, Romania, Slovakia, Slovenia, Ukraine, and the European Union. Serbia joined the Convention in 2003, followed by Bosnia and Herzegovina in 2005. Montenegro became the 14th ICPDR member in 2008. The ICPDR is formally comprised by the Delegations of all Contracting Parties to the DRPC.

The ultimate goal of the ICPDR is to implement the Danube River Protection Convention, and make it a "living" instrument. The mission of the institution is to promote and coordinate sustainable and equitable water management, including conservation, and improvement and rational use of waters for the benefit of the Danube River Basin countries and their people. The ICPDR pursues its mission by making recommendations for the improvement of water quality, developing mechanisms for flood and accident control, agreeing on standards for emissions, and by assuring that these measures are reflected in the Contracting Parties' national legislation and are applied in their policies.

Another commitment appeared in 2000 when the [EU Water Framework Directive](#) (WFD) was adopted with an aim to achieve good chemical and ecological status for all inland surface water and all groundwater in Europe. Although the ICPDR Contracting Parties comprise both EU Member States and Non-EU Member States, all agreed to implement the requirements of the EU Water Framework Directive. The ICPDR has also been committed to the implementation of the EU Floods Directive, which was introduced in 2007.

One of the key challenges in managing an international transboundary river basin is to ensure sustainable development, water allocation, and utilization among sovereign states. Historically, the Danube River Basin has been at the center of many significant political and historical developments. The earliest agreements of transnational cooperation were about inland navigation on and management of the Danube River. The outcome of the Second World War created a new political climate in Europe resulting in a new management approach. Even though the countries were divided between West and East, they recognized a common concern for the environmental quality of their shared waters.

Ultimately, the fall of the Iron Curtain transformed geopolitical conditions once again by creating new countries and changing borders throughout the Danube Region.

One of the key challenges in managing an international transboundary river basin is to ensure sustainable development, water allocation, and utilization among sovereign states

Geographically, the Danube River represents a natural regional connection from the Black Sea to the heart of Europe. Flowing through four capital cities: Vienna, Bratislava, Budapest and Belgrade, the Danube connects more than 80 million people. It is the key water resource, and forms the basis for human well-being and development in the entire basin region.

The use and the protection of the Danube River means balancing the needs of different actors requiring integrated management that goes beyond different interests, both environmental and political. Building and maintaining this balance was the main trigger for creating regional cooperation among Danube countries.

As a champion of transboundary water resources management, the ICPDR succeeded in bringing together countries that had been politically at odds for many years. Such an international organization has demonstrated that the interests of Danube riparian countries in water resources management and development are better met through cooperation than through conflict. Joint management of a shared basin tends to harvest positive long-term results, further reinforced by a solidarity principle at the core of the ICPDR's guiding principles.

In addition to cooperation, protection, and sustainable utilization of water resources, the ICPDR has been instrumental in EU accession for many countries of the Basin. Since 1991, the European Union has been one of the main initiators for river basin management in the Danube and the European Commission is one of the Contracting Parties to the DRPC. Also, Heads of Delegations of the ICPDR countries agreed that implementation of the Water Framework Directive (WFD) is one of the highest priorities. The ICPDR also promotes regional cooperation, which is an essential element of the stabilization and accession process to the EU. Thanks to the lessons learned through the work with the ICPDR, the Czech Republic, Slovakia, Slovenia,

and Hungary became members of the European Union in 2005, and in 2013, Croatia became the latest European country. Now Serbia and Montenegro are following the same pattern, and using the experience gained through their work within ICPD, and are on their way to becoming EU member states. ICPDR membership is highly significant for Danube countries and presents an opportunity for them to utilize knowledge from the work of its Expert and Task Groups – the backbone of ICPDR expertise and knowledge building – including representatives of all ICPDR members. They provide scientific and technical reports that represent the core work of the ICPDR, and other requirements specified under the DRPC.

Regional cooperation, as demonstrated by the Danube countries over the last 26 years under the Danube River Protection Convention, is vital to avoid disputes and to move forward and establish common cooperation with the shared aim of keeping the Danube cleaner, healthier, and safer for future generations to enjoy.

Today the key decision-making at the ICPDR level takes place during ordinary meetings where political decisions are made and standing working group meetings provide political guidance. Expert and task groups are also a vital part of the ICPDR structure.

It is important to mention that the ICPDR supports the development of sub-basin programs and establishes cooperation on the international level. The ICPDR for instance has a strong partnership with the [International Sava River Basin Commission](#) (ISRBC) and the [Black Sea Commission](#).

In order to increase the visibility of ICPDR activities, in 2018 social media platforms were launched with the aim of bringing the activities of the ICPDR to a broader audience.

Despite its achievements, the ICPDR still has much work to do in its role as "Keeper of the Danube."



Rajiv Bhatia

Distinguished Fellow,
Gateway House and former Indian Ambassador to Myanmar

Riparian Governance in South Asia: Many Rivers to Cross

Governance of transboundary rivers in South Asia is both complex and challenging due to a peculiar mix of imperatives relating to geography, demographics, and geopolitics. Hosting a quarter of the world's population, the region, however, has no choice but to improve its record of riparian governance if it is to contribute more to the world's well-being and its own.

The Riparian Governance Record So Far

The record of regional cooperation on rivers since India's independence in 1947 is one of several successes, but also much contestation.

The [Indus Waters Treaty](#) (1960), involving six rivers shared by India and Pakistan, has perhaps been the biggest success. It was crafted during Prime Minister Jawaharlal Nehru's time, with the initiative of the World Bank, valuable technical advice from the U.S. and generous international financial assistance. The treaty survived three wars between the two countries and decades of Pakistan-supported terrorism against India. Its mechanism for cooperation, the Permanent Indus Commission, has performed well.

The [Ganges Water Sharing Treaty](#) (1996) between India and Bangladesh resolved one of the most contentious issues affecting bilateral relations between the two countries. It showed the possibilities of diplomacy, with reason prevailing over emotion. Prime Minister Sheikh

Hasina described this relationship in 2017 as 'a flowing river and full with generosity.' Another praiseworthy model of water cooperation exists between India and Bhutan, producing ample hydropower and bringing benefits to both countries.

Yet, differences and disputes continue on facets of water-related governance between India and Pakistan, India and Nepal, and even India and Bangladesh. India figures in all these equations, not because of its size or policy, but because it is a middle riparian country. It often faces challenges from two directions: China – the source of several major rivers – and the lower riparian countries such as Pakistan and Bangladesh. With the latter, the key issue in recent years has been the unresolved sharing of waters of the Teesta River in the dry season. In 2011, the two governments were on the verge of reaching an agreement when the government of West Bengal, a state in India, refused to come on board. Since then, political configurations at national and state levels are yet to align enough to clear the agreement.

India and China also have a mixed record on riparian cooperation. China, as the upper riparian country controlling the Brahmaputra, (known there as Yarlung Tsangpo), is perceived to be damming it and diverting its waters in southern Tibet. Moreover, it often fails to share data on water flows with Indian authorities,

thereby hampering their measures to protect land and habitation from devastation caused by floods and siltation. Credibility of data is also an issue. The two countries need to hold a serious conversation on forging long-term riparian cooperation. But now, in October 2020, chances appear dim in light of China's aggressiveness in eastern Ladakh and elsewhere.

The Major Stakes for Riparian Governance

India is committed to moving forward – and fast – on the path of economic development which is human-centric, equitable and sustainable. The COVID-19 pandemic has caused disruptions, but the nation is resolute about its goal to regain its pace. Its national water policy and the national waterways act lay emphasis on the all-round utilization of rivers for development purposes, ranging from irrigation and agriculture to inland transportation, trade and tourism. The need to use modern technology, green energy, and environmentally sound practices is encouraged.

In the Northeast region of the country comprising eight states that border on five neighboring countries (Nepal, Bhutan, China, Bangladesh and Myanmar), there is growing consensus among policymakers and scholars that the entire development spectrum from ecology to economy should be driven by data, science and commonsense.

An interesting recent feature in democratic India is that public debate has been robustly joined by the civil society or the 'Third Space'. Media, universities and think tanks (such as the Shillong-based Asian Confluence) have been making a stellar contribution towards defining challenges and suggesting solutions. They advocate holistic development of people, their livelihoods and cultures, using rivers as connectors rather than dividers.

Differences and disputes continue on facets of water-related governance between India and Pakistan, India and Nepal, and even India and Bangladesh. India figures in all these equations... because it is a middle riparian country

The Regional Angle of Riparian Issues

Effective transboundary river management demands regional cooperation among countries that share rivers. Having factored in Pakistan's patently negative attitude towards [SAARC](#), India has shifted gears, investing much political and diplomatic capital in a small but promising grouping – [BIMSTEC](#). Working quietly since its successful summit in 2018, this grouping now stands on the verge of major rejuvenation. Its new charter is ready and so are other initiatives which will be unveiled at the next summit, to be hosted by Colombo in January 2021. BIMSTEC is perhaps the only regional body committed to promoting the Mountain Economy and the Blue Economy, anchored on the belief that mountains, rivers and oceans form nature's unbreakable cycle. India's enlightened approach to push cooperation in relevant sectors – fisheries and aquaculture, coastal shipping, port connectivity and offshore energy farms, among others – should be welcomed and supported.

Another grouping named the [Mekong Ganga Cooperation](#) (MGC) has been strengthening cooperation in education, culture, tourism, transport and communications among its six members: India, Thailand, Myanmar, Vietnam, Laos and Cambodia. The creative idea of linking lands washed by Asia's two powerful rivers, the Ganga and the Mekong, deserves to be backed.

Conclusion

This assessment suggests that, in contrast to the past when governments strove to divide and share river waters, the endeavor has now shifted to thinking about comprehensive river basin development. Thus, the task has become even more complex. Another noteworthy trend in water governance and regional cooperation is India's marked eastward tilt. This stems from the increasing centrality of the country's Northeast and its immediate external neighborhood, especially Bangladesh and Myanmar. Together they stand at the intersection of India's 'Neighbourhood First' and 'Act East' policies. The medium-term objective aims to establish the 'Bay of Bengal Community'.

Developments culminating in 2020 reflect New Delhi's conviction that the Indo-Pacific is set to be the most consequential theatre of global geopolitics in the coming decades. India's policy on transboundary river governance may be shaped accordingly.

Keynote Addresses



Photo: Kevin Frayer/Getty Images



David R. Stilwell
Assistant Secretary of State
for the Bureau of East Asian
and Pacific Affairs

Opening Remarks

Rivers as a Cornerstone of Civilization

Thank you Satu and the East-West Center, and thank you to all who are joining us from around the globe. It is good to see so many of you who had planned to join us in February before the pandemic forced us to postpone. I welcome you and the many new participants here today.

We have all gathered because we recognize the importance of rivers for our economies, for livelihoods, for our cultures, even our civilizations. Indeed, rivers are where our earliest ancestors gathered to form human societies. Water is the essential ingredient of life, and the ancients knew and respected the importance of rivers.

The earliest instances of human society, or human agriculture, or human history, of human civilization reveal the essential role played by rivers. What would our world be without the civilization of Mesopotamia, bracketed by the two mighty rivers of Euphrates and Tigris? Could ancient Egypt have existed without the life-giving bounty of the Nile? Did Harappan civilization die out because the Saraswati river dried out and disappeared? Would London be a global capital without the Thames, or New York be our greatest harbor without the Hudson?

This conference was supposed to have taken place in Bangkok. A hundred miles north of Bangkok on the Chao Phraya lies Ayutthaya, seat of the ancient Thai Kings. And today, along those same banks, lies the greatest city of Southeast Asia. Rivers enabled our ancient ancestors to gather and farm and feed ever larger groups of people. Those first societies begat language and civilization. Those civilizations begat cultures, nations, empires, and history. The cycle of floods and droughts on the Yangtze and Yellow rivers gave rise to the concept of ideal balance enshrined in Yin and Yang. The Mississippi River sparked the literary genius of Mark Twain. The Thames inspired the people of England to seek their fortune upon the sea.

Why is this understanding of rivers important? Why is it worth focusing on the great role of rivers in fostering the rise of humanity? Because those who impede, obstruct, or divert riverine resources for themselves cause grave danger and damage to livelihoods for millions. A river is not merely a geographic feature. It is an essential, fundamental basis of human life. The billion people who depend on the Ganga, Indus, Yamuna, and Brahmaputra know this essential truth.

And the people of the Mekong particularly know this truth, because they are living with the terrible consequences of upper riparian water control, with increasing and devastating impact on the lives of tens of millions for whom the Mekong represents life itself. America is concerned about these developments, and it is why I am privileged to speak to you today.

The Mekong-U.S. Partnership

It is fortunate that we can come together even if we are not able to meet in person, as the Mekong River is important to us all. The U.S. partnership with Cambodia, Laos, Myanmar, Thailand, and Vietnam has grown considerably since we started the Lower Mekong Initiative in 2009. Over those 11 years, the United States government has committed almost \$3.5 billion in foreign assistance to the Mekong region, joined by billions of dollars in U.S. government official financing and U.S. private sector investment.

This year marks an even further expansion with the launch just last month of the Mekong-U.S. Partnership. Our collaboration is now broader, deeper, more strategic, and better resourced, reflecting the importance of the Mekong region and our commitment to our Mekong partners. The Mekong-U.S. Partnership puts cooperation on transboundary river governance front and center, and it comes at a crucial time. Challenges facing the region's shared water resources have only grown since Secretary Pompeo announced our intent to host this conference in 2019. Back then, the Secretary shared our mounting concerns over these troubling trends. Now, we face a crisis.

The Drought's Human Toll

The communities and ecosystems that have relied for generations on the Mekong River's natural flood pulse are suffering from record droughts that affect over 60 million people and have dramatic consequences for food security, economic development, and national sovereignty across the Mekong. Now, I realize I'm talking to civil society and water governance experts. You see these consequences first-hand. Let me highlight some of them.

Water shortages have damaged nearly 100,000 hectares of rice fields across the region. These shortages have reduced crop yields from other harvests across Laos, Cambodia, and

Vietnam by 50 percent. And they have also cut the available fish catch in Cambodia by as much as 90 percent. This drought is causing harmful sediment-free waters and shorter flood seasons, leading to underground aquifers not being replenished and the ground in the delta sinking faster than anticipated. In Vietnam's An Giang province, for example, fishermen have seen their daily fish catch reduced by more than half. We read about fisherman in other parts of Vietnam who used to catch 200 kilos of fish a day now bring in fewer than 10 kilos per day. These water shortages have exacerbated saltwater intrusion into the delta, up to 90 kilometers inland. These are the highest levels ever recorded, and they imperil agriculture and rice crops that are the livelihoods of tens of millions of Southeast Asians.

China's Upstream Dams

A growing body of evidence shows that these downstream problems are made worse by the construction and operations of upstream dams in China. China's unilateral manipulation of your shared river disrupts the natural flood pulse that replenishes bodies of water like Cambodia's Tonle Sap Lake, revitalizes the fishing and agricultural industry, and restores freshwater aquifers across the Mekong basin.

Beijing argues that its dam operations benefit downstream nations by increasing water flows in the dry season. Yet by Beijing's own admission, these dry-season water releases are done to maximize profit for China's electricity producers.

Transparency and Water Data

As with so many challenges involving Beijing, non-transparency is a major part of the problem. Beijing has not shared sufficient information on its dam operations or upstream river conditions, limiting Mekong government's ability to prepare for or mitigate the damage caused by dam operations. China's dam operators have also released water unannounced, damaging downstream crops when the river rises unexpectedly.

Beijing has recently acknowledged its role in manipulating natural river flows and has given new assurances to share more water data. But the Chinese Communist Party has a history of empty promises. Just look at the South China Sea.

We commend the countries of the Mekong region and the Mekong River Commission for their persistence in lobbying Beijing to provide more water data. We encourage you to hold China accountable to sharing year-round, real-time flow and dam operations' data. And we urge Beijing to coordinate closely with the MRC and use existing tools and protocols.

The United States supports regional organizations like ACMECS and the efforts of partners like Japan, South Korea, Australia, India, and countries in the European Union to support sustainable development and share global best practices in the Mekong region.

We also applaud ASEAN efforts, led by Vietnam as chair this year, to raise the profile of Mekong issues. The Mekong region is as consequential to ASEAN centrality as the South China Sea. We encourage ASEAN member states to consider the issues in the Mekong region as important to regional cooperation and cohesion as the sea.

The Mekong region deserves good partners committed to the autonomy, economic independence, good governance, and sustainable growth of Mekong partner countries

River flows aren't the only challenge facing the Mekong region. Across the Mekong, communities are concerned about infrastructure-linked debt and the predatory and opaque business practices of Beijing's state-owned actors. Mekong communities are concerned about the boom in trafficking of persons, drugs, and wildlife.

Mekong citizens are likewise concerned with Beijing's reticence to curb corrupt and criminal organizations and companies working out of special economic zones linked to the Chinese Communist Party. Citizens are concerned about Beijing's extra-territorial river patrols under the guise of law-enforcement support, even as criminal elements in the region expand their control.

Just last week, I read that Zhao Wei, a criminal kingpin sanctioned by the U.S. Treasury Department for criminal activity, plans to build and control a new port near the Kings Roman casino in Laos, raising greater concern about increased drugs, wildlife, and human trafficking in the Golden Triangle.

We encourage countries of the Mekong region to hold the Chinese Communist Party accountable for its role in addressing these challenges. We call for cooperation on transparent and sustainable development, water resource management, and law enforcement that serves the interests of Mekong-region countries, not those of their neighbors.

How the United States is Helping

Friends, the Mekong region deserves good partners committed to the autonomy, economic independence, good governance, and sustainable growth of Mekong partner countries. The United States has supported the Mekong River Commission for decades and will continue to do so. We will work through the Mekong-U.S. Partnership, guided by principles of transparency, inclusivity, good governance, and respect for autonomy and international law. We are committed to working with you, for our mutual interests.

We will continue our work under the Mekong Water Data Initiative to improve water data sharing. We will continue to exchange expertise and best practices, such as those between the Mekong and Mississippi River Commissions and the U.S. Army Corps of Engineers and regional counterparts to improve

safety in dam construction and maintenance. We will maintain our partnership between the U.S. Department of Energy and the MRC on responsible hydropower and water resources management. We will empower the skill and talent of the Mekong people through the new Young Southeast Asian Leaders Initiative Academy at Fulbright University Vietnam, which we announced just last month, and also through forums like this, through our Young Scientists Program, and many others.

Finally, we will always partner with governments and NGOs who share our transparent, inclusive approach. Transboundary water governance challenges are not unique to the Mekong, of course. Our shared experiences from across the Indo-Pacific in managing risks from floods and droughts and mitigating the impacts of predatory infrastructure development make it all the more important to examine these issues cooperatively and develop shared solutions.

As we do so, we recognize the hard work of local media reporting on the value of the river and the effects of unsustainable practices. We applaud the tireless efforts of civil society advocates that strive for transparency, sustainability, and accountability.

Closing

There is a lot riding on our efforts. As you all know well, river governance and water security in the Mekong are not just technical issues. They affect the lives and livelihoods of tens of millions. So I encourage everyone today to raise your concerns, ask the hard questions, and suggest ideas for cooperation that protect the future of a healthy Mekong River. We have brought together many experts on transboundary water governance here, and this is an opportunity to identify a path forward to strong and effective partnership.

Let me end by saying that the United States is committed to supporting the countries of the Mekong Region to ensure the river remains healthy and vibrant, sustaining generations far into the future. Thank you.



Dr. Somkiat Prajamwong
Secretary-General, Office
of the National Water
Resources, Thailand

Opening Remarks

More than two billion people of the world's nearly eight billion population live in a country experiencing a lack of water

Dr. Satu Limaye, Director of East-West Center in Washington, Mr. David Stilwell, U.S. Assistant Secretary of State for the Bureau of East Asian and Pacific Affairs, distinguished guests, ladies, and gentlemen. On behalf of the Royal Thai government, it is my great pleasure and honor to be invited as a speaker for the opening remarks of "Indo-Pacific Conference on Strengthening Governance of Transboundary Rivers." And I would like to take this opportunity to express my sincere gratitude to the United States Department of State for the funding support, the East-West Center in Washington for the program organization, and all participants across Indo-Pacific Region for joining this meeting.

Today, it is indeed a great pleasure and privilege for me to share some messages on the governance of transboundary rivers management, which can be considered as a close-to-home matter since Thailand has the Mekong River as the border between Thailand, Laos in the north and the northeast, and having the Moei and the Sai Rivers as the border with Myanmar in the North. To the south, there is the Ko-lok River basin, the shared border with Malaysia.

According to the United Nations, there are approximately 263 global rivers in total, covering almost half of the Earth's surface, and more than 145 countries share one river. With more than one country sharing the same river or waterway, there is the inevitable problem of using water resources between upstream, middle, and downstream countries.

A United Nations study in 2018, pointed out that more than two billion people of the world's nearly eight billion population live in a country experiencing a lack of water.

According to a UNICEF study, by 2040, an estimated 600 million children worldwide will live in countries with severe water shortages. Climate change factors will widen the severity of water competition over the next 20 years.

Ladies and gentlemen, sustainable integrated development

will be unattainable if there are no processes and methods that allow water users for all sectors, genders, and ages to access the use of water resources equally and equitably.

Good governance is a universal principle that is accepted in both the public sector, the private sector, the civil society sector, local organizations, and international organizations. The United Nations, the World Bank, the Asian Development Bank, and international financial organizations have adopted this concept to effectively and efficiently manage sustainable development.

Thailand adopted the principles of good governance after Thailand experienced a recession in 1997. At that time, Thai society realized and focused on good governance by applying principled guidelines to public administration to make it transparent, accountable, and worthwhile in accordance with the rule of law provided in constitutional law, which is the supreme law of the country. Moreover, it is also included in the national development strategy, the National Anti-Corruption Strategy, and also in the Twelfth National Economic and Social Development Plan (2017-2021).

Thailand is a member of the Mekong River Commission or MRC. The Mekong River is approximately 4,900 kilometers long, originating in China, flowing through Burma, into Laos, past Thailand, and flows into Cambodia and Vietnam, and then into the South China Sea.

According to the Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin—i.e. the 1995 Mekong Agreement—the MRC has developed over the past 25 years with technical and financial support from development partners and international organizations to develop self-reliance among member countries.

In the declaration of the First Lower Mekong Leadership Summit in Hua Hin on April 5, 2010, MRC member countries agreed to be financially self-reliant by the year of 2030. This started the process of downsizing the organization and transferring its core missions to member countries. That was the crucial challenge for organizational development.

At the Third Mekong Leadership Summit on April 5, 2018 at Siem Reap, Cambodia, Prime Minister General Prayut Chan-o-cha emphasized the importance of cooperation in the

Sustainable integrated development will be unattainable if there are no processes and methods that allow water users for all sectors, genders, and ages to access the use of water resources equally and equitably

development of the Mekong River region in water resource management, of reducing the impact and damage from natural disasters, and preparing for climate change adaptation.

One of Thailand's policy concepts is to make the Mekong River a river of prosperity, connectivity, and sustainability. It is hoped that there will be cooperation and linkages between the Mekong River Commission cooperation framework, the Mekong-Lancang Cooperation Framework, and other relevant cooperation frameworks.

To achieve this objective, the principles of good governance of water resources management from the same river basin has been applied in order to access water equitably and fairly among the upstream, mid-stream, and downstream member countries.

At present, several hydropower development projects have been established in both the Lancang and the Mekong River basins. The MRC has focused on conservation and sustainable development by having social responsibility in accordance with the principles of good governance. For example, the MRC has developed a Cross Border Impact Assessment Tool (TbEIA), the Monitoring and Designing Tool for the Preliminary Hydropower Project (PDG), and joint environmental monitoring on Mekong mainstream hydropower projects for impact assessments and environmental monitoring in order to meet the mitigation measures and impact adaptation both in the project and transboundary areas.

Finally, on behalf of the Royal Thai Government and myself, as the Chairperson of the Thai National Mekong Committee and also as a member of the Mekong-Lancang Cooperation Framework, I would like to invite all of you who share the water to adhere to the principles of good governance as a basis for water management in order to achieve benefits for the people and all sectors both in the region and all over the world so that we will leave no one behind. Thank you.



Dr. To Minh Thu

Deputy Director General of the Institute for Foreign Affairs and Strategic Studies, Diplomatic Academy of Vietnam

Closing Remarks

Since the beginning of the conference we have been discussing three main aspects of governance of transboundary rivers: the key players (that is who has the voice in the decision-making process), the different rules, and how to enforce the rules.

First, let's talk about the key players in this governance that are international organization, government, business and NGOs (or peoples). With regards to international organization, the MRC has a key role. Thus, Mekong countries and partners should help strengthen the role and capacity of the MRC as a hub for water management and coordination with other mechanisms in the field of water management. Other mechanisms that include cooperation in water governance (MLC, MUSP) should complement the MRC.

Especially, ASEAN should play a more central role in the development of the Mekong sub-region and should facilitate the policy coordination process to help raise awareness to pave the way for elevating water governance and diplomacy in the Mekong River Basin to the regional agenda.

Riparian governments should play a coordinating role in promoting synergy among Mekong regional cooperative mechanisms so that they can be complementary to each other and help address the interests of riparian countries

Today we also talked about the role of business and people through NGOs. Assistant Secretary David Stillwell has correctly pointed out the various challenges facing the Mekong and these challenges cannot be tackled without the participation of the local people and businesses inside and outside of the region.

Second, rules and norms are the backbone of a good governance mechanism. Thus, it is important to promote the building of rules and norms in the governance of transboundary rivers. The 1997 UN Convention on the Law of Non-Navigational Uses of International Watercourses can be a source of reference. I agree with Jake Brunner that the Convention is a

*Transparency
and providing
information for
public consultation
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of transboundary
issues*

gold standard for governing transboundary rivers. While major powers may have not joined the 1997 UN Convention, we should encourage riparian countries to join international law on water management. Vietnam joined this convention in 2014; other countries who share international rivers could promote the compliance of the already recognized norms and rules.

ASEAN countries would benefit by joining the 1997 UN Convention, and ASEAN, as an organization, could lead an effort to encourage member countries and other qualified countries to follow the 1997 UN Convention.

Mekong riparian countries should work toward building common standards and rules for integrated water resources management, such as a code of conduct for the Mekong River Basin. While it can be a long progress, existing norms and rules should be applied in this region. The Mekong countries should embrace the implementation of the 1995 Mekong Agreement through the five Procedures and their Technical Guidelines as they will be the rule-based IWRM for water resource development to provide the most benefits with minimum environmental and social harm.

Third, the way forward. Looking at the bigger picture, riparian countries should find alternative development opportunities that are less dependent on hydropower and extensive water-use production, and promote cooperation among Mekong riparian countries regarding equitable and sustainable use of the Mekong River's resources.

Any transboundary issues/conflicts should not be looked upon as always negative. It can be healthy when effectively managed. Healthy conflict management can lead to growth and innovation, new ways of thinking, and additional management options. But, it is important to understand transboundary conflict clearly so that it can be effectively managed by reaching consensus that meets the needs of all stakeholders.

Transparency and providing information for public consultation are among the keys to the success of transboundary issues. This would help to create an enabling environment for community participation and especially to enhance the role of women.

Water governance is closely linked with other issues such as food and energy security, infrastructure, climate change impacts, which are attracting greater involvement by external partners, especially major powers. The Mekong subregion is an integral part of ASEAN and ASEAN should play a central role in coordinating the participation of external partners in the Mekong subregion. All programs and engagement by external partners should complement and synergize with currently existing plans and mechanisms, such as ASEAN MPAC 2025, and ASEAN's Vision on the Indo-Pacific.

The Mekong countries should envisage the future changes that will have significant impacts on the water resource management in the Mekong River Basin, especially what the changes would be and the patterns of spatial distribution of those changes as well as to what extent these changes will benefit the people through the effective roles of state, community, private sector actions to respond to food security for the poor.

Finally, water diplomacy bilaterally and multilaterally, should be promoted on the basis of transparency and good will. I thank you very much for your attention.



Mr. Jae-kyung Park
Director-General for ASEAN and
Southeast Asian Affairs, Republic of
Korea Ministry of Foreign Affairs

Closing Remarks

I would like to touch upon, first, the Mekong-Korea cooperation mechanism, and then touch upon the issue of governance of the transboundary river. Mekong-Korea relations started officially in 2011 with the inaugural foreign ministers meeting in Seoul, and the partnership was elevated in the inaugural summit meeting in Busan last year. The second Mekong-Korea Summit meeting is scheduled to be held next month on the occasion of the 37th ASEAN Summit, with Vietnamese chairmanship.

The primary purpose of Mekong-Korean cooperation is to narrow the development gap among ASEAN member states... to build a more cohesive, prosperous, and competitive ASEAN community

The primary purpose of Mekong-Korean cooperation for our part is to narrow the development gap among ASEAN member states. We believe this in turn will contribute to building a more cohesive, prosperous, and competitive ASEAN community. When we talk of a development gap, it is not only about GDP or per capita, it is also about trade. Currently, the intraregional trade among ASEAN states accounts for approximately 25 percent of its total trade. Compared with the EU with over 60 percent of intraregional trade, the figure is still very low. When it comes to the Mekong region, intraregional trade is around 8 percent, which is much lower than the ASEAN average. Thus Mekong-Korea cooperation does not see the river-related activities alone. I would say it is a more comprehensive cooperation initiative embracing three pillars: people, prosperity, and peace—the three p's. These are actually the principled goals of President Moon's New Southern Policy. The three goals are also in line with the three communities of ASEAN. And there are actually seven priority areas of Mekong-Korea cooperation: people-to-people exchange, human resource development, rural development, infrastructure, ICT, the environment, and non-traditional security. Based on such priorities, projects are being planned and also being implemented such as vocational training, urban development programs, particularly smart cities, and energy cooperation, including renewables. There are also projects for clearing explosive remnants of war, which have been a serious impediment to economic growth of the rural villages of the region.

In the course of bettering governance of transboundary rivers, capacity-building and raising proper awareness of the private sector in the region is essential

With more directly related to the environment and to water management, we plan to build a Mekong biodiversity center to be located in Myanmar. We hope it would serve as an R&D hub for preserving the biodiversity of the region. And we have another R&D center already in operation with the name of the Mekong-Korea Water Management Center. The center is carrying out practical research and technology exchange between Mekong countries and Korea. Efforts from both sides are sharing water resources information using satellites and modern techniques based on irrigation and floodgate models. And I am pleased to say that the center is the outcome of collaborative efforts between Korea on one side, the K-Water public corporation, and the U.S. on the other side with NASA and the U.S. Army Corps of Engineers. Most projects that I've mentioned are funded from the Korean government's official development assistance. At the moment, nearly 20% of Korea's ODA, both in grant aid and concessionary loans, are allocated in the Mekong region and countries, amounting to approximately \$300 million annually.

Now with regard to the governance issue, first, in the course of bettering governance of transboundary rivers, capacity-building and raising proper awareness of the private sector in the region is essential. In this sense, various capacity-building programs, including scholarships, vocational education and training, and fostering CSOs and raising awareness on environmental issues are needed. I would like to reiterate the Korean government is committed to working towards it.

Secondly, the political will of riparian states is also essential. Let me give you the case of the Korean Peninsula. The South and North Korea share two rivers, called the Imjin River and the Bukhan River. For the past few decades, South Korea has made continuous efforts to reach a consensus with the North on joint management and flood prevention projects, in vain, due to no responses from Pyongyang. Instead, during the 1980s, North Korea constructed dams on the upper Bukhan River. At that time, the prevailing concern in the South was about the possibility that the North would use the dam as a way of attacking South Korea. Out of such security concerns about the dams, the South had to respond by building another dam along the lower Bukhan River.

So, unlike the situation in Northeast Asia, countries in the Mekong region have shown strong unity, cohesion, and political will at the highest level. In this context, together with various

Mekong-plus-one mechanism, the ACMECS or CLMV are also useful mechanisms to solidify internal political will among Mekong countries.

Lastly, the transparency of government, it is also essential, together with securing substantial partnership with the private sector and harnessing political will among riparian states. The transparency of government role is effective even in the case addressing disaster management. Here I would like to touch upon the case of the Xe-Pian Xe-Namnoy hydropower dam. In July 2018, there was a tragic incident, the collapse of the dam in the Attapeu province in the southernmost part of Lao PDR. The casualties include 49 dead, 22 missing, and several thousands displaced. Basically, the structure of the project was a private-public partnership, a joint venture between Korean private companies, Thai companies, and also the Lao government, which owns 24 percent of the equity. And Korea's concessionary loans amounting to \$80 million USD were given to the Lao government.

As such, the Korean government is not a direct party to the project, but still, the responses to the collapse from the Korean side were both quick and active, and short to long term in three ways: 1) humanitarian assistance, 2) efforts to ensure a fair and objective investigation, and 3) mid and long-term rehabilitation projects for the province. For humanitarian assistance efforts, we sent 63 members of a rapid disaster relief team, \$2 million of cash and in-kind assistance was provided, and 1,000 tons of rice was provided as a short-term humanitarian assistance. Mid-term and long-term projects were allocated \$11 million for five-year, multi-year phased projects, including the increase of public access to better housing services, the wellbeing of children, and strengthening disaster management systems. So far as we understand, the compensation issue for the damaged villages was settled by the Lao government and the construction company recently, and follow-up measures are being implemented since then. And in the meantime, the collapsed dam was reconstructed, and the dam started emitting electricity late last year. The Korean government will continue to pay attention to the case and to make efforts to contribute to building a better community in the damaged province.

I will stop here and I would like to thank the East-West Center for giving me the floor, and I look forward to seeing you face-to-face next year.



Ambassador Michael G. DeSombre
U.S. Embassy in Thailand

Closing Remarks

Balancing the priorities of all the wonderfully diverse Mekong region nations requires accountability, transparency, stakeholder input, and above all, trust

I would like to start by thanking Satu Limaye and the organizers at the East-West Center, Assistant Secretary Stillwell, and my colleagues at the State Department, but most importantly all of you experts from across Asia and beyond who have come together today to share your thoughts and help create a more prosperous future for the Mekong region. I was especially pleased to hear the important message from Secretary-General Somkiat about making the Mekong a river of prosperity, connectivity, and sustainability.

Today's discussions reinforced for me not only the challenges, but also the utmost urgency of strengthening our cross-border water management agreements and institutions. This year's drought that Assistant Secretary Stilwell described is a call to action. As we witnessed here in Thailand and across the region, the livelihoods, prosperity, and indeed the very lives of millions of people who depend on the Mekong River hang in the balance.

This work is hard. As all the speakers have mentioned, balancing the priorities of all the wonderfully diverse Mekong region nations requires accountability, transparency, stakeholder input, and above all, trust.

Chicago, where I was born, is situated on the Great Lakes, which is one of the most famous shared water bodies in the world. And the United States and Canada have faced our fair share of challenges regarding these waters. But through strong institutions, like the International Joint Commission, which Commissioner Jane Corwin spoke about today, over the course of more than 100 years, the United States and Canada have found ways to share and jointly manage our transboundary water resources to improve the lives of citizens on both sides of the border.

The Mekong region is fortunate to have just such an institution, the Mekong River Commission. Established in 1995 the MRC is an enduring model for regional cooperation and has been a central focus of our discussions today. As we have learned,

improving the capacity of this treaty-based organization is one of the most important ways that we can promote equitable use of the Mekong river's plentiful resources. As Dr. Hatda, the MRC CEO, said today, the MRC is constantly working toward water diplomacy solutions that promote the principle of reasonable and equitable use. Together, we must work to strengthen the MRC's capacity to resolve conflicts around joint management of water resources, both within the Mekong region and with countries outside of the region.

I am proud to note the U.S. government's longstanding, prominent role in these efforts, most recently through the Mekong-U.S. Partnership that Assistant Secretary Stillwell mentioned. This includes an additional \$1.8 million to support the MRC's important work through existing programs and partnerships.

Building on these efforts, our USAID Regional Development Mission for Asia, based here in Bangkok, is finding new and innovative ways to help the MRC and Mekong region nations reduce their vulnerability to floods and droughts like the one we experienced earlier this year. Through a unique partnership with NASA, USAID's SERVIR Mekong project, together with the MRC, co-launched the "Drought Early Warning Platform." This online tool will provide Mekong countries with an early warning system to forecast and monitor drought in the region. We shouldn't need a rocket scientist to solve these problems, but it sure is nice to have some helping us.

As we heard today, countries from across the globe—spanning from Europe to East Asia—stand ready to share with Mekong region nations their experiences and lessons learned on transboundary river management. The United States is no different. As noted previously, the U.S. Army Corps of Engineers has facilitated exchanges between the Mekong River Commission and the Mississippi River Commission to share best practices in river and water management. In addition, the U.S. Army Corps of Engineers supported development of the 2021-2030 Mekong Basin Development Strategy. Recognizing the value of these partnerships, here in Thailand we are working to formalize an agreement between the U.S. Army Corps of Engineers and the Office of National Water Resources in the coming months.

Success in the Mekong region will depend not only on strong institutions and partnerships, but on transparent flow of

Countries from across the globe—spanning from Europe to East Asia—stand ready to share with Mekong region nations their experiences and lessons learned on transboundary river management

data as well. That is why the United States created the Mekong Water Data Initiative with input from more than 60 government and NGO partners to improve data sharing and science-based decision making. The MekongWater.org platform, announced by Secretary Pompeo last year, includes more than 40 tools covering everything from weather forecasting to citizen science. We plan to unveil a major upgrade to this platform in coming weeks. As Brian Eyler noted during the first session today, transparent data sharing is a key aspect of being a “good neighbor” in the Mekong River basin.

The United States negotiated our first Great Lakes Water Quality Agreement with Canada in 1972, which led to significant improvements to our shared resources. But that was not the end. Scientists continued to work together and identified ways to improve the agreement in 1978, and again as recently as 2012. Transboundary river management in the Mekong region—among not only two, but six countries—will require the same collaborative approach, extreme patience, and commitment to continued evaluation, transparency, and trust among all nations that share the river’s bounty.

As Assistant Secretary Stilwell noted in his opening remarks, the United States, along with our friends and allies from across the globe, is committed to continued partnership with Mekong region countries to build a prosperous, sustainable, and healthy future based on these shared resources.

Thank you again to the organizers, to our distinguished speakers, and to all the participants for your excellent contributions today. I look forward to our continued collaboration, and stronger, more effective governance of transboundary rivers in years to come, and hopefully having these sessions in person next year as well. Thank you very much.



Photo: Jason South/Fairfax Media / Stringer

Conference Agenda & Speaker Biographies

Opening Remarks

SPEAKERS

20:00 – 20:20
Satu Limaye
East-West Center in Washington

David Stilwell
U.S. Assistant Secretary of State for East Asian and Pacific Affairs

Somkiat Prajamwong
Thailand Office of the National Water Resources

Session I: Transparency and Partnerships in Transboundary River Governance

MODERATOR

20:30 – 20:50
Brian Eyler
Stimson Center

PANELISTS

An Pich Hatda
Mekong River Commission

Ivan Zavadsky
International Commission for the Protection of the Danube River

John Dore
Australia
Department of Foreign Affairs and Trade

Q & A (20:50–21:30)

Session II: Negotiating Transboundary River Governance

MODERATOR

21:45 – 22:05
Satu Limaye
East-West Center in Washington

PANELISTS

Amb. Rajiv Bhatia
Gateway House

Jane Corwin
International Joint Commission

Khin Ohnmar Htwe,
Myanmar Environmental Institute

Session III: Stakeholder Engagement in Transboundary River Governance

MODERATOR

23:00 – 23:20
Brian Eyler
Stimson Center

PANELISTS

Matus Samel
Economist
Intelligence Unit

Dr. Leonie Pearson
Stockholm Environmental Institute

Jake Brunner
International Union for the Conservation of Nature

Closing Session: Next Steps for Strengthening Governance of Transboundary Rivers

MODERATOR

00:15 – 00:45
Satu Limaye
East-West Center in Washington

SPEAKERS

Dr. To Minh Thu
Diplomatic Academy of Vietnam

Jae-kyung Park
Republic of Korea Ministry of Foreign Affairs

Amb. Michael G. DeSombre
U.S. Embassy in Thailand

Opening Remarks



David Stilwell is the Assistant Secretary of State for the Bureau of East Asian and Pacific Affairs. Prior to his appointment as Assistant Secretary in 2019, he served in the Air Force for 35 years, retiring in 2015 in the rank of Brigadier General as the Asia advisor to the Chairman of the Joint Chiefs. Most recently, Mr. Stilwell served as the Director of the China Strategic Focus Group at U.S. Indo-Pacific Command in Hawaii from 2017-2019 and as an Adjunct Senior Fellow at the East-West Center in Honolulu from 2016-2019. He earned a BS in History from the U.S. Air Force Academy (1987), and a MA in Asian Studies and Chinese language from the University of Hawaii at Manoa (1988).



Dr. Somkiat Prajamwong is the Secretary-General of Thailand's Office of the National Water Resources. Prior to his appointment as Secretary-General in 2017, he served as Director-General of the Royal Irrigation Department. Dr. Prajamwong holds a PhD in Agriculture and Irrigation Engineering from Utah State University, and a MSc in Water Resource Management from the Asian Institute of Technology.

Dr. An Pich Hatda has been serving in his current position as the Chief Executive Officer (CEO) of the Mekong River Commission (MRC) Secretariat since January 2019. He previously held various senior positions such as Director of Planning Division, Operations Manager of the Regional Flood Management and Mitigation Centre of the MRC, as well as Deputy Secretary General of the Cambodia National Mekong Committee and Alternate Member of the MRC Joint Committee for Cambodia. In his earlier career, he worked for international non-governmental development agencies, including Partnership for Development in Kampuchea and Catholic Relief Services as Program Manager, and lectured in a number of universities in Cambodia. He was also a Steering Committee Member of the Southeast Asia Global Water Partnership, and a former Member of the Movement for Rural Reconstruction with the International Institute for Rural Reconstruction. Dr. Hatda holds a PhD degree in Development Studies from the University of Tokyo, Japan, and has a Master of Science degree in Agricultural Planning and Management from the Asian Institute of Technology, Thailand.



Ivan Zavadsky is the Executive Secretary of the ICPDR Permanent Secretariat of the International Commission for the Protection of the Danube River. Previously, Mr. Zavadsky was a Senior Water Resources Management Specialist at the Global Environment Facility Secretariat of the European Commission. Before his appointment with the European Commission, Ivan Zavadsky worked at the United Nations Office for Project Services as the Project manager of the UNDP/GEF Danube Regional Project and as Director General at the Ministry of Environment of Slovenia. Mr. Zavadsky holds degrees in water management (1981) and economics in water management (1986) from Slovak Technical University in Bratislava.



Brian Eyler is a Senior Fellow and the Director of Southeast Asia Program at the Stimson Center. He spent more than 15 years living and working in China and over the last two decades has conducted extensive research with stakeholders in the Mekong region, and is the author of Last Days of the Mighty Mekong. Brian Eyler is the co-chair of the Mekong Basin Connect program and serves as chair of the Stimson Center's War Legacy Working Group. Before his work at the Stimson Center, Mr. Eyler served as the Director of the IES Kunming Center at Yunnan University and as a consultant to the UNDP Lancang-Mekong Economic Cooperation program in Kunming, Yunnan province. He holds a MA from the University of California, San Diego and a BA from Bucknell University.





Dr. John Dore is Lead Water Specialist for Australia's Department of Foreign Affairs and Trade, stationed at Australian Embassy Bangkok, working across Asia. He is involved in many of Australia's bilateral and regional engagements in water-related government-to-government partnerships and alliances with industry and civil society. Current appointments include Associate Professor at Australian National University's College of Science, editorial board of Water Alternatives Journal, and associate at University of Canberra's Centre for Deliberative Democracy and Global Governance. Prior roles include leading the IUCN Asia Water Program (International Union for the Conservation of Nature), and Director of the M-POWER network (Mekong Program on Water Environment and Resilience). PhD (Deliberative Water Governance) and Masters (Sustainability) at Australian National University.

Session II: Negotiating Transboundary River Governance



Dr. Satu Limaye is Vice President of the East-West Center (EWC) and Director of the East-West Center in Washington where he created and now directs the Asia Matters for America initiative. He is the founding editor of the Asia Pacific Bulletin. He is also Senior Advisor at the Center for Naval Analyses (CNA) and Senior Fellow on Asia History and Policy at the Foreign Policy Institute at Paul H. Nitze School of International Studies (SAIS). Dr. Limaye is a graduate of Georgetown University and received his doctorate from Oxford University (Magdalen College) where he was a George C. Marshall Scholar. Current affiliations include the Korea Economic Institute (KEI) Advisory Council, the Taiwan-Asia Exchange Foundation, the National Bureau of Asian Research East Asia Study Group, and the Asia Foundation Task Force on US-Southeast Asia Relations. Dr. Limaye co-authored, along with Nilanthi Samaranayake and Joel Wuthnow, *Raging Waters: China, India, Bangladesh, and Brahmaputra River Politics*.

Ambassador Rajiv Bhatia is a Distinguished Fellow, Foreign Policy Studies Programme at Gateway House. He is a member of CII's two bodies: International Trade Policy Council and Africa Committee. He served as Chair of FICCI's Core Group of Experts on BIMSTEC and continues to head its Task Force on the Blue Economy and is a founding member of the Kalinga International Foundation. Prior to this, as Director General of the Indian Council of World Affairs (ICWA) from 2012-15, he played a key role in strengthening India's Track-II research and outreach activities. During a 37-year career in the Indian Foreign Service (IFS), Amb. Bhatia served as Ambassador to Myanmar and Mexico and as High Commissioner to Kenya and South Africa. He dealt with a part of South Asia, while posted as Joint Secretary in the Ministry of External Affairs. He is a prolific columnist, who has also written a critically acclaimed book, *India-Myanmar Relations: Changing Contours* (Routledge) as well as a frequent speaker on foreign policy issues in India and abroad. Amb. Bhatia was Senior Visiting Research Fellow during 2011-13 at the Institute of South East Asian Studies (ISEAS), Singapore. He holds a master's degree in political science from Allahabad University.



Jane Corwin serves as U.S. Chair and Commissioner of the International Joint Commission, which manages transboundary rivers and lakes between the United States and Canada. Prior to her role at the IJC, Jane Corwin served as a member of the New York State Assembly from 2009 through 2016, where she was the Minority Leader Pro Tempore and the ranking member of the Corporations, Authorities and Commissions Committee. Additionally, she was a member of the Environmental Conservation, Education and Mental Health Committees. Ms. Corwin has also served as president of the Philip M. and Jane Lewis Corwin Foundation since 2005, and was the director of Gibraltar Industries out of Buffalo, NY from 2014-2018.





Khin Ohnmar Htwe is the Director of Myanmar Environment Institute, MEI and Managing Director of Myanmar Environmental Innovation Foundation, MEIF. She has also serves as a national social expert in Ministry of Natural Resources and Environmental Conservation (MNREC), Myanmar, Steering Committee member of Ayeyarwady Integrated River Basin Management Project and SUMERNET Network Members. Throughout her research she has worked with Kyoto University, Kyoto Gakuen Applied Science University, Wollongong University, Washington University, Earth Institute, Colombia University, Chulalongkorn University, and Stockholm Environment Institute. Khin Ohnmar Htwe has used her expertise in socio-economic study as well as stakeholder engagement and disclosure in numerous Social Assessment Projects in Myanmar. Recent experience includes attending meetings for respective projects, conducting the field surveys, data collection and giving the environmental lectures and training to high school-level, governmental offices and universities. Khin Ohnmar Htwe received her Master Degree of Geography from University of Yangon.



Dr. Leonie Pearson is the Senior Research Fellow, Water for SEI Asia. Her work is focused on securing vulnerable people's access and rights to water through high impact research for the SEI SUMERNET programme. She has worked for more than two decades at the intersection of sustainability research, public policy and collaborative engagement. Dr. Pearson has delivered innovative knowledge to governments, on-ground policy change and over 150 articles and papers with keynote addresses. Her expertise is in sustainable development, landscape water management, livelihood policy, integrated assessment urban-rural and the knowledge-practice nexus. She has a PhD in Applied Economics from the University of Queensland in Australia and a BSc (Hons) in Economic Geography from the University of New South Wales, Australia. Dr. Pearson also has a Diploma in Corporate Governance from the Australian Institute of Company Directors and certificates in Tertiary Education from the University of Queensland and Development Economics, Policy and Practice, from the World Bank.

Session III: Stakeholder Engagement in Transboundary River Governance



Matus Samel is a public policy expert at The Economist Intelligence Unit's (EIU) Resources, Climate & Sustainability practice. Matus oversees the execution of projects focused on sustainable development, including the Blue Peace Index partnership with the Swiss Agency for Development and Co-operation (SDC) on sustainable management of shared water resources and promotion of transboundary cooperation. Previously, Matus has also worked on programmes with the UN International Fund for Agricultural Development (IFAD), USAID, UK Cross- Government Prosperity Fund, Global Green Growth Institute, and several foundations and government agencies. Prior to joining the EIU, Matus has previously worked on energy policy, sustainable development, international trade, at the UNESCAP, Chatham House and Harvard Kennedy School Belfer Center. He holds a Master's degree in Public Policy from Harvard Kennedy School of Government.



Jake Brunner, based in Hanoi, is Head of the Indo-Burma Group of the International Union for Conservation of Nature, where he has worked since 2008. IUCN's regional thematic priorities include wetlands agriculture and climate change, the water-energy-food nexus, coastal and marine resource management, and forest landscape restoration. Prior to joining IUCN, Mr. Brunner established Indo-Myanmar Conservation, an NGO that supports species conservation projects in Myanmar focusing on the country's highly threatened endemic wildlife, and promotes broader civil society participation in biodiversity conservation. Previously, Mr. Brunner ran Conservation International's Indo-Burma Program, where he led the design, partner negotiations, fundraising, and monitoring of site and species projects in Vietnam, Cambodia, Laos, Southern China, and Myanmar. Prior to CI, Mr. Brunner spent eight years at World Resources Institute (WRI), an environmental policy research center based in Washington, DC. He holds a BA in Geography from Oxford University and an MSc in Remote Sensing/GIS from London University.

Closing Session: Next Steps for Strengthening Governance of Transboundary Rivers



Dr. To Minh Thu is the Deputy Director General of the Institute for Foreign Affairs and Strategic Studies at the Diplomatic Academy of Vietnam. Previously, she was a Research Fellow at the Center for Policy and Economy at the Mitsubishi Research Institute in Tokyo. Dr. Thu earned her Master's in International Economics from Massey University and her PhD in International Public Policy and Economics from Osaka University.



Jae-Kyung Park is a South Korean diplomat currently serving as a Director-General for ASEAN and Southeast Asian Affairs at the South Korean Ministry of Foreign Affairs. Previously he served as Deputy Director for the Southeast Asia Division and as Director for the ASEAN Cooperation Division at the Ministry of Foreign Affairs from 2008 to 2011. He was also a Korea Chair Visiting Fellow at the Center for Strategic and International Studies in February 2012. Mr. Park received his MA from the Fletcher School at Tufts University in 2001 and his BA from Seoul National University in 1992.



Ambassador Michael George DeSombre was nominated by President Trump on July 17, 2019 and confirmed by the United States Senate on January 8, 2020 as U.S. Ambassador to the Kingdom of Thailand. Ambassador DeSombre was a partner in the law firm of Sullivan and Cromwell from 2004 to 2019, where he led their mergers and acquisition practice in Asia. Ambassador DeSombre has had over two decades of experience representing and negotiating on behalf of American and international clients in large scale investment and economic development projects in Asia. In this role, he has gained unique insight into the political, legal, and strategic challenges that face American interests in Asia and the Indo-Pacific region. Ambassador DeSombre graduated from Stanford University with a BA in Quantitative Economics and an MA in East Asian Studies, and received his JD from Harvard Law School.

Indo-Pacific Conference on Strengthening Governance of Transboundary Rivers

October 15-16, 2020

The *Indo-Pacific Conference on Strengthening Governance of Transboundary Rivers* was a half-day, virtual conference organized by the East-West Center and hosted by the U.S. Department of State on October 15-16. The virtual conference convened partners and stakeholders from across the Indo-Pacific region to share best practices and lessons learned related to the cooperative development and management of transboundary rivers. The engaging and constructive discussion with leading experts, institutions, and opinion leaders drew lessons from experiences of other partners beyond the Indo-Pacific, including from the European Union, to address rising environmental, economic, development, and political challenges in the Mekong River Basin.

