

**JOINT DECLARATION OF PRINCIPLES FOR UTILIZATION OF THE WATERS OF THE LOWER MEKONG BASIN, SIGNED BY THE REPRESENTATIVES OF THE GOVERNMENTS OF CAMBODIA, LAOS AND VIETNAM TO THE COMMITTEE FOR COORDINATION OF INVESTIGATIONS OF THE LOWER MEKONG BASIN, SIGNED AT VIENTIANE ON 31 JANUARY 1975** <sup>12</sup>

Preamble

The Governments of the Khmer Republic, Laos, Thailand and the Republic of Vietnam,

RECALLING the establishment on 18 September 1957 by the Governments of these countries, pursuant to a joint declaration endorsed by the United Nations Economic Commission for Asia and the Far East' at its thirteenth session, of the Committee for Coordination of Investigations of the Lower Mekong Basin to promote, coordinate, supervise and control the planning and investigation of water resources development projects in the Lower Mekong Basin,

NOTING with pride the unique spirit of cooperation and of mutual assistance which has constantly inspired the Committee's work, and which has made it possible for a great number of friendly governments and organizations to contribute substantially to these achievements,

CONSIDERING in particular that over a decade of joint effort has culminated in the production of an Indicative Basin Plan to serve as a guideline for the development of Lower Mekong Basin water resources,

. CONSIDERING the need, while preserving the principles of national sovereignty and equity, to further cooperate in the comprehensive development of these resources for the benefit of all the peoples of the Lower Mekong States,

REALIZING the necessity to base the development of these resources on principles commonly agreed by the four Basin States and to provide for the coordination of the implementation of projects under the direction of a joint organization at the Basin level, and

DETERMINED to pursue the development of the water resources of the Lower Mekong Basin in the same spirit of cooperation and mutual assistance in conformity with the objectives and principles of the Charter of the United Nations,

1 Adopted by the Committee for Coordination of Investigations of the Lower Mekong Basin at its 68th Session, Vientiane, Laos, 29 January - 3 February 1975.

2 Mekong Committee, Document E/CN 11 WRD/MKG/LK.405, p. 19.

3 Now designated 'Economic and Social Commission for Asia and the Pacific'.

DECLARE their intention to further the utilization of the waters of the Lower Mekong Basin in accordance with the following Principles:

## CHAPTER I Definitions

### Article I

Except where the context otherwise requires, the following terms have the following meaning wherever used in the present Declaration:

1. "Lower Mekong Basin" (hereinafter called the "Basin") means the area of the drainage basin of the Mekong River located south of China.
2. "Drainage Basin" means the geographical area extending over the Basin States determined by the watershed limits of the systems of waters in the Lower Mekong Basin, including surface waters and ground waters feeding, or fed by, such surface waters.
3. "Basin State" means a State the territory of which includes a portion of the Drainage Basin and which shall have proclaimed and maintained in effect this Declaration of Principles.
4. "Riparian State" means a Basin State the territory of which is either bounded or traversed by the Mekong Mainstream.
5. "Project" means any activity, whether temporary or permanent, which has a determining effect on the water balance or water quality of the Basin, or on the utilization of its water resources.
6. "Territorial State", when referred to in relation to a Project, means the State or State within which that Project is located.
7. "Committee" means the Committee for Coordination of Investigations of the Lower Mekong Basin as presently existing or hereafter reconstituted by unanimous action of the Basin States.
8. "Mainstream" means the Mekong River, including such distributaries as may be proposed for inclusion by the State in which they are located, and approved by all the Basin States.
9. A Major Tributary is a water course which, in its natural or developed state, is recognized by all Basin States as having a major determining effect on the regimen of the Mainstream.

10. A Minor Tributary is a water course which, in its natural or developed state, has no major determining effect on the regimen of the Mainstream.

11. "Basin Development System" means a series of Projects constructed and operated in such a way as to achieve, so far as practicable, their hydraulic, electrical and financial integration and their implementation as components of a single development undertaking.

12. "Project Agreement" means an agreement among all the Basin States containing a detailed description of the Project and stating the respective rights and obligations of the contracting parties, and providing for Project implementation in conformity with the provisions of the present Declaration of Principles.

13. "Project Agency" means an organization established by a Project Agreement for the financing, construction or operation of a Project.

## CHAPTER II Objectives

### Article 11

The objectives of the present Joint Declaration of Principles are:

1. To ensure that conservation, development and control of the water resources of the Basin are directed towards their optimum utilization for the benefit of all the peoples of the Basin States;

2. To promote the regional cooperation required for the proper management of the water resources of the Basin;

3. To state principles which shall serve as the basis for the fulfillment of these objectives.

## CHAPTER III Basic Principles

### SECTION A: General

#### Article III

The water resources of the Basin - in all phases of the hydrologic cycle – constitute a single natural resource.

Each particular utilization of this resource shall be considered in relation to its effect upon the water balance and water quality of the Basin

#### Article IV

The Basin States shall ensure the conservation of the Basin water resources by taking every reasonably necessary measure to:

1. maintain their flow and quality;
2. prevent their misuse, waste and pollution.

#### Article V

Individual projects on the Mainstream shall be planned and implemented in a manner conducive to the system development of the Basin's water resources, in the beneficial use of which each Basin State shall be entitled, within its territory, to a reasonable and equitable share. Each project shall be required to be technically feasible, economically justified, social desirable and with the sovereign rights of the States.

#### Article VI

For the purpose of determining what is a reasonable and equitable share within the meaning of Article V all relevant factors shall be considered, including, without limitation, the following:

1. the geography of the Basin, including in particular the extent of the drainage basin area in the territory of each Basin State;
2. the hydrology of the Basin, including in particular the contribution of water by each Basin State;
3. the climate affecting the Basin;
4. the past utilization of the water of the Basin, including particular existing utilization;
5. the economic and social needs of each Basin State;
6. the population dependent on the waters of the Basin in each Basin State;
7. the comparative costs of alternative means of satisfying the economic and -social needs of each Basin State;
8. the availability of other resources;

9. the avoidance of unnecessary waste in the utilization of the waters of the Basin;
10. the practicability of compensation to one or more of the Basin States as a means of adjusting conflicts among users;
11. the degree to which the needs of a Basin State may be satisfied, without causing substantial injury to another Basin State;
12. the benefit-cost ratio of each project, taking into account social, economic, and financial costs and benefits, including those downstream and upstream from the project.

The weight to be given to each factor shall be determined by its importance in comparison with that of other relevant factors and, in determining what is a reasonable and equitable share, all relevant factors shall be considered together and a conclusion reached on the basis of the whole.

#### Article VII

Basin water resources development, referred to in Article V, shall be based on a comprehensive plan of development, prepared and approved jointly by the Committee, designated as the Indicative Basin Plan, the main objectives of which are to evaluate the potential water and related resources of the Basin and the respective needs of the Basin States, and to suggest optimum technical, economic and social means for the equitable satisfaction of those needs.

The Indicative Basin Plan shall be reviewed periodically and revised by the Committee as necessary on the basis of changing needs, technology and other circumstances.

#### Article VIII

Every reasonable Measure shall be taken by the Basin States to ensure the coordinated control of the Basin water resources, including flood protection and flow regulation improvement of navigation, reduction of salt water intrusion, adequate drainage, and the effective beneficial use of these waters.

#### Article IX

Any act or omission by a Basin State in the construction, operation or maintenance of a project which causes substantial damage within the territory of another Basin State, not excused by force majeure, shall be subject to appropriate compensation.

Each project agreement shall provide for the determination and effectuation of such compensation.

## SECTION B: Mainstream.

### Article X

Mainstream waters are a resource of common interest not subject to major unilateral appropriation by any riparian State without prior approval by the other Basin States through the Committee.

Equality of right is not herein construed as the right to an equal division of the use of these waters among riparian States, but as the equal right of each riparian State to use these waters on the basis of its economic and social needs consistent with the corresponding rights of the others.

### Article XI

The sovereign jurisdiction of a riparian State over mainstream waters is subject to the equal right of the other riparian States to use these waters.

Equality of right is not herein construed as the right to an equal division of the use of these waters among riparian States, but as the equal right of each riparian State to use these waters on the basis of its economic and social needs consistent with the corresponding rights of the others.

### Article XII

Uses of mainstream water for domestic and urban purposes should have preference over any other use or category of uses, unless otherwise agreed.

### Article XIII

A riparian State may not be denied an existing reasonable use of mainstream waters to reserve for another riparian State a future use of such waters.

### Article XIV

A use is deemed to be existing from the first act of implementation followed, with use reasonable diligence, by initiation of construction, and application to use of the full quantity claimed, with like due diligence, within a reasonable period of time, related to the magnitude of the use, and continuing until such time as such use ceases to be effective.

A reasonable use in existence as of any given date may continue in operation unless the factors justifying its continuance are outweighed by other factors, referred to in Article VI, leading to the conclusion, confirmed by an international tribunal of competent jurisdiction, that it be modified or terminated so as to accommodate a concurrent or competing incompatible use, but in such event its modification or termination shall entitle the holder of the right to such use to reasonable, prompt and adequate compensation, assured prior to curtailment of such use.

#### Article XV

Mainstream projects shall be investigated, planned and designed according to criteria and standards, consistent with this Declaration of Principles and agreed upon from time to time by all Basin States, through the Committee.

#### Article XVI

Mainstream project construction, operation and maintenance shall conform to this Declaration of Principles and to the relevant Project Agreement.

#### Article XVII

The Basin State or States, whether territorial or not, which undertake the project shall present well in advance to the other Basin States for formal agreement prior to the project implementation a detailed study on all possible detrimental effects including short and long-term ecological impacts which can be expected within the territory of other Basin States as a result of the proposed mainstream project. The procedures and amounts of damages compensation shall be included in the above study.

#### Article XVIII

The Project Agreement shall specify minimum and maximum rates of discharge from the Project which, so far as practicable will make available a rate of flow downstream not less than the average monthly flow during the previous dry periods, put to use prior to the construction of the Project and, on the other hand, will assure that, except in cases of force majeure, flows below the Project site will not exceed the flows which prevailed during previous wet periods.

#### Article XIX

Every reasonably necessary measure shall be taken by the riparian State diverting mainstream waters to ensure the economic and effective use thereof, and to restrict the pollution of the return flow.

#### Article XX

Extra-Basin diversion of mainstream waters by a riparian State shall require the agreement of all Basin Stat Project Agreement.

#### SECTION C:

#### Article XXI

A tributary recognized by all Basin States as a Major Tributary shall be considered as an integral part of the Basin development system and shall be governed by the provisions of the present Declaration of Principles applicable to the Mainstream.

#### Article XXII

In cases where the Basin State concerned so desires, and subject to the concurrence of all Basin States, any minor tributary and its basin may be integrated into the Basin development system, in which case they shall be governed by the provisions of the present Declaration of Principles applicable to the Basin.

#### SECTION D: Other water resources

#### Article XXIII

To the extent permitted by local law, underground aquifers and streams which contribute to the Mainstream or which are fed by the Mainstream, shall be governed by the provisions of the present Declaration of Principles applicable to the Basin whenever their use by a Basin State substantially affects the equitable utilization of the Basin water resources by another Basin State, or the quality of such water resources.

#### Article XXIV

When developing its Basin water resources, each Basin State shall take such measures as are practicable and reasonably necessary to avoid or minimize detrimental effects upon the ecological balance of the Basin, or any part thereof



Article XXV

Each Basin State concerned shall take such measures as are practicable and reasonably necessary to assure that populations displaced as a result of water resources project development are suitably relocated or equitably compensated, or both, and each Project Agreement shall contain provisions to do so. Compensation shall be paid before taking of the Land.

Article XXVI

Unless provided otherwise in the Project Agreement, benefits accruing from Basin water resources development shall be allocated first within the Basin States before being extended to other areas.

**CHAPTER IV**  
**Organization**

Article XXVII

SECTION A: The Mekong Committee

The utilization of the Basin water resources shall continue to be planned by the Committee, as heretofore constituted by the Governments of the Basin States, in accordance with the provision of the present Declaration of Principles.

SECTION B: Project Agencies

Article XXVIII

Each mainstream project - or combination of projects - within the Basin development system shall be implemented by a Project Agency duly designated or established by a Project Agreement on the recommendation of the Committee.

Project Agencies shall be established and shall operate on the basis of criteria and standards, which shall be uniform to the extent feasible, to be stated in each Project Agreement.

Article XXIX

Each Project Agreement shall contain provisions for prevention and resolution of disputes, including procedures for conciliation and arbitration.

## CHAPTER V **Financing**

### Article XXX

The State or States concerned shall be primarily responsible for Basin water resources development financing. This may be effectuated through a Project Agency.

### Article XXXI

In cases where a project - or a combination of projects - is financed by two or more Basin States, the relevant costs and benefits assignable to those States shall be shared equitably. The arrangements for such financial participation shall be specified in the Project Agreement.

### Article XXXII

The apportionment of project costs and benefits among the States concerned, and procedures for compensation shall be specified in the Project Agreement.

The apportionment of project costs, benefits, and compensation among the States concerned shall be periodically reviewed thereafter and revised as necessary on the basis of changing needs and circumstances so as to maintain their equitable share therein.

### Article XXXIII

The allocation of Project costs and revenues among the various functions of multiple purpose projects shall be made in the Project Agreement in each case.

If the Basin States unanimously agree, the Project Agreements governing two or more. Projects may provide for the pooling costs and revenues thereof in a Basin Account.

### Article XXXIV

The Project Agreement shall specify the recipient and administrator of Project construction funds and Project revenues.

### Article XXXV

In cases where it is considered advantageous by all Basin States, and so stated in the Project Agreement, the Committee, or an international financial institution by agreement with the Committee, may be empowered to act in the capacity of recipient, administrator, or both, of Project funds.