

COMMITTEE FOR COORDINATION OF INVESTIGATION OF THE LOWER MEKONG BASIN

STATUTE

As adopted at the meeting on 17 September 1957 of the Preparatory Committee of the four government and amended on 31 October 1957 at the first session of the Committee for Coordination and approved by the participating governments.

CHAPTER I

ESTABLISHMENT OF THE COMMITTEE

The committee for Coordination of Investigations of the lower Mekong basin (hereinafter called the Committee) is established by the Government of Cambodia, Laos¹, Thailand and the Republic of Vietnam² (hereinafter called the participating government) , in response to the decision taken by the United Nations Economic Commission for Asia and the Far East³ (hereinafter called the Commission) at its thirteenth session. By this decision, reported in paragraph 277 of the Commission's Annual Report for the period 15 February 1956 to 28 March 1957, the Commission endorsed the wish of the participating governments that Secretariat studies relating to the development of the lower Mekong basin, namely the area of the drainage basin of the Mekong river situated in the territory of the participating governments, be continued jointly with the participating governments. The participating governments have set up the Committee to perform the functions contained in the present statute.

¹ Now called Lao People's Democratic Republic.

² Now part of the Socialist Republic of Vietnam

³ Now called the Economic and Social Commission for Asia and the Pacific.

CHAPTER II

ORGANIZATION

Article 1

1. The Committee shall be composed of four members.
2. Each participating government will appoint one member with plenipotentiary authority and such alternates, experts and advisers as it desires.

Article 2

The chairmanship of the Committee shall be held in turn by members of the Committee, in the alphabetical order of member countries. Each member shall hold office for one year.

CHAPTER III

COOPERATION WITH THE SECRETARIAT OF THE COMMISSION

Article 3

In accordance with the decision of the Commission at its thirteenth session, the secretariat of the Commission shall cooperate with the Committee in the performance of the latter's functions.

CHAPTER IV

FUNCTIONS

Article 4

The functions of the Committee are to promote, coordinate, supervise and control the planning and investigation of water resources development projects on the lower Mekong basin. To these ends the Committee may :

- a. prepare and submit to participating governments plans for carrying out coordinated research, study and investigation ;
- b. make requests on behalf of the participating governments for special financial and technical assistance and receive and administer separately such financial and technical

assistance as may be offered under the technical assistance programme of the United Nations, the specialize agencies and friendly governments ;

- c. draw up and recommend to participating governments criteria for the use of the water of the main river for the purpose of water resources development.

CHAPTER V

SESSIONS

Article 5

1. Subject to the provisions of this Statute, the Committee shall adopt its own rules of procedures.
2. Meetings of the Committee shall be attended by all participating countries.
3. Decisions of the Committee shall be unanimous.
4. The Executive Secretary of the Commission or his representative may at any meeting make either oral or written statements concerning any questions under consideration.

CHAPTER VI

GENERAL PROVISIONS

Article 6

The Committee shall submit reports to participating governments and annually to the Commission. Such reports, or summaries thereof, may be make available to other governments and international organizations on the recommendations of the Committee.

Article 7

The Committee may invite representatives of governments and of specialized agencies to attend meetings of the Committee in the capacity of observers.

Article 8

1. It is understood that, while in all technical matters which are within the competence of this Committee, the participating governments shall act through this Committee, the stipulations contained in this statute shall not in any way affect, supersede or modify any of the agreements which are presently in force or which may be hereafter concluded between any of the interested governments relating to the Mekong river.

2. Amendments to the present Statute which may be proposed by any participating governments, shall be examined by the Committee and shall take effect when approved by all participating governments.

ภาคผนวกที่ 2

RULES OF PROCEDURE

CHAPTER I

SESSIONS

Rule 1.

The ordinary Sessions of the Committee shall be held regularly three times a year. In addition, special meetings may be convened at any time on the request of any one or more of the members of the Committee or of the Executive Secretary of the Commission.

Rule 2.

The Executive Secretary of the Commission shall, at least four weeks before the commencement of a meeting, send out invitations to the meetings, together with copies of the provisional agenda and of the basic relevant documents.

Rule 3.

All meetings shall be closed meetings unless the Committee decides otherwise.

CHAPTER II

COOPERATION WITH THE SECRETARIAT OF THE COMMISSION

Rule 4.

The Committee may request the Executive Secretary of the Commission to make the necessary arrangements for consultation, including the preparation of documents, the holding of meetings and the drafting of records.



CHAPTER III

Rule 5.

In the event of any matter arising which has not been foreseen by the present Rules, the pertinent rules of the Economic Commission for Asia and the Far East shall be applied, provided they are deemed suitable for the purposes of the Committee.

**DECLARATION CONCERNING THE INTERIM COMMITTEE
FOR COORDINATION OF INVESTIGATIONS
OF THE LOWER MEKONG BASIN 1978**

1. Motivated by the desire to cooperate more closely in order to reap the benefits of the development of the water resources of the lower Mekong basin to meet the needs for reconstruction and economic development of their respective countries ;

Implementing the communiqué signed and published during the 33rd session of ESCAPE in Bangkok on 29 April 1977, by the representatives of three riparian countries of the Mekong , concerning the reactivating of the Committee for Coordination of Investigations of the Lower Mekong Basin, which communiqué has been approved by the Governments concerned ;

The representatives of the Lao People's Democratic Republic, the Socialist Republic of Vietnam and the Kingdom of Thailand have met in Vientiane from 27 to 30 July 1977 and on 5 January 1978, and have agreed to establish an Interim Committee to proceed with new water resources development activities in the lower Mekong basin that are of particular interest to the three riparian countries concerned.

2. The Interim Committee for Coordination of Investigations of the Lower Mekong Basin (hereafter called the Committee) shall consist of the representatives of the Lao People's Democratic Republic, the Socialist Republic of Vietnam and the Kingdom of Thailand.

3. The present Committee will be succeeded by the Committee for Coordination of Investigations of the Lower Mekong Basin once all members of the latter Committee have decided to participate on that organization.

4. The Committee shall promote the development of the water resources of the lower Mekong basin to increase agricultural and power production, in order to meet effectively the needs for reconstruction and growing development of the countries of Indochina, and the growing economic development needs of Thailand.

5. Taking into account the need to protect the mutual interests and to guarantee the well-being of the population, each of the necessary facilities for transit, purchase and sale of construction materials or products from completed projects, as well as for the security of transport and traffic on the Mekong within the framework of this regional cooperative effort and with a view to accomplishing the projects approved by the Committee.

6. The Committee shall adopt its own rules of procedures.

7. Decision of the Committee shall be unanimous.

Signed :

Khamsing Sayakone

Representative of the Lao People's
Democratic Republic

5 January 1978

Nguyen Si Hoat

Representative of the Socialist
Republic of Vietnam

5 January 1978

Boonrod Binson

Representative of the Kingdom of
Thailand

5 January 1978

ภาคผนวกที่ 4

INTERIM COMMITTEE : RULES OF PROCEDURE

PREAMBLE

With a view to reinforcing regional cooperation and facilitating the task of the Interim Mekong Committee, which consists in exploiting the natural resources of the Mekong for the benefit of the populations of the member countries in accordance with the Declaration signed in Vientiane on 5 January 1978, the following rules of procedure of the Interim Mekong Committee have been drawn up.

I. ORGANIZATION

Article 1

Each participating government shall appoint its representative to the sessions of the Interim Committee. This representative shall have plenipotentiary authority to conduct discussions, take decisions and make commitments on behalf of his government in relation to the business on the agenda. He may be seconded by experts and advisers duly appointed by the government concerned.

Article 2

The chairmanship of the Interim Committee shall be held in turn by the representatives of the participating governments for a period of one year each, according to the alphabetical order of the names of the countries, and beginning with the first one in 1979.

Article 3

The Interim Mekong Committee shall be assisted in the performance of its functions by the Mekong Secretariat under the supervision of the Committee's Executive Agent, in close consultation with the Chairman of the Committee, in order to implement decisions already taken by the committee. The Executive Agent shall keep the Chairman informed of the questions which have not been decided by the Committee and he will in turn consult other members before taking a decision.

II. FUNCTIONS

Article 4

The functions of the Interim Committee are to promote the development of the water resources of the lower Mekong basin. To this end the Interim Committee may :

- (a) prepare and approve plans for carrying out coordinated research, studies and investigations;
- (b) make requests on behalf of the participating governments for financial and technical assistance, receive and minister such assistance, and take title to such property as may be offered within that context by cooperating countries and organizations ;
- (c) employ on behalf of the participating governments personnel to assist the Interim Committee in the performance of its functions ;
- (d) draw up and recommend to participating governments criteria for the use of the waters of the lower Mekong basin for the purpose of water resources development.

III. SESSIONS

Article 5

The sessions of the Interim Committee shall be held regularly at least twice a year. In addition, special meetings may be convened at any time on the request of any one or more of the members of the Interim Committee.

Article 6

The Executive Agent shall, at least four weeks before the commencement of a session, send out the invitations upon instruction from the Chairman, together with copies of the provisional agenda and of the basic relevant documents.

Article 7

All meetings shall be closed meetings unless the Interim Committee decides otherwise.

Article 8

The Interim Committee may invite representatives of governments, international organizations and other agencies to attend meetings of the Interim Committee on the capacity of observers.

Article 9

The Executive Secretary of the Economic and Social Commission for Asia and the Pacific (ESCAP) or his representative may at any meeting make either oral or written statements concerning any questions under consideration.

IV. GENERAL PROVISIONS

Article 10

The reports of the Interim Committee shall be made available to the participating governments and the Interim Committee shall submit an annual report concerning its achievements to the Economic and Social Commission for Asia and the Pacific for information. Such reports, or summary thereof, may be made available to governments, international organizations or other agencies, with the concurrence of the Interim Committee.

Article 11

In the light of the actual conditions, the Committee will hold discussions, if needed, to decide whether to add more clauses that may be considered necessary, or to change those no longer considered appropriate.

**JOINT DECLARATION OF PRINCIPLES FOR UTILIZATION OF
THE WATERS OF THE LOWER MEKONG BASIN 1975**

PREAMBLE

The Government 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,

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

CHAPTER I

Definition

Article I

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 States within which that Project is located.
7. "Committee" means the Committee for Coordination of Investigation of the Lower Mekong Basin as presently existing or hereafter reconstituted by the States in which they are located, and approved by all the Basin States.

8. "Mainstream" means the Mekong River, including such tributaries as may be proposed for inclusion by the States 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 on 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 II

The objectives of the present Joint Declaration of Principle are :

1. To ensure that the 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 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, socially desirable and consistent with the sovereign rights of the Basin 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 in 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 ; and
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 for development, prepared and approved jointly by the Committee, designated as the Indicative 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 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.

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

Use 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 reasonable diligence, by initiation of construction, application to use of the full quantity claimed, 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 a long term ecological impacts which can be expected within the territory of other basin state as a result of the proposed mainstream project. The procedure 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 practical, will make available a rate of flow during the previous dry period, 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 of the Project site will not exceed the flows which prevailed during wet periods.

Article XIX

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

Article XX

Extra-Basin diversion of mainstream water by a riparian State shall require the agreement of all Basin States through a Project Agreement.

Section C :

Article XXI

A tributary recognized by all basin state 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 maybe 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 Principle 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 reasonable 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 measure as are practical 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, benefit accruing from Basin water resources development shall be allocated first within the Basin States before being extended to other areas.

CHAPTER IV

Organization

Section A : The Mekong Committee

Article XXVII

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 the 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 provision 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 project is financed by two or more Basin States, the relevant costs and benefits assignable to those states shall be shared equitably. The arrangement 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 and benefits and compensation among the State concerned shall be periodically reviewed thereafter and revised as necessary on the basis of changing needs and circumstances so as to mainstream 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 and international financial institution be agreement with the Committee, may be empowered to act in the capacity of recipient , administrator, or both, of Project funds.

DONE at Vientiane, Laos, this 31st day of January one thousand nine hundred and seventy five.

(signed)
for the Government of the Khmer Republic

(signed)
for the Government of Laos

(signed)
for the Government of Thailand

(singed)
for the Government of the Republic of Vietnam.

ภาคผนวกที่ 6

Helsinki Rules on the Uses of the Waters of International Rivers¹

Chapter 2

EQUITABLE UTILIZATION OF THE WATER OF AN INTERNATIONAL DRAINAGE BASIN

Article IV

Each basin State is entitled within its territory, to a reasonable and equitable share in the beneficial use of the water of an international drainage basin.

Article V

(1) What is a reasonable and equitable share within the meaning of Article IV is to be determined in the light of all the relevant factors in each particular case.

(2) Relevant factors which are to be considered include, but are not,

- (a) the geography of the basin, including in particular the extent of the drainage area in the territory of each basin State;
- (b) the hydrology of the basin, including in particular the contribution of water by each basin State;
- (c) the climate affecting the basin;
- (d) the past utilization of the waters of the basin, including in particular existing utilization;
- (e) the economic and social needs of each basin State;
- (f) the population dependent on the water of the basin in each basin State;
- (g) the comparative costs of alternative means of satisfying the economic and social needs of each basin State;
- (h) the availability of other resources;
- (i) the avoidance of unnecessary waste in the utilization of waters of the basin;
- (j) the practicability of compensation to one or more of the co-basin State as a means of adjusting conflicts among uses; and
- (k) the degree to which the needs of basin State may be satisfied, without causing substantial injury to a co-basin State.

¹ The International Law Association, Report of the Fifty-Second Conference, Helsinki, 14-20 August 1966, (London, 1967), pp. 484-532.

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

Chapter 3

POLLUTION

Article IX

As used in this Chapter, the term " water pollution " refers to any detrimental change resulting from human conduct in the natural composition, content, or quality of the waters of an international drainage basin.....

1. Consistent with the principle of equitable utilization of the waters of an international drainage basin, a State

(a) must prevent any new form of water pollution or any increase in the degree of existing water pollution in an international drainage basin which would cause substantial injury in the territory of a co-basin State, and

(b) should take all reasonable measures to abate existing water pollution in an interanational drainagre is cause in the territory of a co-basin State.

2. The Rule stated in paragraph 1 of this Article applies to water pollution originating

(a) within the territory of the State,or

(b) outside the territory of the State, if it is caused by the State's conduct.

Article XI

1. In the case of a violation of the rule stated in paragraph 1 (a) of Article X of this Chapter, the State reasonable shall be required to cease the wrongful conduct and compensate the injured co-basin State for the injury that has been caused to it.

2. In a case falling under the rule stated in paragraph 1 (b) of Article X, if a State fails to take reasonable measures, it shall be required promptly to enter into negotiations with the injured State with a view toward reaching a settlement equitable under the circumstances.

**DRAFT ARTICLES ON THE LAW OF THE NON-NAVIGATIONAL
USES OF INTERNATIONAL WATERCOURSES ¹**

**PART I
INTRODUCTION**

Article 2

For the purposes of the present articles :

- (a) " international watercourse" means a watercourse, part of which are situated in different States;
- (b) "watercourse" means a system of surface and underground waters constituting by virtue of their physical relationship a unitary whole and flowing into a common terminus;
- (c) " watercourse State" means a State in whose territory part of an international watercourse is situated.

**PART II
GENERAL PRINCIPLES**

Article 5

Equitable and reasonable utilization and participation

1. Watercourse States shall in their respective territories utilize an international watercourse in an equitable and reasonable manner. In particular, an international watercourse shall be used and developed by watercourse States with view to attaining optimal utilization thereof and benefits therefrom consistent with adequate protection of the watercourse.
2. Watercourse States shall participate in the use, development and protection of an international watercourse in an equitable and reasonable manner. Such participation includes both the right to utilize the watercourse and the duty to cooperate in the protection and development thereof, as provided in the present articles.

¹ United Nations, International Law Commission report on the draft articles adopted at its forty-third session, (U.N. Document A/46/405, 11 September 1991).

Article 6

Factors relevant to equitable and reasonable utilization

1. Utilization of an international watercourse in an equitable and reasonable manner within the meaning of article 5 requires taking into account all relevant factors and circumstances, including :
 - (a) geographic, hydrographic, hydrological, climatic, ecological and other factors of a natural character ;
 - (b) the social and economic needs of the watercourse States concerned ;
 - (c) the effects of the use or uses of the watercourse in one watercourse States on other watercourse States ;
 - (d) existing and potential uses of the watercourse ;
 - (e) conservation, protection, development and economy of use of the water resources of the watercourse and the costs of measures taken to that effect ;
 - (f) the availability of alternatives, of correspondent value, to a particular planned or existing use.
2. In the application of article 5 or paragraph 1 of this article, watercourse States concerned shall, when the need arises, enter into consultations in a spirit of cooperation.

Article 7

Obligation not to cause appreciable harm

Watercourse States shall utilized an international watercourse in such a way as not to cause appreciable harm to other watercourse States.

Article 8

General obligation to cooperate

Watercourse States shall cooperate on the basis of sovereign equality, territorial integrity and mutual benefit in order to attain optimal utilization and adequate protection of an international watercourse.

Articles 9

Regular exchange of data and information

1. Pursuant to article 8, watercourse States shall an a regular basin exchange reasonable available data and information on the condition of the watercourse, in particular that of a hydrological, meteorological, hydrogeological nature, as well as related forecasts.

2. If a watercourse State is requested by another watercourse State to provide data or information that is not reasonably available, it shall employ its best efforts to comply with the request but may condition its compliance upon payment by the requesting State of the reasonable costs of collecting and, where appropriate, processing such data or information.
3. Watercourse States shall employ their best efforts to collect and, where appropriate, to process data and information in a manner which facilitates its utilization by the other watercourse States to which it is communicated.

PART IV

PROTECTION AND PRESERVATION

Article 20

Protection and preservation of ecosystem

Watercourse States shall, individually or jointly, protect and preserve the ecosystems of international watercourse.

Article 21

Prevention, reduction and control of pollution

1. For the purpose of this article, " pollution of an international watercourse " means any detrimental alteration in the composition or quality of the waters of an international watercourse which results directly or indirectly from human conduct.
2. Watercourse States shall, individually or jointly, prevent, reduce and control pollution of an international watercourse that may cause appreciable harm to other watercourse States or to their environment, including harm to human health or safety, to the use of the waters for any beneficial purpose or to the living resources of the watercourse. Watercourse States shall take steps to harmonize their policies in this connection.
3. Watercourse States shall, at the request of any of them, consult with a view to establishing lists of substances, the introduction of which into the waters of an international watercourse is to be prohibited, limited, investigated or monitored.

Article 22

Introduction of alien or new species

Watercourse States shall take all measures necessary to prevent the introduction of species, alien or new, into an international watercourse which may have effects detrimental to the ecosystem of the watercourse resulting in appreciable harm to other watercourse

States.

Article 23

Protection and preservation of the marine environment

Watercourse States shall, individually or jointly, take all measures with respect to an international watercourse that are necessary to protect and preserve the marine environment, including estuaries, taking into account generally accepted international rules and standard.

PART V

HARMFUL CONDITIONS AND EMERGENCY SITUATIONS

Article 24

Prevention and mitigation of harmful conditions

Watercourses States shall, individually or jointly, take all appropriate measures to prevent or mitigate conditions that may be harmful to other watercourse States, whether resulting from natural causes or human conduct, such as flood or ice conditions , water-borne diseases, siltation, erosion, salt-water intrusion, drought or desertification.

Article 25

Emergency situations

1. For the purposes of this article, "emergency" means a situation that causes, or poses an imminent threat of causing, serious harm to watercourse States or other States and that results suddenly from natural causes, such as floods, the breaking up of ice, landslides or earthquakes, or from human conduct as for example in the case of industrial accidents.
2. A watercourse State shall, without delay and by the most expeditious means available, notify other potentially affected States and competent international organizations of any emergency originating within territory.
3. A watercourse States within whose territory an emergency originates shall, in cooperation with potentially affected States and, where appropriate, competent international organization. immediately take all practicable measures necessitated by the circumstances to prevent, mitigate and eliminate harmful effects of the emergency.
4. When necessary, watercourse States shall jointly develop contingency plans for responding to emergencies, in cooperation, where appropriate, with other potentially affected States and competent international organizations.



ประวัติผู้เขียน

นายวิชัย ศรีรัตน์ เกิดเมื่อวันที่ 18 เมษายน 2507 ที่จังหวัด นครศรีธรรมราช สำเร็จการศึกษาชั้นมัธยมศึกษาจากโรงเรียนรัตนานิเบศร จังหวัด นนทบุรี สำเร็จนิติศาสตร์บัณฑิตจากจุฬาลงกรณ์มหาวิทยาลัย ในปีการศึกษา 2530 หลังจากนั้นได้เข้าศึกษานิติศาสตรมหาบัณฑิตเมื่อ พ.ศ. 2532 ปัจจุบันเป็นเจ้าหน้าที่ประจำศูนย์เครือข่ายข้อมูลสิทธิเด็กภาคพื้นเอเชียและแปซิฟิก (Child Rights ASIANET)