

## **Case Study: Lancang-Mekong Navigation Channel Improvement Project**

### **Introduction**

#### **General Situation**

The Lancang-Mekong Navigation Channel Improvement Project is an intergovernmental state-run economic development project, established as a result of a Co-operative Agreement for the Sustainable Development of the Mekong River Basin signed by six countries which the river passes through, i.e., China, Burma, Thailand, Laos, Vietnam, and Kampuchea. The objective of the Channel Improvement project is to enhance economic, trade, investment, and energy development. An expansion of free trade in the Mekong sub-region also led to a Commercial Navigation Agreement signed between China, Burma, Thailand, and Laos on 20 April 2000, which granted rights to commercial vessels of signatory countries to travel freely on the Mekong River. The agreement became effective a year later. This, then, is the context of the project.

To enable ships to travel safely and conveniently the signatory parties have set up a committee to coordinate a study on the feasibility of improving the water channel from the port city of Simao in Yunnan Province in China to Luang Prabang in Laos -- a distance of 886 kilometres. The Chinese Government offered to host the study and paid 42 million Yuan or 5.3 million US\$ for the survey, design, and implementation of the study. Preliminary results of the study showed that the project is feasible technically; the dynamiting of rapids, reefs, and shoals would not affect the water current, quantity of water, and the riverbed. The operation would not also affect the borders of the signatory countries. And the project was designated 'urgent'.

The above mentioned committee then set up a joint working group to study the project's environmental impact, to conduct surveys, and to design the project. The design work was divided into three phases:

- First phase: Dynamiting 11 rapids and 10 reefs on a 331-kilometre stretch of the river, so that ships with capacity of 150 dead weight tons (DWT) can travel on the river at least 95% of the time in the year. The task was to be completed by 2003. On this stretch of the river, the 11<sup>th</sup> rapid named Khon Pi Luang is situated in Chiang Khong District, Chiang Rai Province and in Baan Huay Sai of Boh Kaew District in Laos.
- Second phase: Dynamiting rapids and removing 51 shoals so that ships weighing 300 DWT can use the river at least 95% of the time in the year down to Luang Prabang. For the second phase work there are 9 rapids and shoals in Thai territory, i.e., in Chiang Saen, Chiang Khong, and Wiang Kaen, all in Chiang Rai Province.
- Third phase: Canalization of the waterway, enabling ships less than 500 DWT to use it.

The design of the navigational channel and an environmental impact assessment (EIA) was done by the joint working group, comprised of representatives from the four countries was approved by the signatory governments. The Thai cabinet assigned the Office of Maritime Promotion Commission in the Ministry of Transport

and Communications to be the responsible agency for the Navigational Channel Improvement Project. The Chinese Government hired Chong Sing and Kwang Si Company to carry out channel improvement work and allocated a budget of 42 million Yuan or 2000 million baht for it. A coordinating office was set up consisting of representatives from the four signatory countries to oversee the work of the company.

**The results of the channel improvement:** In documents detailing the project submitted to the Centre for Coordinating National Intelligence and the Office of Maritime Promotion Commission, it was reported that the project implementation complied suggestions made in the environmental impact assessment (EIA) done by a Chinese consultancy. For example, no dynamiting of rapids was done during the spawning and fish migration season. This meant that improvement work could only be done between December and April, i.e., during the dry season. This schedule was followed for three years from 2002 to 2004, and the project was able to dynamite rapids and reefs in 10 sites, except at Khon Pi Luang in Thailand (and Laos) in which a Thai cabinet resolution dated 8 April 2002 decided to postpone project implementation there until negotiations with Laos on boundary markers are completed and until a detailed EIA is done for project areas on the Thai side of the border.

It is to be noted that the EIA done by China and a summary report by the Thai authorities responsible for the project did not mention or consider opinions made by the public, by several senate committees, and by the Thai Human Rights Commission. These critical observations were with regard to the appropriateness of the project, the lack of thoroughness in handling the project as a whole, and the accuracy and comprehensiveness of the EIA done by the Chinese under the supervision of an overseeing committee whose members consisted of representatives of the four signatory countries.

**The current status of channel improvement work at the Khon Pi Luang rapids:** In this case, it has not been possible to move forward. The Office for Project Coordination has proposed to the four-country joint committee to consider the impasse but no conclusion has been reached. On the environmental impact study, the Office of Environmental Policy and Plans has hired Team Consulting Engineering and Management Ltd. to carry out an EIA which was completed in June 2004. On border demarcation between Thailand and Laos, no progress had been made and as of March 2005 the present Thai government still has not issued a resolution as to what steps to take next. However, Thailand undertakes development projects on an ongoing basis, and some of them have been developed to benefit from the channel improvement project. For example, Thailand has built a port on the Mekong at Chiang Saen and has decided to set up a special economic zone on the Chiang Rai border, the site to be either Chiang Saen or Chiang Khong District.

It can be seen from the above introduction that the implementation of this project is of great significance to the utilization of natural resources and environment of the country and the Mekong sub-region countries. What needs to be considered next is that in the decision to join in this project, how far did the people who were affected and the public in general have a participatory role in it. The answer to this question will indicate the extent of good governance in environmental management of Thailand, in the aspect of public participation in project decision-making.

## Case Selection

The Lancang-Mekong Navigational Improvement Project is a large scale international project under a four-country agreement on commercial shipping. The four countries are China, Myanmar, Thailand and Laos. The aim of the project is to smooth the rapids which are obstacles to shipping safety on the Lancang-Mekong River. The project covers the section of the Mekong from Yunnan in southern China, called Lancang River, and the section that passes Myanmar, Laos, and Thailand, with the project ending at Luang Prabang in Laos, the total distance covered by the project being 331 kilometres. Thus, it is a trans-boundary project involving four sovereign states, the key work being the removal of eleven major rapids and reefs by dynamiting and the dredging of the river channel to enable vessels of 150, 300 and 500 DWT to travel through.

The scale and physical implementation of the project definitely would affect to a certain extent the environment, the way of life, and the rights of the people dependent on the Mekong for their livelihoods. Decisions concerning a project of this scale could generate benefits as planned while minimizing the negative effects, if the process of decision-making adhered to the principle of good governance, especially which relates to the need for public participation, not just by those directly affected but also by the public in general. The assessment of steps taken and method of implementation in a project of this size would give us a broad and deep picture of good governance as practiced in Thailand. This study would generate lessons and suggestions useful in setting policy and implementing projects of a similar nature in the future.

In addition, the project has undertaken surveys, design work, as well as actual implementation for some time, i.e., since the year 2000 and has achieved the first-stage targets set. That is, it has met the aim of improving the navigation channel of the Mekong, enabling 150-ton vessels to pass through. Therefore, the project is suitable for evaluating the degree of public participation in project level decision-making

### **Table of Indicators**

<b>Indicators</b>	
<b>III.B.1 Lead time for notification of draft project documents*</b>	
<b>Values</b>	<b>Explanation and Justification</b>
<p>(0) Not applicable/not assessed</p> <p>(i) <u>No public notification of the selected draft policy, strategy, plan, program, or legislation was issued</u></p> <p>(ii) Public notification of the selected draft policy, strategy, plan, program, or legislation was issued with minimum lead time (please specify)</p> <p>(iii) Public notification of the selected draft policy, strategy, plan, program, or legislation was issued with reasonable lead time (please specify)</p>	<p>The public were not informed about project details both before the government signed to agreement in April 2000 and after the agreement came into force in April 2001. Even though the government did publicly announce the key contents and aims of the agreement through normal state media channels but no details were given on the navigation channel project implementation.</p> <p>Moreover, an opinion survey of people and government agencies in the project area done by the Office of Maritime Promotion Commission two months after the agreement came into force concluded that: 70.5 % of the people did not know the project existed, whilst 29.5 % knew about it from being informed by the village chief or local newspapers or by word of mouth. And from a survey done by the Chinese side with the Office of Maritime Promotion Commission, it was found that 36% of local state agencies or 9 offices did not know that the project was to be implemented in their area, whilst 62% of the agencies or 15 offices knew about it. (see Footnote 50 at the end of the text)</p> <p>Nevertheless, the public still did not have any advance knowledge until the cabinet decision of 29 January 2002 which approved the report on water channel design and the EIA done by the Chinese side. It was at this point that the public realized that the state was in the process of implementing a Mekong River Navigation Channel Improvement Project by dynamiting rapids, shoals and reefs that threatened shipping safety. Once such details of the project became known, the public and organizations began to stir and made critical comments. The social elements active were the mass media; community organizations; independent development organizations; three senate committees, i.e., the committees on environment, foreign affairs, and public participation; and the Human Rights Commission. They expressed concern about the lack of prudence and the seemingly hurried approach to many aspects of the</p>

	project, for example, with regard to the impact on environment, on human rights, on security and also to the issue of demarcation of the Thai-Laos border. They then suggested that Thailand delay the implementation of the Thai portion of the project until a detailed environmental and social impact assessment was done. This resulted in a cabinet resolution of 8 April 2002—less than 3 months after the first resolution—to delay the project in Thailand until a detailed environmental and social impact assessment was made, and until negotiations on demarcation of the Thai-Laos border in the project area was concluded.
<b>III.B.2 Quality of information supporting participation in project-level decision-making*</b>	
<b>Values</b>	<b>Explanation and Justification</b>
(0) Not applicable/not assessed	Comprehensive information that was given out to the public was on three topics:
(i) No relevant information was provided to the public	1) Explanations on the project background and implementation plan of the Thai Government.
(ii) <u>Information provided to the public included one to three "elements of quality"<sup>35</sup> (please specify)</u>	2) Explanations on the possible impact on the environment and the way of life of the people. This was communicated in the form of papers prepared by the Office of Maritime Promotion Commission, and in a public forum held in Chiang Rai Province on 30 October 2002 at the Little Duck Hotel.
(iii) Information provided to the public included four or more "elements of quality" (please specify)	3) An EIA report done by the Office of Environmental Policy and Plan, and distributed to the public in CD ROM form.

<sup>35</sup> "Elements of quality" include:

1. Explanation of the background of the policy, strategy, plan, program, or legislation;
2. Description of options and their implications for the environment;
3. Complete text of the draft decision or the envisaged procedure (commencement, opportunities to participate, time and venue of any envisaged public hearing, etc.);
4. Information on when, where, and how further information will be available;
5. Information on when and how members of the public can submit comments or questions;
6. Information on what kind of environmental information is available, etc.

<b>III.B.3 Existence and availability of local permits and other project documents (e.g. concessionary agreements, contracts) at public registries/records*</b>	
<b>Values</b>	<b>Explanation and Justification</b>
<p>(0) Not applicable/not assessed</p> <p>(i) <u>No registry or record of local permits and/or other project documents (e.g., concessionary agreements or contracts) is accessible at any public location</u></p> <p>(ii) Registries or records of local permits and/or other project documents are accessible in one public location (please specify)</p> <p>(iii) Registries or records of local permits and/or other project documents are accessible in more than one public location (please specify)</p>	<p>No documents in the nature of registration papers or authorization to implement the project by a local administrative agency, or any other project documents were presented to the public in accessible form, such as at the public library or a public information centre on the environment. No project registration was done nor was an authorization issued, because no permission was requested from the relevant local administrative bodies such as the Provincial Administration and the Village Administration. This fact is an indication that the project authorities, from the beginning, did not attach importance on participation by local communities.</p>
<b>III.B.4 Degree of external consultation in defining the parameters or scope of the project*</b>	
<b>Values</b>	<b>Explanation and Justification</b>
<p>(0) Not applicable/not assessed</p> <p>(i) <u>No independent experts or organizations were consulted about project parameters and scope</u></p> <p>(ii) One or two independent experts or organizations were consulted about project parameters and scope</p> <p>(iii) Three or more independent experts or organizations were consulted about project parameters and scope</p>	<p>From interviews with the Office of Maritime Promotion Commission officials, it was found that the survey and design work including the EIA for the project was handled by the Chinese authorities who in turn hired a Chinese consultancy that was not a professional and independent organization to do the work. The four signatory countries' role was to oversee such work. But the results of the study and design did not undergo a process of consultation with independent professional organizations.</p>

<b>III.B.5 Consultations on project-level decisions held with populations potentially affected by proposed project *</b>	
<b>Values</b>	<b>Explanation and Justification</b>
<p>(0) Not applicable/not assessed</p> <p>(i) No consultations were held with potentially affected parties or populations</p> <p>(ii) <u>At least one consultation was held with potentially affected parties or populations</u></p> <p>(iii) Planned and systematic efforts were made to consult potentially affected parties or populations (such as providing opportunities for written comments – please specify)</p>	<p>The Office of Maritime Promotion Commission arranged one public forum with people who were affected by the project on 30 October 2002 in Chiang Rai, after the project received much public criticism; one hundred and ninety five people attended the forum. Ninety one were representatives of state agencies from Bangkok, from the regional and the local administrations, including from Chiang Rai; fifteen represented the private sector, namely, those whose business involved trading through Chinese vessels, shipping operators, and tour operators; forty one were community leaders and those representing the civil society sector in the project area; twenty were from private development agencies; and twenty eight were from the mass media.</p> <p>The environmental impact assessment that was done by the consultant company did incorporate a procedure of participation, by meeting with community leaders, arranging for small discussion meetings and forums in the communities. The final study report did contain the opinions and suggestions made by the communities.</p>
<b>III.B.6 Communication tools used to disseminate information about project-level intentions, drafts or decisions</b>	
<b>Values</b>	<b>Explanation and Justification</b>
<p>(0) Not applicable/not assessed</p> <p>(i) The public was not notified about the project-level intentions, drafts, or decisions</p> <p>(ii) Only one communication tool was used to notify the public (please specify)</p> <p>(iii) <u>The public was notified through the use of several communication tools (please specify)</u></p>	<p>The key tools used to circulate project information were meetings arranged with target groups in order to convey details of implementation, and to inform state agencies in project areas, such as the provincial governor, district chiefs, and representatives of central government bodies. In addition, information was circulated through the state media, in print, radio, and by television, including the internet.</p>

<b>III.B.7 Communication of information about draft project-level decisions to marginalized socioeconomic or cultural groups</b>	
<b>Values</b>	<b>Explanation and Justification</b>
<p>(0) <u>Not applicable/not assessed</u></p> <p>(i) No documents, audio-visual materials, or meetings were targeted at marginalized socioeconomic or cultural groups</p> <p>(ii) At least one document, audio-visual material, or meeting was targeted at marginalized socioeconomic or cultural groups</p> <p>(iii) Planned and systematic efforts were made to target documents, audio-visual materials, or meetings at marginalized socioeconomic or cultural groups</p>	<p>No marginal groups are expected to be affected by the project. In other words, the communities expected to be affected do not fall under the definition of marginal economic, social, and cultural groups.</p>
<b>III.B.8 Duration of public comment period for project-level decision</b>	
<b>Values</b>	<b>Explanation and Justification</b>
<p>(0) Not applicable/not assessed</p> <p>(i) <u>No public comment period was designated</u></p> <p>(ii) The public was given minimal time for comment</p> <p>(iii) The public was given reasonable time for comment</p>	<p>Project authorities have not clearly set a fixed period of time for the public to express opinions; they can do so at any time.</p>



<b>III.B.9 Public participation in renewal, extension, modification, or termination of project-level decisions</b>	
<b>Values</b>	<b>Explanation and Justification</b>
<p>(0) Not applicable/not assessed</p> <p>(i) The decision-making authority has not established a process for public participation in oversight of project renewal, extension, modification, or termination</p> <p>(ii) <u>The decision-making authority has established a process for public participation in oversight of project renewal, extension, modification, or termination</u></p> <p>(iii) The decision-making authority has established a process for public participation in oversight of project renewal, extension, modification, or termination, and is actively providing information to the public and soliciting</p>	<p>The process by which the public can play a role in deciding whether to do project review, to change project time schedules, and to adjust or terminate the project is governed by Prime Minister's Office Regulations of 1996 on Public Hearings. This project, unlike large projects in which local conflicts occurred, did not enlist public hearings. In any case, even though the regulation was not applied—and this regulation was revoked at the end of 2004—the public did use other means such as making appeals to project authorities to review or delay the project, requesting pertinent information, and also directing appeals to government institutions such as the Senate and the Human Rights Commission . These acts resulted in the project authorities asking the cabinet to postpone implementation of the project on Thai territory until results of the Thai-Laos border demarcation negotiations and of the Thai EIA are known.</p>
<b>III.B.10 Timeliness of information given to the public about outcomes of consultations used in project-level decision-making</b>	
<b>Values</b>	<b>Explanation and Justification</b>
<p>(0) Not applicable/not assessed</p> <p>(i) No information was provided to the public about the substantive input or comments from the public consultation process</p> <p>(ii) <u>Information was provided to the public about the substantive input or comments from the public consultation process more than 2 months after the decision was made</u></p> <p>(iii) Information was given to the public about the substantive input or comments from the public consultation process within 2 months of the decision</p>	<p>Information on the content and results of consultations with the public on the project were made available in meetings held to explain implementation, one which was organized nine months after the cabinet approved the project, and the other six months after the cabinet postponed it.</p>

<b>III.B.11 Incorporation of public input in project-level decision</b>	
<b>Values</b>	<b>Explanation and Justification</b>
<p>(0) Not applicable/not assessed</p> <p>(i) Official project documents do not discuss whether or how public input was incorporated in design or decision</p> <p>(ii) Official project documents mention public input (whether consultations were held, how many were held, etc.)</p> <p>(iii) <u>Official project documents discuss how public input was incorporated, and summarize/explain the results of public input</u></p>	<p>The survey and design of the project which was prepared during the 10-month period during 2000-2001 and the documents explaining project implementation did not show evidence that public opinion was considered. This might be because at that time the public was not aware of the project. But other documents from the project such as the EIA did show that public opinion was received and considered, and answers or explanations fed back to the public. On the other hand, some documents such as that attached to a report on the project submitted to the Coordinating Center for National Intelligence did not refer at all to opinions and suggestions made by the public.</p>
<b>III.B.12 Degree of participation by affected parties or public interest groups in implementation of decisions on project-level activity</b>	
<b>Values</b>	<b>Explanation and Justification</b>
<p>(0) Not applicable/not assessed</p> <p>(i) <u>Affected parties did not participate in implementation or monitoring of compliance with project-level activity or decision</u></p> <p>(ii) Affected parties participated in direct monitoring of project-level activity or decision</p> <p>(iii) Affected parties participated in design of compliance measures and in monitoring of project-level activity or decision</p>	<p>The reason why the public did not participate in project decisions or in monitoring the project was because the project did not contain procedures by which affected parties could directly involve themselves in such activities.</p>

## **Analysis**

- 1) The Lancang-Mekong Navigation Channel Improvement Project is aimed at economic and social development, and clearly does have social and environmental impact. The project preparatory phase may have taken some time, that is, lengthy international negotiations had to be carried out. But once agreement was reached, it appeared that the implementation phase was a hurried one aimed at rapid achievement of objectives and showed lack of caution and careful consideration. What is important is the lack of public consultation and participation in project decisions from the beginning. The project authorities only gave some importance to public participation and only responded to when faced with criticism and pressure from the Senate and independent bodies, including community and private development organizations and the mass media. Subsequently, a public forum on the project was organized on 30 October 2002, that is, nine months after the cabinet had approved the project on 29 January 2002 (and later the cabinet decided on 29 April 2002 to delay the project). This sequence of decisions indicates a lack of carefulness in decision-making, as a u-turn on the project was made only three months after its approval, and also indicates an undervaluation of the idea of public participation from the beginning.
- 2) In the 30 October 2002 forum arranged by the Office of Maritime Promotion Commission to explain and hear opinions on project implementation, the meeting record referred to the public's concern that the dynamiting of Khon Pi Luang rapids might lead to change to the boundary between Thailand and Laos, as well as the destruction of the "kai", fresh water weeds which is a source of food for the Mekong giant catfish and riverside communities who use it to make processed food to earn a living. The Department's representative, Ensign Preecha Petchwong and representatives of other related agencies stated that the improvement work at the Khon Pi Luang rapids would not affect the Thai-Laos boundary because the rapid is situated clearly in Laos, according to the Thai-French treaty; and that it will not affect the natural deepwater channel used as the boundary under international conventions<sup>52</sup>
- 3) The government has signed the agreement on co-operation in the greater Mekong sub-region to improve the navigation channel in the Lancang-Mekong River without informing the Thai Parliament in advance. The Human Rights Commission has observed that before signing any international agreement that would have far-reaching effects on state security, livelihood, society and culture of the people, the government should ask for approval from Parliament, according to article 243<sup>53</sup> of the constitution. Deciding to enter into an international agreement without informing and requesting permission from Parliament implies that the agreement to improve the navigation channel in the Lancang-Mekong River is more important than the constitution. Also, the fact of not preparing an EIA before going ahead with the project is a violation of the Promotion of the Quality of the Environment Act of 1992 and for this the project implementers, namely, the Office of Maritime Promotion Commission must take responsibility. Such failures to act indicate that executive branch powers have been used in a way that ignores the rule of law, and instead gives major consideration to the norm of achievement and expediency.

## **Recommendations**

### **▪ For Thailand**

- 1) In embarking on a large scale development project which influences the environment, the rights, and way of life of the people, not only must one prepare an environmental impact assessment before deciding on it in accordance with the Promotion of the Environment Act of 1992, but authorities responsible for the project should also understand the need to involve public participation from the beginning phase of conceptualizing and designing the project. They should establish a process or a clear code of conduct at the policy level to promote public participation. This code of conduct or examples of good practice may already exist, but not every agency; state or private, at various levels have the same understanding of it or practice it in the same way. As long as the procedure has not been institutionalized, the practice will not be consistent. Some agencies understand well the concept of good governance; some do not or are not interested, until faced with public pressure or with severe conflict with the people. Therefore, the government should take the lead in developing a code of conduct aimed at creating good governance and facilitating public participation in projects. This could be done by both policy and legal means, for example, by drafting a handbook of guidelines for enhancing public participation, organizing training courses to build-up the capacity of implementing officials to understand its importance and to gain skills in developing public participation. Or, an act of law to support public participation could be passed.
- 2) In implementing a project that has effects on the environment and the people's way of life, the authorities should give importance to local administrations such as the sub-district administration and provincial administration, since they are the representatives of the locality, as specified in the constitution. These administrators are publicly elected and are responsible for protecting local resources and environment; and the policy makers and the project implementers should formally consult with them and ask their formal approval of a project. Permits or authorizations from the local administration are something that the project should have to show that the local area had participated in its conception and implementation. The project authorities must also register permits or authorizations, plus all project documentation at a centre for public information such as a public library or an information centre on natural resources and the environment which the public can easily access. All these actions to gain local consent can be done without difficulty and would point to an intention of good governance, which most agencies aspire to, except that they might not have considered local consent as significant. Or they might not have had a standard code of conduct which specifies that national or international projects should have approval from the local area. If this is the case then a proper code of conduct should be created (as suggested in no.1), by referring to the rights of the local administration as embodied in Article 46 of the constitution. In addition to giving importance to the local administration, project implementers might even go a step further: they can coordinate with the local administration and local civil society organizations (if the locality has one) to open channels of communication to the people directly by arranging information and suggestions meetings in the area of the intended project, for instance, at the sub-district or district level, and also send them the necessary and complete documentation--all this to be done before deciding to implement the project.

- 3) Because this project was conceived and implemented jointly among countries in the region, and has trans-boundary effects, the implication is that there are stakeholders not only in Thailand, but also in Mekong riparian countries, i.e., China, Myanmar, Thailand, Laos, including Kampuchea and Vietnam which are at the tail end of the river and which will be affected in some way. So for any development project whether it be domestic or international, one should consider the impact on stakeholders beyond one's borders too. And in considering good governance that should be applied to this kind of project, the governments jointly developing the project should earnestly cooperate with the governments of the countries affected, to support and build opportunities for people that maybe adversely affected, mainly, those in China, Myanmar, and Laos. Such people should be informed fully of the pertinent facts and be able to participate in decisions that affect their lives. Consideration should also be given on how to alleviate their difficult situation with justice.

#### ▪ **For Development of the Indicators**

After adequate information and data from the state has been collected for a period of time, efforts might be made to design indicators to assess the methods by which the state conveys information and data to the people, and also to find ways to ensure that the required information is actually received by the people. This will be useful for decision making.

### **Conclusions**

This assessment of the public participation in project-level decision-making, by using the case study of Lancang-Mekong Water Channel Navigational Improvement Project shows that the management of natural resources and environment projects in Thailand is faced with a good governance problem both at the level of principle and practice. The study reveals both positive and negative features of the situation.

On the negative side, it can be said when the project was initially conceived, the authorities did not place importance on the principle of good governance, as can be seen by the fact that no environmental impact assessment (EIA) was carried out before approving the project, which is a violation of the Promotion of the Quality of the Environment Act of 1992. The project authorities failed to facilitate public participation before deciding on the project, in the sense of not enabling the people to gain access to news and information, and not arranging for ways to listen to people's opinions. However, those responsible did make adjustments which indicated a learning process occurred, that is, once faced with much pressure and criticism from the mass media and a flood of suggestions from civil society organizations and respectable public institutions such as the Senate committees and the Human Rights Commission, the project authorities changed their position. They opened up opportunities for the public to access news and information, and allowed for a degree of participation; they explained, gave information, arranged meetings where they were receptive to the opinions of the people and those directly affected, but it was really too late, since the decision to go forward on the project had already been made.

There is a positive side however. If we consider from the evidence gathered, it can be said that the project was not thorough enough; it did not consider all the factors involved. Decisions were made by relying solely on executive power with the

narrow aim of achieving maximum economic results, without using the principle of good governance as a guideline. However, *scrutiny and probing by the people and public institutions* resulted in the cabinet deciding to delay the project for a time, to consider again the project's impact on the environment, social and economic setting, human rights, and to consider suggestions from all parties. This means the project leaders are ready to learn and have some flexibility.

It can be asked that if large state projects that have social and environmental impact did not have a process of public monitoring and participation in place, how far would the lack of good governance be? Thus, from this case study, it may be concluded that the quality or strictness of good governance in a project would depend not only on the capacity of state agencies concerned to engineer participation but also depend on the strength of civil society organizations and public institutions. To strengthen good governance in environmental management, one has to strengthen at the same time civil society organizations, public institutions, and build up a tradition of good practice in the state sector. And when considering environmental management of large trans-boundary projects, the people and public institutions in the countries involved must strengthen their network of cooperation to be able to encompass regional and international cooperation as well. In addition, they must also develop a mechanism for the people to engage in cross-border monitoring and scrutiny so as to be able to face the forces of free trade.

## **Access to Participation in Decision-making: Synopsis and Overall Recommendations**

### **▪ Synopsis**

- 1) From the case studies, it was found that public participation in environmental management has been mainly at the level of receiving and acknowledging information, or at the level of expressing opinions, but not at the decision-making level.
- 2) In many cases, the participatory activities were a result of demands made, criticism given, or a desire to act by those who were affected by state policy or projects, not as a result of state initiative. This was the case of water grid management and the seafood bank project.
- 3) It should be noted that public participation tends to be higher if the issue has to be resolved at a high level of decision-making, and if the decision affects a broader range of people in the society as can be seen in the case of the draft Water Resources Act and in the privatization of water management case. The policies at issue here had a wider impact, and thus were the subject of close monitoring and checking by civil society organizations.
- 4) A good example of state initiatives to create public participation can be seen in the drafting process for the Water Resources Act and in the preparation of the river basin plans. But still, even in these cases, many things needed to be improved to make participation more meaningful.
- 5) A sense of social and political awakening and the strength of civil society are important factors leading to participation at various social and political levels. On the other hand, even if the state should decide to enlarge the participatory space, meaningful participation could not materialize, if the civil society sector still lacks enough knowledge and understanding of the situation.
- 6) It still remains unclear as to what extent public or public participation has resulted in any changes in decisions or implementation by the state sector. In the case of the Seafood Bank Project, it was found that suggestions made in public forums did not have any effect on implementation.

### **▪ Overall Recommendations**

- 1) Develop and build mechanisms of public participation in environmental work, especially at the level of policy determination, strategy, and planning, etc.
- 2) Push for promulgation of laws promoting the rights, freedom, and participation of the people or of communities, as enshrined in the constitution. One can cite specifically, Article 46 covering the rights of local communities, and Articles 56 and 59 on individual rights.
- 3) Public participation should occur from the beginning, that is, at the policy preparation, strategy determination, and planning, etc. This will result in a lessening of conflict and suspicion between the state and the people, and would also underline the rights of the people as laid down in the constitution.

- 4) Build clear processes or guidelines for public participation in the setting of policy in state-initiated development projects. This could be done by having a policy on it, by designing mechanisms, and by using legal means. Examples are: drawing up handbooks for promoting public participation, organizing training to develop the capability of state officials, and drafting laws to enhance public participation.