

A Study on Governance Mechanisms for Cross-border Shipping Business in Lancang–Mekong River Basin

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ABSTRACT

In the context of the “Belt and Road Initiative”, the Lancang-Mekong cooperation mechanism has integrated “the interconnection” into five directions of cooperation, which puts forward new requirements for shipping management of the Basin. Based on the mixed governance theory, we propose “mixed governance mechanism”, which is to use different governance methods including the bureaucracy, market and network governance styles to solve the corresponding problems in different stages of cross-border shipping development in the basin. The mechanism is designed from four levels: central government, local government, market, and society. Besides, the mechanism gives more reasonable jurisdiction to wading enterprises, citizens, non-governmental organizations, media and other non-government entities to overcome the dilemma of cross-border shipping cooperation.

Keywords : Lancang-Mekong river basin; cross-border cooperation; shipping resources; governance mechanism

Under the Belt and Road Initiative, the cross-border cooperation in shipping business of countries along the Lancang–Mekong is in the stage of renewal and reform. With new requirements for shipping business in the river basin, it is increasingly difficult for the existing governance mechanisms to meet the countries’ current needs for development. Many events proved this; for example, in 2017, although the Thai government had passed the Mekong River dredging plan causing the dredging plan to encounter successive obstacles^[1] This, and other events, shows that the existing single-level governance model led by the

countries in the lower riparian basin cannot address the complexity or meet the need for diversity in cross-border cooperation. The current literature suggests that the degree of countries’ participation should be promoted but they lack the design and study of strategies for multi-level mechanisms. It is necessary for China and the Lower Mekong countries to build a more comprehensive multi-agent and multi-level governance mechanisms for shipping business that are based on the countries’ collective demands for the development of a joint community, and also to establish the basis for cooperation in water

resources and environmental management.

1. Status Quo and dilemma in cooperation of cross-border shipping business in the Lancang–Mekong River Basin

In the utilization of the water resources of the Lancang–Mekong River, the development of shipping resources requires modest investment, the most immediate effect, the widest range of benefits^[2], and the strongest radiation prospects. These have been the earliest focuses of cooperation among the Lancang–Mekong countries. Since June 2001, merchant ships of the upper Lancang–Mekong River have been navigating along China, Laos, Myanmar and Thailand. Although the cooperation of shipping business in this region has achieved certain results, this high-profile “International Golden Waterway” has not lived up to its potential because of the backwardness of soft and hard infrastructures, single governance model, inconsistency in the interests of various countries, and the poor level of collaboration.

1.1 Construction status and problems of cross-border shipping business in Lancang–Mekong Basin

The Lancang–Mekong River flows through karst landforms along with high mountains and valleys. The river flow during the dry and rainy seasons are significantly different, resulting in poor navigating conditions. Many sections of the waterway have not been regulated and cross-border navigation has been facing challenges as follows:

(1) The waterway development and governance are progressing slowly. There are

still countless reefs and shoals and accidents occur frequently, for example, merchant ships crash into rocks^[4]. The Khone Phapheng falls is the biggest obstacle in navigating between the upper and lower reaches. There have been no effective solutions to date because the waterway capacity is severely restricted.

(2) The hard and soft infrastructures for port and terminal construction are weak and the management is poorly standardized. Except for Jinghong and Guanlei ports in China, and Chiangsaen Port in Thailand, it is difficult to expand other ports in the basin countries in a short time. Their mechanization level is backward and the loading and unloading efficiency are generally low. In case of the hard infrastructure conditions, the conditions of operation and management system software of the port and terminal in various countries are also very different. The charging rates and the standards to be met are not uniform, which is safety and order.

(3) The “Four-nation Navigation Plan” is poorly operational and it has not been proven to be an effective initiative. Due to the inconsistent development demands of the basin countries, the availability and understanding of relevant information skills is different. Individual countries or departments are likely to be shortsighted or consider their self-interest when making decisions. In addition, Myanmar, Laos, and Cambodia have low economic standards and limited capabilities, and advocate that the relatively stronger economies share most of the responsibility for shipping resource development. Similarly, the

debate over “rights” and “responsibilities” has met limited consensus for collective actions. (4) The hidden dangers of regional security are outstanding. Crime is rampant in the “Golden Triangle” zone at the junction of Myanmar, Laos and Thailand in the Mekong River. The practice of providing law enforcement escort for riverine traffic is a temporal measure that does not address the root of political and geographical issues. Moreover, the response to the security crisis in shipping business involves many related departments such as public security, maritime affairs, and safety supervision in coastal countries. The monitoring, early warning, and multi-sector emergency response capabilities within the basin are hugely wanting.

1.2. Problems and deep dilemmas in cross-border cooperation of shipping business in Lancang–Mekong River Basin

Cooperation in developing cross-border shipping business in the Lancang–Mekong river basin has a long history. Although the countries involved have already realized these specific difficulties at present, they have not been able to improve the situation, indicating that the deeper problems are still unresolved.

(1) The riparian countries have different fundamental interests in the cross-border cooperation of shipping business. The shipping infrastructure of China and the markets have begun to take shape. Laos has invested less in the construction of shipping infrastructure and its development has just started. Since the river cannot be fully navigated,

it is difficult for Cambodia and Vietnam to realize the shipping value. The current situation and needs of the six countries in shipping resources are different and those nations’ self-interest have increased the difficulty of effective resolution to the trading obstacles.

(2) The present cooperation mechanism of shipping business is based on a centralized authority, which has insufficient autonomy and lacks legal basis. The existing basin cooperation mechanisms such as the Mekong River Commission (MRC), the Greater Mekong Subregion (GMS), Economic Cooperation, and the Quadrangle Economic Cooperation (QEC) cannot be as centralized in a similar manner as has been done in the European Union for it lacks mandatory conventions. Secondly, it relies heavily on subsidies from developed countries on which this has weakened its autonomy. Thirdly, it relies too much on meetings of government heads to organize implementation, which inhibits effective participation of other governance bodies.

(3) The powers and responsibilities for waterway governance in various countries are unclear and the confrontation of the interests between upstream and downstream countries has intensified conflicts. The relatively downstream Mekong countries are extremely sensitive to China's water resources development activities and the damage occurred to the ecological environment^[5]. The misconceptions of upstream/downstream confrontation and information asymmetry have intensified conflicts and misled local people and public opinion. Given that the powers and

responsibilities are unclear, the countries blame each other for failing to form a joint force for waterway regulation.

(4) There are many political interests involved, and the political mutual trust among the basin countries is lacking. Extra-territorial powers with ulterior motives continue to increase their strategic investment to weaken China's influence on the Lancang–Mekong region, such as the “Mekong River Downstream Action Plan” of the US and the “Mekong–Japan Summit Meeting”^[6]. The downstream countries want to leverage China's development, creating a psychological barrier and resistance to China's interests. Therefore, they tend to pursue the “Great Power Balance” strategy to gain benefits.

(5) Multiple cooperation mechanisms coexist and compete with each other because it is difficult to coordinate the shipping goals of various countries. The old and new cooperation mechanisms with different levels and different regions overlap and form a “mechanism congestion”. From a bilateral perspective, there are major countries such as the United States, Japan, and Australia, and international organizations such as the United Nations, the European Union, and the Association of South East Asian Nations^[7]. From a multilateral perspective, there are cooperation mechanisms such as Mekong River Commission, Quadrangle Economic Cooperation, and China-ASEAN Free Trade Area. Although these mechanisms can complement each other, they have different interests and are independent; in the end, most of them are mere formalities; in practice,

their deliberations are not binding on the participants.

2. Conception of hybrid governance mechanism for shipping business in Lancang–Mekong River Basin

The construction of cross-border shipping business in Lancang–Mekong river basin is an issue in regional public governance. The pattern of “one big country and many small countries” on the national power and the conflict of interests from the “big country in the upper reaches” in the geographical position make the development of cooperation in expanding shipping trade in the Lancang–Mekong basin unique and complex.

According to the theoretical framework of hybrid governance proposed by Williamson^[8], a large number of intermediate forms between the endpoints of hierarchical governance and market governance, which are termed as “hybrid governance”. The “multi-center governance” pioneered by Michael Polanyi^[9] relies on multiple power center that emphasizes the interaction process among participants and a spectrum of ways in which governance rules and governance forms can be created. An alternative approach to achieve appropriate form of hybrid governance is the idea of characterizing different modes of economic governance as “hierarchy–market–network” in which the hierarchy, market, and network relations governance methods are used solve the corresponding subdivision of problems at different stages of cross-border shipping development and also to form a hybrid governance model in which multiple

governance bodies use different governance methods to work together at and between different levels.

2.1 Limitations of existing single governance framework in cross-border shipping business

At present, the main development work of cross-border shipping business in the upper Lancang–Mekong river basin is carried out within the framework of the “Joint Committee on Coordination of Commercial Navigation on Lancang–Mekong River” established by the four governments of China, Laos, Myanmar and Thailand, in conjunction with a series of other bilateral and multilateral agreements. The mechanism involves the meeting of the high-ranking leaders of the four countries and their leading the diplomatic executive meetings and the working group meetings at all levels^[10]. However, the actual performance of the committees and technical working groups at all levels is not satisfactory.

Since the dawn of the new century, there have been mechanisms such as the Quadripartite Economic Cooperation (QEC) in 1993 between several countries in the region, the ASEAN–Mekong Basin Development Cooperation (AMBDC), and the Greater Mekong Sub-region (GMS) established by the Asian Development Bank. However, the lack of centralized legislation and supervision of the kind found in the European Union makes it difficult for the nations of the Lancang–Mekong basin to achieve full and equal competition in multinational markets. As a large number of

governances span the traditional jurisdictional boundaries of the organization and span the boundaries between the public and private sectors, traditional modes such as single hierarchical governance and market governance fail frequently.

Previous studies have shown that the relationship between organizations can be described as one of three modes^[11] to which network (relationship) governance is the main form of hybrid governance. According to the views of Bradach and Eccles^[12], the most fundamental difference between the three types of governance is that the connection medium of hierarchical governance is authority, the connection medium of market governance is price, and the connection medium of network (relationship) governance is trust. The practice of hybrid governance has also flourished in the Lancang–Mekong river basin, but it has not been able to achieve a high degree of centralization, thus revealing complex issues of interest sharing and rule vacancies. For example, the MRC failed to cover all coastal countries for its funding was basically from external sources and it was inefficient for a long time. In the future, these existing cooperation mechanisms should be organically integrated into a unified framework and complement each other to maximize the comprehensive development objectives of cross-border shipping business.

2.2 Design of multi-level hybrid governance mechanism for cross-border shipping business

“Hybrid governance” implies a mixture of multiple governance systems and a mixture of multiple governance bodies. The Lancang–Mekong Cooperation Mechanism embodies a mixed concept of multiple governance systems based on a network system and includes aspects of the hierarchical and market systems[13]. After the refinement of the “Government–Market–Society”, the governance bodies involved now include: i) coastal sovereign states and relevant government authorities, such as the Ministry of Water Resources, the Ministry of Foreign Affairs, etc. ii) local governments. iii) water resources enterprises, i.e., port enterprises, waterway engineering enterprises, banks, etc. iv) the public, that is local community people, non-governmental organizations/non-profit organizations, media, university research institutions, etc.

“Multi-level”, the hybrid governance mechanism, intends to build a community of shared destiny, to establish corresponding levels of governance, and to introduce the market and the public^[14]. At present, the biggest advantage of the Cooperation Mechanism is the direct interaction between the governments of the six coastal countries. Although the current market and diversified social participation in the basin is still immature, it is still the most promising innovative exploration of the multi-level governance of central and local governments, the organic combination of multi-governance of governments, enterprises and social partners^[15]. Decentralization of government

power to important ports, node cities, and key areas will be the engine of implementation of the Belt and Road Initiative^[16].

The interconnection of waterways is one of the five priority directions of cooperation proposed by the Cooperation Mechanism in which it is also the most basic and urgent one. The development of shipping business in Lancang–Mekong basin should proceed from the actual situation of the region, and under the premise that no major changes be made in the structure of shipping management system; it would need an innovative mechanism of shipping governance, but with distinctive characteristics. This article attempts to study the issue of cross-border shipping construction in the Lancang–Mekong countries with the aim of building a structure of multi-level hybrid governance. Strategic cooperation between the central governments of the six countries would form the topmost level of the design, which would direct the specifics of management by local governments, their aim being to jointly guide and regulate both, the operational execution at the market level, and the broad participation at the public level.

3. Content of hybrid governance mechanism for shipping business in the Lancang–Mekong River Basin

3.1 Strategic focus of cooperation at the level of national governments

As international cross-border waterway cooperation impinges on issues of national sovereignty, it is essential that achieving good strategic cooperation between

the national governments be the cornerstone and driving force for the establishment and operation of the proposed hybrid governance structure. At the government level, the overall management level directs the market level and the environmental level to provide macro-level decision-making, mandatory leadership, and policy support.

(1) Improve the top-level design and rationally empower for improving the coordination level and independence of governance in shipping business. The top-level design involves meta-management on top of strategic management . i) The national governments of the six countries shall sign a specific regional shipping development cooperation agreement and jointly establish a strategic plan for the unified construction of a waterway along the whole basin; ii) the national governments need to give their concerned shipping department a certain autonomy and to attach importance to the power distribution and balance between multiple entities, to improve the level of coordination between and independence of self-governance in the region.

(2) Strengthen cooperation in security issues, and establish risk estimation and emergency response mechanisms. Firstly, it is feasible to construct a cooperative mechanism for information sharing, early warning intercommunication, crisis management and control[18]. Secondly, it is possible to jointly develop a joint law enforcement system and create by linkage a multi-sector emergency system. Thirdly, attention must be paid to the

protection of the ecological environment when developing the waterway, for example, the establishment of nature reserves such as shelter forests along the river and tidal flats to cultivate political mutual trust, thus creating a “Spillover Effect”^[19] to provide guarantee for regional sustainable development.

(3) Improve the laws, regulations and standards, and their enforcement to create a stable environment for the shipping market. Entities and organizations should learn the legal aspects from advanced Western economic models, so as to formulate and implement effective operational methods for shipping agreements and regulations. Countries can clearly refine the standards according to their own conditions: i) technical standards for construction of shipping-related infrastructure; ii) tax incentives for shipping; iii) subsidies for employees. It will not only ensure the smooth flow of shipping business in the basin, but also create an excellent environment for the shipping market economy.

3.2 Focus on cooperation at the local government management level

Coastal local governments form the backbone of hierarchical governance, but due to the conflicts of authority and diverse interests between the relevant departments of the central government and the water resources enterprises, it is necessary to supplement market governance and network governance to resolve such conflicts.

(1) Effectively implement the infrastructure management and system management of waterways and ports. On the

one hand, the construction of infrastructure such as waterways and ports promotes hardware, or physical interconnection; local governments need to clarify the implementation plan of the waterway construction project and effectively promote the second-phase waterway improvement project (from the China–Myanmar Boundary Marker 243 to Luang Prabang, Laos) [20], and simultaneously promote the upgrade and expansion of port terminals. On the other hand, the software conditions for the shipping management system also need to be improved. At the practical level, this involves links such as multi-national border defense, transportation and shipping and customs clearance at the port, which requires local legislation to implement and clarify the shipping industry regulations enacted by the central governments, and strictly enforce the operational procedures.

(2) Coordinate the overall and local interests of the Lancang–Mekong basin to promote the development of mutual trust at all levels through communication and coordination. Adhere to the comprehensive development strategy based on shipping, taking into account functions such as hydropower, agricultural irrigation, fishery production, and tourism economy. The local government should play a macro-control role and comprehensively consider the overall and local interests of the basin. Attention should be paid to avoiding local protectionism or partiality in benefit, treating each other as equals, and promoting mutual trust between actors at all levels of the country through network governance, to form a joint force of governance.

3.3 Cooperation focus at market level

The interests of all parties involved are the starting point for their active participation in cooperation. The construction of waterway is a social welfare infrastructure when compared with the construction and maintenance of waterways in the United States and Germany, where market operations have been basically implemented. The Lancang–Mekong region is still based on state investment and it is necessary to implement a “price-authority” hybrid approach in which multi-actor linkage, hierarchical governance, and market governance are combined.

(1) Promote politics along with economic development and increase investment in shipping infrastructure. Boosting geo-economic upgrade and political development is a function of the cross-border international waterway. The transportation links between Yunnan Province and the Indo-China Peninsula countries have put the economic and trade relationship between Yunnan, Myanmar, Laos and Thailand on a fast-track for China's big market and the ASEAN market. Whether or not a firm economic and trade connection can be established that will enable the Mekong basin countries to see expected stable returns, will determine the degree of investment of the national governments and water resources enterprises in the development cooperation of this river's shipping business.

(2) Establish and improve the benefit sharing mechanism of the shipping mar-

ket. The optimal allocation of benefits will power the proposed hybrid governance. It is necessary to clarify the intersection of benefits, equitably distribute the benefits and share the responsibility according to the degree of contribution in the cooperation. Under the guidance of the government and the legal system, China needs to encourage and attract social capital to participate, leaving such things as freight forwarding, third-party logistics, and e-commerce to private enterprises, to form the necessary cross-border cooperation led by the government and promoted by the market.

3.4 Cooperation focus at environmental level

The cooperation in shipping business at the environmental level is mainly based on network governance, supplemented by market and hierarchical governance. The public accepts the rules and regulations of the government departments in the hybrid governance structure, and also counteracts the management through forms of interaction such as media, non-governmental organizations activities, and policy hearings, which affects the behavior choices of relevant entities in cross-border waterway governance of the Lancang–Mekong basin.

(1) Improve the mechanisms for public participation and broaden the feedback communication channels. Encourage the positive role of different governance bodies in the development of shipping business, and pay attention to the management of public opinion and the use of civil power: i) encourage political think tanks such as university scientific

research institutions, technical expert groups, and social think tanks to interact with the public and conduct regular exchanges and discussions; ii) broaden the channels for the community for feedback of public opinion, enhance the importance of water resources in public opinion, and help dispel public misunderstandings in the basin.

(2) Solve the key technical problems of navigation. The think tanks and scientific research institutions of universities in the six countries should undertake the task of overcoming the bottleneck of the waterway with remediation technology, such as dredging the waterway, widening the riverbed, and setting up watermarks, in particular, the riverine trade governance of Khone Phapheng Falls should be implemented as soon as possible. Unify the engineering and technical standards, strengthen technical cooperation, and use modern technology such as auxiliary ship-passing equipment (locks, ship lifts etc.) to realize full-scale navigation of the upper and lower reaches of the Lancang–Mekong River, and thus realize the potential value of the entire waterway.

(3) Improve the international shipping network information system and strengthen information cooperation. It includes horizontal cooperation between governments and vertical cooperation between the governments and the market. i) The governments need to jointly establish a full-scale shipping information database for the purpose of obtaining highly transparent information and timely report data such as navigation traffic,

dangerous goods, and accident records; ii) pay attention to the application of electronic information technology, improve the operational efficiency of the shipping logistics system, all of which will facilitate the positioning and monitoring of the entire shipping process.

Conclusion

The priority directions for cooperation proposed by the Lancang–Mekong Cooperation Mechanism, such as “Interconnection” and “Water Resources Cooperation”, mark a new stage in the development of cross-border waterway-borne trade in Lancang–Mekong basin, and significantly strengthen the cooperation between the six Lancang–Mekong countries. The current regional governance model is still dominated by top-down hierarchical governance, coupled with fragmented local market governance and network governance. China needs to take advantage of the opportunity for the development of cooperation mechanisms, giving water resource enterprises, community people, non-governmental organizations, media and other non-government entities more attention and governance authority. China needs to take the lead in trying to build a multi-level hybrid governance mechanism to jointly overcome the dilemma of cooperation in cross-border shipping development and strive to make the governance of shipping business in the basin into a model of regional cooperation and development. China's wisdom and millennia of experience should be used

to help countries in the region to jointly discuss and build in their joint community of shared destiny.

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