



Unlocking the Greater Mekong Subregion - Striving Towards a Seamless Community -

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Abstract— *The last decade has seen the Greater Mekong Subregion (GMS) develop at an unprecedented pace. Gross domestic product levels have substantially increased, as have most social indicators. What is more remarkable, foreign direct investment numbers have more than quadrupled in a matter of years. So much effort put into the development of the sub-region has already started to bear fruit. The movement of people and goods has risen to the extent that brand new regulations have been laid down and adopted. This paper looks at recent changes along the economic routes crisscrossing the GMS, and at the reaction of its peoples to some new procedures that have started to be applied at specific cross-border points. In particular, it argues that the application of a new type of law, called raw law, is one of the key elements in order to foster the development of border areas into special economic zones, with a consequent multiplier effect for all of the GMS member economies. Finally, it briefly touches upon some of the constraints that hinder a thorough exploitation of the sub-region's potentialities.*

Keywords— **Greater Mekong subregion cooperation program, cross-border transport agreement, check-points, raw law.**

1. INTRODUCTION

The Greater Mekong Subregion (GMS), the most glittering development opportunity in the whole of Asia, is gradually but steadily attracting the eyes of the international audience. After a period of mistrust and instability, the sub-region has been a stage for successful development stories, as well as a few failures. Nevertheless, after peace prevailed over the conflicts that were smiting its peoples, an unprecedented wave of regionalising efforts has pervaded the entire area, enticing many a foreign institution into investing and actively participating in the development of the GMS. The first external player to take up the challenge of lifting the GMS out of poverty was the Asian Development Bank (ADB), with its Greater Mekong Subregion Cooperation Program started in 1992. Albeit a shy inception, the programme rapidly grew of importance, and so did the first and possibly most important regional partner of the ADB, the Mekong River Commission (MRC). Since those early years, things have changed at an unpredictable pace. Increased interconnectivity of goods, peoples and labour markets made for the rise of expectations in a fully-fledged, inter-linked society and development efforts gained steam as a favoured development option for augmenting overall economic growth in the sub-region. In less than two decades the GMS has become one of the most crowded developing corners of the world. An increased range of international actors have been attracted by the potentialities of the sub-region, and currently a wide selection of international organisations and agencies, foreign governments' departments, representatives of the

private sector as well as the civil society is striving along with local governments and players in order to achieve the ultimate goal of sustainable development and, eventually, eradicate poverty from the sub-region. Given the peculiar situation that presented itself at that time, the first priority among the development community was that of upgrading the existing infrastructure and building brand new links that could connect major centres within the GMS and beyond. In other words, the abatement of physical barriers was given priority. That meant the construction of highways, railway systems, and airports throughout the sub-region. The projects were so ambitious and magnificent that by no means the GMS countries could have ever managed to come on top of it by themselves. Nevertheless, even at those early times, the opinion of dealing with the GMS as a single entity made its way through a whole jungle of involved actors, and even though we can still observe a substantial lack of coherence and the overlapping of many development projects, the GMS is nowadays fairly interlinked and in continuous implementation.

The greatest challenges that the sub-region is facing in this second phase of the regionalising process are the maintenance of current infrastructure built during the first phase, and, most important, the abatement of the so-called non-physical barriers that are severely hindering a more thorough and unbiased development. Non-physical barriers are already a major obstacle when they are still confined within national boundaries, but they become a serious threat to the stability of the whole region when they come to influence the bilateral behaviour of neighbouring countries. Given the increased mobility following the gradual completion of infrastructure works, non-physical barriers become even more crucial in the hard task of tracking down intra-regional flows of any kind.

As it is with every developing area in the world, the abatement of physical barriers tends to get a higher priority in governments' agendas, particularly because it

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helps numbers to increase rapidly, thus making investors feel satisfied with their deal. Policy makers agree on this point, too. Nonetheless, the real deal is not just the construction and improvement of infrastructure, but a feasible prospect to maintain it in good conditions, and, most important, the effort put in the training of officials on the adoption of new procedures. This paper firstly looks at the current state of things with regard to existing linkages within the GMS, the rationale behind them, their advancement, and their constraints within the framework of the ADB's Cross-Border Transport Agreement (CBTA). With this background picture, it investigates deeper into the reaction that such linkages have ignited among locals as well as the expectations they have or have not met with their developers. Witnessing to the people is the overarching goal of this study. Peoples are directly touched by changes and their reaction is the very first and most inspiring step towards adjustment, because it will eventually reach the top of a country's hierarchy and will make history.

2. METHODOLOGY

Risks

Whenever dealing with sensitive issues, it is always an undertaking that implies certain risks. A part from obvious difficulties deriving from unstable conditions in the places where research is being conducted, there is a much heavier responsibility in delivering results as unbiased as it is possible. This issue is of particular relevance in the Greater Mekong Subregion, where changes are occurring quickly and have implications that go well beyond national boundaries. We cannot even be sure of the accuracy of official statistics, and contradicting data are all but uncommon. The key to success in this kind of study is that of carrying out extensive research on site, visiting the places concerned more than just once and at different times of the year and, most important, getting there every time through different sponsors so as to become aware of the undeniable multiplicity of situations and points of view of possibly all of the parties involved. The importance of raw data is fundamental, as challenging is its collection, particularly for observers from outside. Moreover, based on the results of a well-proven method used during the years, the amount of raw data should be at least equivalent to three times that of official statistics. In order to achieve this goal and maintain high standards of feasibility, a meticulous planning phase is indispensable.

Planning

As stated towards the end of the introduction here above, the aim of this paper is that of witnessing to the current condition of border areas within the GMS. That implies an analysis of exchanges occurring across the frontiers as well as movements and changes in local livelihood systems of the zones adjacent to the check-points. Considering factors such as the extension of the area and the unequal distribution of the population, the need to narrow down the scope of the study can be easily understood. What gives width to this effort is the

criterion used in deciding what to take and what to leave aside. To such regard, there are several issues that have been considered during this planning phase. The most decisive one was the importance shown by the adoption of the Cross-Border Transport Agreement (CBTA) in 2003. Propounded and largely founded by the ADB, this agreement aimed at easing flows transiting across the GMS borders, and through the years, it has been signed by all of the GMS members. Within the framework set by the CBTA, a transition between mere transport corridors into economic corridors has taken place, fostering an all-field development along some of the major arteries that crisscross the sub-region. The border check-points along such corridors and their adjacent areas are the places where the scope of this study has been narrowed down to. [Fig.1] The reason for this decision is simple. Cross-border activities around such areas have been increasing at an unprecedented pace. Moreover, new procedures are being experimented there under the implementation phase of the CBTA. In other words, such places are forerunner points where future cross-border regulations will be modelled upon, thus it is of fundamental importance to analyse the impact that new behaviours and trends have on economic outcomes as well as on social, institutional, and generational processes.



Fig.1 Main economic corridors and considered check-points

Data Processing and Analysis

Most of the data collected during fieldwork activities are raw data. It should be mentioned at this point that this

study is only part of a much bigger project, which also covers official statistics and findings of the last five years. However, this paper concentrates mostly on trends and impressions based on raw data collected during a time span of three years (2008-2010), because its aim is not that of supporting statistical numbers or policy issues, but that of providing some evidence for new behaviours of people crossing the GMS internal borders. A close and continuous connection with local people has been maintained and in many cases a direct collaboration provided for a huge amount of invaluable information, particularly about the way ordinary people manage to cross the borders without entering the sphere of illegality.

Considering the different levels of development, the conformation of the land, varying concentrations of cross-border flows, alongside unifying regionalising efforts, the GMS internal borders present close similarities as well as abyssal differences. In the wake of the creation of a seamless community, where laws and procedures are eventually meant to be uniformly applied, the analysis of the findings gathered within this study tries to shed some light on how people react to the new procedures that are being adopted. The results of this analysis will show how surprisingly similar behaviours are predominant, even when observed in places distant hundreds of miles from one another.

3. RESULTS AND DISCUSSION

The results of the project to which this study belongs are diversified in nature. They span from custom procedures to intra-regional migration and cross-border trade, although they focus on the reaction of local people to the creation and implementation of intra-regional routes, the so-called economic corridors. As far as this paper is concerned, the results that will be discussed hereafter are limited to four, and have been selected in order to provide the reader with an overall picture of the direction which the sub-region is moving towards. In particular, the intention is to show that, whereas rarely the expectations of the governments reflect those of the people, the latter's ability to adapt usually minimise the counter effects of top-down enforced policies.

In particular, the process that has been examined here was set in motion by the commitment of the GMS members, largely supported by the international community, to implement the second phase of the regionalising effort by starting to abate the so-called non-physical barriers, i.e. procedural and institutional flaws that hinder smooth exchanges among neighbouring countries.

The Raw Law

Movements along the borders between two or more sovereign countries have been historically regulated by the customary law. This kind of law is at the top of the formal scale of the laws promulgated by a state, after statutes and regulations. As such, in order to become operational it has to go through a strict process that even in the most developed countries may take quite a long time. In the past, changes were somewhat lazier than

they are in our times, so legislators had more time in their hands to handle them. With the coming of globalisation and the liberalisation of markets (including labour markets), countries had to care not only of changes occurring within their boundaries, but more and more of things happening around them. Hence the birth is the so-called raw law. Raw law is a quite new term and indicates a group of regulations that can be categorised neither as customary law nor as consuetudinary law. It is not customary because it is not directly formulated by the central government of a country, and it is not consuetudinary because it is not only oral, but written, and can be implemented and treated as the official law. In fact, raw law stands for those regulations and procedures that are thought of by the local governments and handed over to the central governments, in order to quickly respond to new occurrences and necessities that cannot wait for the entire legislative process needed in the case of the customary law, not to mention statutes and regulations. The adoption of the raw law is then limited to those particular areas, although it can be referred to by other local governments that are in the same situation. The raw law has become increasingly common particularly along the economic corridors. Therefore, north-south, east-west as well as movements in the Mekong Delta region are all subject to a gradual adoption of this new system, under the guidelines of ADB's CBTA. Nonetheless, the raw law is not yet everywhere officially recognised nor applied, because if it might turn out to be very useful, officials are not yet used to it, nor are they getting precise and standardised guidelines as for how to enforce it. This is easily explained by the fact that the raw law is applied, as stated above, to rapidly changing locations, i.e. border areas, thus cross-border movements of both people and goods are directly affected by its implementation. No authoritative institution can currently impose to the GMS sovereign states the adoption of the raw law, hence the only way to persuade them of its real benefits is by maximising the results at specific fore-runner locations. The following sections give practical examples of how the raw law is being applied with regard to cross-border movements along some major check-points and their adjacent areas as indicated in Figure 1.

Crossing the borders

The raw law is specifically meant to ease the otherwise time-consuming process of crossing a frontier. When talking about the Greater Mekong Subregion we shall keep in mind that, although past historical events have created frictions among neighbours that have exacerbated some tensions along their boundaries, the peoples dwelling those very territories have found themselves split between two or more countries, whilst often belonging to the same village or ethnic group. Spontaneous exchanges are nothing new in the sub-region. People have always moved for trade, labour, religion, and personal reasons for many centuries. From an anthropological point of view, there is an interesting theory that may be well applied here. It is about the contraposition of the concepts licit/illicit and legal/illegal. It is every government's duty to establish

what is legal and what is illegal within the boundaries of its state. And this is concretely empowered by the promulgation and application of the law. The same might not be said for the concept of licit/illicit. Peoples around the world have very different ideas of what is licit and what is illicit, this being based on historical, cultural, religious, and habitual grounds.

That said, this in no way means that people around the world have the right to do as they wish as long as they consider it licit. What is being said here is that throughout the years, governments have kept adjusting their regulations to the characteristics of their peoples. By doing so, countries may have become closer at times, distant at others. The GMS members have experienced a turbulent past. What the international community is trying to do with its co-operation programmes is to bring the countries and its peoples close again, by smoothening institutional differences and levelling up development gaps. One of the best ways to start doing this is to look at the frontiers and how things are dealt with there. Till not many years ago, in 2005, when this project was initiated, spending up to several hours to clear a busy check-point was the rule. That happened because custom controls were lazy, lacked efficiency and carried out fractionally and at different places. After 2005 and the initial implementation phase of the CBTA, things started to slowly but steadily change. In particular, new procedures to regulate temporary flows of people and goods across the borders started to be implemented.

One of such procedures is the adoption of temporary border passes granted to individuals crossing the frontier for a limited period of time and with the limitation of movement only within a pre-determined area around the check-point. Although there are other restrictions in the use of such permits, the innovative aspect is that they are directly issued by local custom authorities and they do not need heavy documentation upon their application. They are extremely useful for people who cross the borders daily and this new system dramatically boosts local business and the development of border areas. Temporary border passes are already in use at many busy check-points and they are becoming quickly popular (particularly after tourists were allowed to request them, too).

Another procedure that has been implemented concerns the movement of goods. It has as its ultimate goal the establishment of single-stop custom inspections, meaning that custom officials from both sides carry out their duties simultaneously and at nearby stations, thus dramatically quickening the transit through the gates.

In this scenario, gates for people and gates for goods are nearby, but not in the same place, in order not to create delays and for practical managerial reasons. The adoption of temporary border passes for people and improved custom inspections for goods has caused exchanges to increase rapidly. That has spurred the development of adjacent areas, now bustling with a myriad of newly established small businesses, there to satisfy a greater demand of services for people who cross the borders. In this regard, the adoption of the raw law has proved to be rather successful.

Tracking down intra-regional flows

Improved overall conditions and the adoption of the raw law as explained above have dramatically caused movements across borders to boom.

In the case of goods, statistics show that import-export figures for the considered check-points have more than quadrupled in the last ten years [1]-[6]. This is partly due to quite a large number of infrastructure works that have been built during the past decades and that coincide with the transport corridors mentioned earlier in the paper. Particularly along the borders between China and the rest of the GMS countries, the prevalence of mountains and weather-sensitive roads have meant days spent on poor but heavily trafficked routes. Many small and medium enterprises could not afford the costs to endeavour in such trips, thus resorted to other market solutions. All-weather roads and renewed routes have made it affordable to almost everybody. So recent years have seen an increased participation of businesses not headquartered in border areas, followed by a significant expansion of the market sector. Hence, there became apparent the need to extend custom controls further inland, in order to avoid overloading the still inadequate gates. At the moment of writing, most of the GMS countries have control gates spread over their territory. Also called in-land check-points and belonging to the raw law framework, they are a useful tool to keep track of moving goods. This dramatically speeds up controls at the frontier and is a more efficient measure to track down illegal movements and irregularities as well.

As far as the movement of people is concerned, it becomes a little more troublesome. People are less traceable than goods, partly because they move more quickly, and partly because they might not move grouped. Migrants have always preferred unofficial, less beaten tracks. This study has found how this trend has recently shown minor yet significant changes.

Increased interconnectivity and improved infrastructure have stimulated the growth of the service sector, in particular way that related to intra-regional activities. Travel agencies, transport companies, places providing accommodation and board, hospitals as well as offices providing assistance for cross-border procedures have made their appearance and have soon proved successful. In sharp contrast with past trends, this study has found out that migrants increasingly resort to middlemen when planning their journeys. [Fig 2]

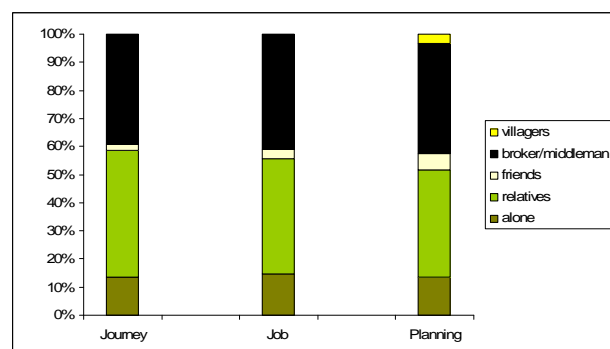


Fig.2 The role of social networks in migration.

Although this new figure is undoubtedly useful, brokers do not always share their clients' interests, and inexperienced people often end up being trafficked and eventually exploited, with none of the guarantees they had paid for. Moreover, the raw law, which, as explained earlier in the paper, eases the way people cross borders, is applied almost at the same check-points, further inviting migrants to choose those routes.

After such considerations, it might well be said that the appearance of the raw law and its application have caused a chain-reaction that not only has boosted the development of border areas, but has improved the efficiency of intra-regional flows, too, and although we are at the very early stages of the process, good deeds can already be seen. At the same time, an approximate application of such new procedures and loose controls can equally spur the proliferation of negative trends and consequences. This last issue might well be said to be the greatest challenge that the GMS countries are currently called to address, and from their response depends the future of sub-regional integration in mainland Southeast Asia.

Constraints and Challenges

Every law has a loophole. It could not be more appropriate for the GMS, indeed. In the case of the sub-region, many an external actor has and is participating in the development process. Many projects are funded and oftentimes directed by external agencies, and most of the training activities are delivered by foreign institutions. All of this inevitably leads to a substantial lack of uniformity among recipients. Although there are a great number of constraints currently afflicting the sub-region, this paper looks at those most related to the findings herewith introduced.

A trend that is becoming noteworthy regards the movement of goods and the reaction that import-export companies have shown towards the adoption of the raw law. In the very proximity of cross-border check-points where the new procedures are being applied, a number of illegal crossings have made their appearance. The load of these gates is such that is rather impossible for them to remain unnoticed. Nevertheless, local authorities do not seem to be much worried about them. So why does it happen? Well, when economists talk about relaxed trade tariffs and free trade agreements, it is usually something politicians have agreed upon on mutual grounds. In the case of the GMS, the six member economies do by no means share the same level of economic development, thus whilst there actually is a will to foster growth through preferential agreements, these do not always reflect the real needs of the economy. Hence, quotas established by the governments do not always represent the real demand/offer numbers set by a still volatile market. What is happening in the GMS is clear. Export licences of a country do not match with import licences of the partner country. The gap is so wide and the need to export and/or import is so strong that a whole parallel market has taken shape in recent years. This problem is widespread and will not be considered for analysis here. What interests this study is the fact that this surplus is being channelled through those informal gates that have

been mushrooming near the official gates. Moreover, both parties understand that the products been exchanged are necessary for their local economies (mostly construction materials, appliances, non-processed produce, and gasoline) and just let it be.

Another noteworthy trend that could be observed regards the crossings of people, particularly migrants. Again, migration in the GMS is a topic of huge importance and vastness to be sufficiently covered here. This study has shown how the adoption of the raw law has somehow influenced the way migrants move. In particular, it could be noticed that some people have started using the temporary border permits as a *lasseiz-passer*, an easier way to skip lengthy formalities and find one's way once on the other side. There are innumerable tricks to find a good reason for not being able to go back once passed the frontier, and here, again, the role of the broker becomes the key to success. The governments of some of the GMS countries have already become aware of this new kind of migration flows, and have thus established repatriation programmes aimed at literally deporting people back to their country of origin [7]. The issue is that this mechanism works if migrants are caught within a relatively short period of time. If not, they are likely to settle in, find a job, apply for a working permit and earn the right to stay. This is reflected by the fact that many migrants settle in areas relatively close to the frontier (which does not require long journeys) and work in agriculture (which does not require complex applications or specific qualifications) [8]. A way that has proven to be useful in tracking this kind of migrants is to keep record of their remittances, i.e. a percentage of the money they earn with their jobs that they almost regularly send back home [9]-[10]. Moreover, by cross-checking remittances, border passes and services delivered by the brokers we can obtain, within a little margin of error, the number of people that have crossed the frontier taking advantage of this new situation.

4. CONCLUSION

The aim of this study was that of showing how things have rapidly changed in the sub-region and how its peoples have equally adapted to the new situation. Moreover, a new trend could be observed. Whereas in the past people usually adapted to new circumstances in order to survive and/or defend their own cultural identities, the GMS of nowadays is being heavily influenced by globalising trends, and its peoples are easily attracted by profits. In the cases considered in this paper, the appearance of the raw law and of special economic zones along the borders and the eagerness of foreign investors to make their own profits risk to spoil local business towards inappropriate behaviours. Local awareness is still low, and however everybody talks about fostering the participatory process to include the local communities, times may not be that ripe in some cases. Awareness-raising activities are still insufficient and carried out not uniformly. In still too many cases, alas, sovereignty issues are still uppermost and governments are not willing to share too much. On the other side of the same coin, some local communities

have shown different levels of mistrust and fear of getting too much involved; because they are often aware that the guarantees they are being given might not be honoured [11].

The good news is that gradually, but steadily, the efforts of the international community are reaching out to more and more people every day, and the effects of a rapid globalisation cannot but help. Keeping intact and operational what has been built is understandably important, although the real challenge of our times is to instruct locals in an as unbiased as harmonised way as possible. To strive for a sincere co-operation is each and every government's responsibility; to strive for the improvement of peoples around the world is everybody's responsibility.

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