

E C O N O M I C C O M M I S S I O N F O R E U R O P E

Convention on the Protection and Use of Transboundary Watercourses and International Lakes

# River basin commissions and other institutions for transboundary water cooperation

## Capacity for Water Cooperation

in Eastern Europe, Caucasus and Central Asia



UNITED NATIONS

**ECONOMIC COMMISSION FOR EUROPE**  
**Convention on the Protection and Use of Transboundary Watercourses**  
**and International Lakes**

**RIVER BASIN COMMISSIONS AND**  
**OTHER INSTITUTIONS**  
**FOR TRANSBOUNDARY WATER COOPERATION**

**Capacity for Water Cooperation**  
**in Eastern Europe, Caucasus and Central Asia**



UNITED NATIONS  
New York and Geneva, 2009

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## FOREWORD

The Johannesburg Plan of Implementation, adopted at the World Summit on Sustainable Development in 2002, recognizes that effective institutional frameworks are key to fully implementing Agenda 21 and to meeting sustainable development challenges. Strong institutional cooperation between countries lies at the heart of the 1992 UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention).

Across the UNECE region, countries are engaging in a growing number of multilateral and bilateral agreements to regulate the use and protection of transboundary waters. To ensure their effective implementation, governments are establishing joint bodies for transboundary water cooperation that serve both as forums and tools for enriching dialogue and decision-making. Existing joint bodies take a variety of forms, cover many areas and offer a wide range of experiences with regard to institutional mechanisms and organizational structures. These experiences are very useful to support efforts to establish or strengthen transboundary water cooperation in Eastern Europe, Caucasus and Central Asia (EECCA). While a prerequisite to effective cooperation is political will, it is also important to ensure that the joint bodies involving EECCA countries enjoy, from the onset, the right structures and mechanisms to effectively address their tasks.

*River basin commissions and other institutions for transboundary water cooperation* aims to respond to this need by analysing the organization and activities of joint bodies both in the region and globally, and by identifying best practices for institutional cooperation. The publication delves into such challenging issues as financial mechanisms, cooperation with national authorities, implementing decisions, and means for the public to participate in joint bodies' activities. Numerous examples from existing agreements and joint bodies complement the text, which offers recommendations for improving the performance of existing joint bodies as well as supporting new agreements and new joint bodies involving EECCA countries. This should serve as an incentive for EECCA countries to work together more closely. It should also catalyse international action to support new initiatives of riparian States in the EECCA region.

I trust that this publication will help all those working on transboundary waters – officials at all levels of government, international organizations, non-governmental organizations and other stakeholders – in their efforts to build and improve institutional cooperation, with the aim of achieving sustainable use of transboundary waters in Eastern Europe, Caucasus and Central Asia, and beyond.



Ján Kubiš  
Executive Secretary  
United Nations Economic Commission for Europe



## PREFACE

The Capacity for Water Cooperation (CWC) project aims to strengthen the capacity of transboundary water management in countries in Eastern Europe, Caucasus and Central Asia (EECCA). It is part of the work programme of the UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention). The project's objectives are to create a framework that enables cross-fertilization and the exchange of experience between river basins and countries regarding regulatory, institutional and methodological aspects of integrated management of transboundary waters, and to make available valuable experience from other parts of the UNECE region. The CWC project is working to establish a network of EECCA experts involved in transboundary water management.

A draft of this publication was developed to stimulate discussions at the CWC workshop, "River basin commissions and other institutions for transboundary water cooperation" (Almaty, Kazakhstan, 23–25 October 2007). This workshop was co-organized by the United Nations Economic Commission for Europe, the United Nations Development Programme (UNDP) and the Organization for Security and Co-operation in Europe (OSCE). This publication was finalized on the basis of the discussions at the workshop. It was prepared by Ms. Iulia Trombitcaia of the European ECO-Forum and Ms. Francesca Bernardini, Ms. Sonja Koepfel and Mr. Bo Libert of the UNECE secretariat.

The following individuals contributed their time and knowledge to comment on this publication: Ms. Heide Jekel, Federal Ministry for the Environment, Nature Conservation and Nuclear Safety of Germany; Ms. Ana Drapa, Ministry of Environment and Sustainable Development of Romania; Ms. Saba Nordstrom, OSCE; Mr. Juerg Staudenmann, UNDP; Mr. Yuri Steklov, consultant; Mr. Mikhail Kalinin, Central Research Institute for Complex Use of Water Resources of Belarus; Mr. Volodymyr Bilokon, UNDP-Global Environment Facility and Dnipro Basin Environment Programme; and Ms. Natalya Alekseeva, Peipsi Center for Transboundary Cooperation.

Special thanks are extended to the representatives of joint bodies who made a valuable contribution to the Almaty workshop, namely: Mr. Jean-Marie Ries, International Commissions for the Protection of Mosel and Saar Against Pollution; Mr. Dragan Zeljko, International Sava River Basin Commission; Mr. Dumitru Drumea, International Commission for the Protection of the Danube River; Mr. Viktor Dukhovny, Scientific-Information Centre, Inter-State Commission for Water Coordination of Central Asia; Mr. Baratali Koshmatov, Co-Chair, Commission of the Republic of Kazakhstan and the Kyrgyz Republic on the Use of Water Management Facilities of Intergovernmental Status on the Rivers Chu and Talas; and Mr. Mavlon Kazakov, International Fund for Saving the Aral Sea.

This publication analyses structures and activities of joint bodies and presents recommendations for developing cooperation and establishing and improving joint bodies in EECCA countries. It focuses particularly on aspects where existing joint bodies in EECCA countries could improve their activities by strengthening institutional mechanisms. It describes major challenges and perspectives for cooperation in specific river basins. This publication is important for those initiating joint efforts between riparian States as well as representatives of existing joint bodies. It also aims to provide information and food for thought to international organizations, decision makers and policymakers, non-governmental organizations and other stakeholders.



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## LIST OF ACRONYMS AND SHORT TITLES

|                        |  |
|------------------------|--|
| ADB                    | Asian Development Bank   |
| CEE                    | Central and Eastern Europe   |
| Chu-Talas Commission   | Commission of the Republic of Kazakhstan and the Kyrgyz Republic on the Use of Water Management Facilities of Intergovernmental Status on the Rivers Chu and Talas |
| CWC                    | Capacity for Water Cooperation in Eastern Europe, Caucasus and Central Asia  |
| EECCA                  | Eastern Europe, Caucasus and Central Asia  |
| ENVSEC                 | Environment and Security Initiative  |
| ESCAP                  | Economic and Social Commission for Asia and the Pacific  |
| EU                     | European Union   |
| GEF                    | Global Environmental Facility  |
| ICPDR                  | International Commission for the Protection of the Danube River  |
| ICPR                   | International Commission for the Protection of the Rhine   |
| ICWC                   | Interstate Commission for Water Coordination of Central Asia   |
| IFAS                   | International Fund for Saving the Aral Sea   |
| ILA                    | International Law Association  |
| IWRM                   | Integrated water resources management  |
| Mosel-Saar Commissions | International Commissions for the Protection of Mosel and Saar against Pollution   |
| NGO                    | Non-governmental organization  |
| Oder Commission        | International Commission for the Protection of the Oder against Pollution  |
| OSCE                   | Organization for Security and Cooperation in Europe  |
| Sava Commission        | International Sava River Basin Commission  |
| UNDP                   | United Nations Development Programme   |
| UNECE                  | United Nations Economic Commission for Europe  |

UNEP

United Nations Environmental Programme

USAID

United States Agency for International Development

WFD

Water Framework Directive

## EXECUTIVE SUMMARY

Since the early 1990s, all of the countries in Eastern Europe, Caucasus and Central Asia (EECCA) have taken measures to establish transboundary water cooperation. Many have joined international conventions and agreements in this area and/or have entered into new bilateral and multilateral agreements and established joint bodies to facilitate transboundary water cooperation. Efforts to develop new agreements and joint bodies in EECCA are occurring in several basins. However, a number of transboundary water bodies in EECCA countries are not covered by agreements, and in some cases existing agreements and joint bodies do not effectively address current challenges. This publication is intended to facilitate the establishment and improve efficiency of joint bodies in the region.

The UNECE Convention on the Protection and Use of Transboundary Rivers and International Lakes of 1992 (hereinafter, the Water Convention) is a unique international framework agreement that places a significant emphasis on institutional cooperation between countries. The conclusion and/or revision of bilateral or multilateral agreements and establishment of joint bodies are mandatory for the Parties of this Convention. Seven EECCA States number among the 36 Parties of the Convention.

There are three major types of institutional arrangements for inter-State agreements on transboundary waters: (a) without designation of an institution to implement the agreement; (b) the appointment of plenipotentiaries (governmental representatives); and (c) the establishment of a joint commission responsible for the implementation of the agreement. Joint commissions clearly prevail in international practice, while plenipotentiaries are mostly present in agreements in Central and Eastern Europe (CEE) and EECCA, and are most common for agreements on boundary waters. However, in the agreements concluded since the early 1990s by or with participation of EECCA countries, the institution of plenipotentiaries no longer prevails.

In general, the institution of plenipotentiaries is institutionally weaker than that of the joint commissions. However, in the agreements which provide for plenipotentiaries, concluded since the early 1990s, there is a trend for strengthening of this institution.

Depending on their scope of application, watercourse agreements and joint bodies can be divided into those covering an entire basin of a transboundary watercourse, part of a basin, only boundary waters, or cooperation within a particular project, programme or use of a transboundary watercourse. There is a clear trend in the international practice towards concluding watercourse agreements with the participation of all riparian States to implement the basin approach and ensure the application of integrated water resources management (IWRM). Despite the requirement of the Water Convention to define waters in watercourse agreements, many agreements with participation of EECCA countries do not specify the waters to which they apply.

With time, the competence of joint bodies has significantly expanded to include new areas and an increasing environmental mandate. The functions and tasks of joint bodies became comprehensive and diverse to enable joint bodies and riparian States to implement the basin approach and the principles of IWRM. These functions include: (a) the coordination and advisory function; (b) the executive function; and (c) control of implementation and dispute settlement function. The functions of joint bodies are further detailed in the tasks they are entrusted with in the relevant agreements. The Water Convention lists the minimum tasks that

joint bodies established under the Convention shall be entrusted with. In practice, the mandates of many individual joint bodies also include many additional tasks.

The organizational structure is the most obvious characteristic distinguishing plenipotentiaries and joint commissions. The plenipotentiaries have a relatively simple organizational structure, whereas joint commissions usually have a more developed structure. Joint commissions most commonly include a decision-making body (or bodies), executive bodies, and working or subsidiary bodies. The organizational structure of joint commissions may include such elements as, inter alia, a conference of the Parties, plenary of the commission, delegations of Parties, a body comprised of heads of delegations, a chairperson of the commission, a secretariat, working groups, expert groups, an auditing commission, a consultative group of donors, an information centre, a training centre, national offices of the joint body, and observers. Despite the diversity of organizational structures among joint commissions, it is important for the commissions to have, in addition to the decision-making bodies, executive and working bodies, so as to ensure continuity and consistency of activities as well as implementation of decisions.

Much expertise and best practice has been gathered through joint commissions in Europe and worldwide regarding the institutional aspects of the establishment and work of joint bodies, in particular concerning rules of procedure, principles and procedures of decision-making, arrangements for the secretariat, and regulation of legal personality. Joint commissions have developed mechanisms to ensure public participation, such as observer status, working groups for cooperation with non-governmental organizations (NGOs) and other stakeholders, stakeholder conferences, etc.

A number of financial mechanisms have been developed to finance not only the costs of meetings and regular monitoring but also implementation of joint programmes and support of a joint body's organizational structure, including secretariat's costs. Whereas contributions of riparian Parties are usually the main budget source, some joint commissions have experience in creating reserve funds, establishing partnerships with the private sector, attracting donor support or establishing financial funds.

A number of mechanisms to ensure cooperation between river and sea commissions as well as between river commissions in the same catchment area have been developed. These mechanisms include granting observer status, signing agreements or memoranda on cooperation, setting up joint working groups or task forces, as well as implementing joint projects.

Implementation of a joint body's decisions is possible only through cooperation between the joint body and national authorities of participating countries. Such cooperation may be ensured through appropriate representation in the joint body of national authorities, ministries and agencies responsible for water management and protection, at a high political level. Such cooperation is strengthened by clear reporting mechanisms. The appointment by participating countries of competent authorities responsible for implementation, or the creation by the joint body of additional structures at the national level, represent other ways to strengthen implementation.

No single existing joint body should be considered as a definite model, since joint bodies are established in relation to specific waters to address particular tasks in the contexts of differing political, economic and social conditions. At the same time, there are certain principles which can increase joint bodies' efficiency and contribute to improving cooperation. These include

broad competences of the joint body to allow for IWRM implementation, clearly defined powers and an organizational structure that allows for developing and adopting decisions as well as implementing them. Such principles also include effective mechanisms for cooperation between the joint body and the national authorities, clear reporting mechanisms, availability of financing to support joint programmes and the organizational structure, and mechanisms to promote public participation and stakeholder involvement in the activity of a joint body. It is important to define waters subject to cooperation in accordance with the basin approach and to ensure participation of all basin countries in a joint body. The conclusion of bilateral agreements and establishment of bilateral joint bodies is important, but should not be regarded as a substitute to cooperation on the entire transboundary basin(s).

Many existing joint bodies in EECCA countries could improve their activities by strengthening institutional mechanisms. This would imply:

- Achieving better representation of national authorities in the joint body and improving coordination at the national level;
- Eliciting greater financial commitments by riparian States to cover implementation of joint programs and expenses of organizational structure;
- Establishing executive and working organs (at least, small but permanent secretariats);
- Introducing mechanisms for public participation and access to information;
- Developing clear reporting requirements.

In addition, fostering technological innovation and working closely with the private sector can contribute to efficient cooperation.

Efforts aimed at reaching new agreements and establishing new joint bodies between or with participation of the EECCA countries can start by promoting joint activities of national authorities of riparian States on technical issues or in specific areas of cooperation, as well as from joint activities of NGOs and other stakeholders. International organizations can offer valuable expertise and become neutral facilitators of the dialogue between the riparian States. Existing joint bodies may offer wide expertise with regard to organizational structure and mechanisms.



## INTRODUCTION

After the break-up of the former Soviet Union and the emergence of the independent States in its territory, many internal problems connected with use, distribution and protection of water resources have acquired transboundary character. Since the early 1990s, to a greater or lesser extent all countries in Eastern Europe, Caucasus and Central Asia (EECCA)<sup>1</sup> have taken measures to establish transboundary cooperation in use and protection of water resources. Many have joined international conventions and agreements in this area and entered into new bilateral and multilateral agreements on transboundary waters which have provided for, among other measures, the establishment of joint bodies.<sup>2</sup>

**Table 1. Intergovernmental transboundary waters agreements concluded with participation of EECCA countries from the beginning of the 1990s, and the relevant joint bodies<sup>3</sup>**

| No. | Title and date of signature   | Joint body   |
|-----|---|--|
| 1.  | Agreement between the Government of Ukraine and the Government of the Russian Federation Concerning the Joint Use and Protection of Transboundary Waters (1992)   | Plenipotentiaries  |
| 2.  | Agreement between the Government of the Russian Federation and the Government of the Republic of Kazakhstan Concerning the Joint Use and Protection of Transboundary Waters (1992)  | Joint commission   |
| 3.  | Agreement between the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Uzbekistan, the Republic of Tajikistan and Turkmenistan on Cooperation in Joint Management of Use and Protection of Water Resources of Interstate Sources (1992) | Interstate Commission for Water Coordination of Central Asia |
| 4.  | Agreement between the Government of the Republic of Moldova and the Government of Ukraine on Joint Use and Protection of Transboundary Waters (1994)  | Plenipotentiaries  |
| 5.  | Agreement between the Government of Ukraine and the Government of Slovak Republic on the Questions of Water Management in Frontier Waters (1994)  | Joint commission   |
| 6.  | Agreement between the Government of the Russian Federation and the Government of the People's Republic of China Concerning Protection, Regulation and Reproduction of Living Water Resources in Frontier Waters of Rivers Amur and Ussury (1994)    | Earlier established mixed commission                         |
| 7.  | Agreement between the Government of the Russian Federation and the Government of the Republic of Estonia Concerning Cooperation in Protection and Use of Fish Resources in Chudskoye, Teoploye and Pskovskoye Lakes (1994)                          | Intergovernmental Commission on Fisheries                    |
| 8.  | Convention on Cooperation for the Protection and Sustainable Use of the Danube River (1994)   | Joint commission   |
| 9.  | Agreement between the Government of the Russian Federation and the Government of Mongolia on the Protection and Use of Transboundary Waters (1995)  | Plenipotentiaries  |
| 10. | Agreement between the Government of the Republic of Uzbekistan and the Government of Turkmenistan Concerning Cooperation on Water Management Issues (1996)  | No new body established                                      |

<sup>1</sup> EECCA countries are Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Republic of Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.

<sup>2</sup> For transboundary water agreements which were in force for EECCA countries in 2002, see *Transboundary Water Cooperation. Trends in the Newly Independent States*. Water Series No. 4, ECE/MP.WAT/16. United Nations, New York and Geneva, 2006.

<sup>3</sup> Table 1 does not include general environmental protection agreements and economic cooperation agreements between or with participation of EECCA countries. Where such agreements are the only basis for cooperation of riparian States on transboundary waters, they are mentioned in the table in annex I.



| <b>No.</b> | <b>Title and date of signature</b>  | <b>Joint body</b>                |
|------------|---|----------------------------------|
| 11.        | Agreement between the Government of Ukraine and the Government of Poland on Cooperation in the Field of Water Management in Frontier Waters (1996)  | Joint commission                 |
| 12.        | Agreement between the Government of Ukraine and the Government of Hungary on the Questions of Water Management in Frontier Waters (1997)  | Plenipotentiaries                |
| 13.        | Agreement between the Government of Ukraine and the Government of Romania on Cooperation in the Field of Transboundary Water Management (1997)  | Plenipotentiaries                |
| 14.        | Agreement between the Government of the Russian Federation and the Government of the Republic of Estonia Concerning Cooperation in Protection and Rational Use of Transboundary Waters (1997)   | Joint commission                 |
| 15.        | Agreement between the Government of the Russian Federation and the Government of the People's Republic of China Concerning Guidance of Joint Economic Use of Separate Islands and Surrounding Water Areas in Frontier Rivers (1997)   | No joint body                    |
| 16.        | Agreement between the Government of the Republic of Kazakhstan, the Government of Kyrgyz Republic, the Government of the Republic of Tajikistan, and the Government of the Republic of Uzbekistan Concerning Use of Water and Energy Resources in Syrdarya River Basin (1998) | Earlier established institutions |
| 17.        | Agreement between the Government of the Republic of Kazakhstan and the Government of Kyrgyz Republic on the Use of Water Management Facilities of Intergovernmental Status on the Rivers Chu and Talas (2000)   | Commission was established later |
| 18.        | Agreement between the Government of the Republic of Belarus and the Cabinet of Ministers of Ukraine Concerning Joint Use and Protection of Transboundary Waters (2001)  | Plenipotentiaries                |
| 19.        | Agreement between the Government of the Republic of Kazakhstan and the Government of the People's Republic of China Concerning Cooperation in Use and Protection of Transboundary Rivers (2001)   | Joint commission                 |
| 20.        | Agreement between the Government of the Russian Federation and the Government of the Republic of Belarus Concerning Cooperation in Protection and Rational Use of Transboundary Waters (2002)   | Joint commission                 |
| 21.        | Agreement between the Government of Romania and the Government of the Republic of Moldova with Regard to the Cooperation in the Area of Protection of Fish Resources and the Regulating of Fishing in the Prut River and Stanca-Costesti Artificial Lake (2003)               | Joint working group              |
| 22.        | Agreement between the Government of Turkmenistan and the Government of the Islamic Republic of Iran on Joint Exploitation of Dostluk Water Reservoir (2007)   | Joint coordinating commission    |
| 23.        | Agreement between the Government of the Russian Federation and the Government of the People's Republic of China Concerning Rational Use and Protection of Transboundary Waters (2008)   | Joint commission                 |

As of 2009, several new basin agreements were under development. For example, the draft of the new agreement on the Dniester river basin between the Republic of Moldova and Ukraine was developed in the framework of an Environment and Security (ENVSEC) Initiative<sup>4</sup> project. This draft agreement provides for the establishment of a joint commission. In addition, in the framework of the United Nations Development Programme (UNDP)-Global Environment Facility (GEF) Dnipro Basin Environment Programme, a new draft agreement between Belarus, the Russian Federation and Ukraine on the Dnipro river basin was developed. This new agreement proposes the establishment of a joint commission. Draft agreements between Belarus, the Russian Federation and Latvia on the Zapadnaya Dvina/Daugava river basin and between Belarus, the Russian Federation and Lithuania on the Neman/Nemunas river basin, both establishing joint commissions, were finalized in 2003 and are going through procedures for approval in the countries. Some steps towards the establishment of a regional transboundary water commission for Kura-Aras basin will

<sup>4</sup> See [www.envsec.org](http://www.envsec.org).

possibly be taken in the framework of the USAID<sup>5</sup> South Caucasus Water Programme and of an ENVSEC project.

However, a number of transboundary water bodies in EECCA (e.g. the rivers Samur, Zeravshan and Psou) remain uncovered by agreements regulating utilization and protection of river basins. In some cases, the agreements in force are not fully implemented or do not efficiently address existing problems for various reasons, e.g. their framework character, lack of the basin approach, poorly designed institutional structures or the lack of financial resources.

With the objective of facilitating the establishment and improving the efficiency of joint bodies in EECCA, this publication provides:

- A review of the current international legal basis for the establishment of joint bodies for transboundary water cooperation;
- An analysis of mechanisms for organization and activities of joint bodies;
- Recommendations on developing cooperation, establishing and improving joint bodies in EECCA countries.

## **1. INTERNATIONAL LAW FOR THE MANAGEMENT, USE AND PROTECTION OF TRANSBOUNDARY WATERCOURSES AND THE ESTABLISHMENT OF JOINT BODIES**

The first efforts to codify the international law on non-navigational uses of transboundary watercourses were undertaken by the Institute of International Law and the International Law Association (ILA). In 1966, the latter adopted the Rules on the Uses of the Waters of International Rivers (hereinafter, the Helsinki Rules). The Helsinki Rules were not mandatory, however they were commonly acknowledged to be a reflection of existing international customary law. The Helsinki Rules fixed the principle of “reasonable and equitable utilization”. According to this principle, each basin State is entitled, within its territory, to a reasonable and equitable share in the beneficial uses of the waters of an international drainage basin. In the Helsinki Rules, the principle of “reasonable and equitable utilization” prevailed over another basic norm of the legal regime for international watercourses, the principle of “no significant harm”. The latter, as formulated in the Helsinki Rules, requires States to prevent any new form of water pollution or any increase in the degree of existing water pollution which would cause a substantial injury in the territory of a co-basin State.

In 2004, ILA adopted the Berlin Rules on Water Resources, a revision of the Helsinki and other ILA rules. The Berlin Rules present an attempt to incorporate environmental concerns and human rights in this area of law.<sup>6</sup> Among other issues, they address institutional arrangements by basin States such as “basin wide or joint agency or commission with authority to undertake the integrated management of waters of an international drainage basin” or “other joint mechanisms”.

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<sup>5</sup> United States Agency for International Development.

<sup>6</sup> The preface to the Berlin Rules acknowledges that “These Rules both express rules of law as they presently stand and, to a small extent, rules not yet binding legal obligations but which, in the judgement of the Association, are emerging as rules of customary international law”. It is not clear yet whether Governments and courts will accept the Berlin Rules as an adequate formulation of customary international law.

The Helsinki Rules established the foundation for the work of the International Law Commission that led to the adoption by the United Nations General Assembly in 1997 of the Convention on the Law of the Non-navigational Uses of International Watercourses (hereinafter, the United Nations Convention of 1997). This Convention has not yet entered into force. It confirms the principle of “equitable and reasonable utilization” and lists a number of factors to help define such utilization. The United Nations Convention of 1997 tries to achieve a balance between the two principles, by obliging States to prevent causing of significant harm to other watercourse States, and where significant harm nevertheless is caused, to take all appropriate measures to eliminate or mitigate such harm, having due regard for the principle of “equitable and reasonable utilization”.<sup>7</sup>

The United Nations Convention of 1997 encourages States to enter into new watercourse agreements in order to apply and adjust the provisions of the Convention to the characteristics and uses of a particular international watercourse or parts thereof. The Convention recommends that States consider the establishment of joint mechanisms or commissions to facilitate cooperation in the light of experience gained through cooperation in existing joint mechanisms and commissions in various regions.

Adopted in Helsinki in 1992, the UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes (hereinafter: the Water Convention) entered into force in 1996. It is a unique framework instrument that places much emphasis on and provides mechanisms for developing institutional cooperation between countries. An amendment of 2003 allows United Nations Member States outside the UNECE region to join this Convention. When this amendment comes into force, the Water Convention will increase its importance beyond a regional framework document.

As of October 2009, there were 36 Parties to the Water Convention, including the EECCA countries such as Azerbaijan, Belarus, Kazakhstan, the Republic of Moldova, the Russian Federation, Ukraine, and Uzbekistan.

The Water Convention obliges Parties to take all appropriate measures to prevent, control and reduce any transboundary impact. It requires Parties to take all appropriate measures to protect transboundary waters, to ensure that transboundary waters are used with the aim of ecologically sound and rational water management, to ensure that transboundary waters are used in a reasonable and equitable way, and to ensure conservation and restoration of ecosystems. The precautionary principle and the polluter-pays principle are among the basic principles that Parties should be guided by. In addition, the Convention includes several important concepts, such as controlling and preventing pollution at source, conducting an environmental impact assessment, and ensuring application of the best available technology.

The Water Convention includes provisions for all Parties and provisions for “Riparian Parties”, i.e. the Parties bordering the same transboundary waters. Whereas the United Nations Convention of 1997 only encourages States to conclude watercourse agreements, the Water Convention requires riparian Parties to enter into bilateral or multilateral agreements or other arrangements, or to adapt existing agreements or arrangements, so as to eliminate any contradictions with the Convention’s basic principles. According to the Water Convention, such agreements shall provide for the establishment of joint bodies. Therefore, the conclusion and/or revision of bilateral or multilateral agreements and the establishment of joint bodies are

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<sup>7</sup> For more information about the emergence and basic principles of international law in this area, see *Legal basis for cooperation in the protection and use of transboundary waters*, Capacity for Water Cooperation (CWC) Series No.1 ECE/MP.WAT/21, United Nations, New York and Geneva, 2006.

mandatory for Parties to the Convention, which considers such agreements and bodies to be a key mechanism for cooperation between riparian States.

The obligation to establish shared watercourse institutions is part of another framework document, the Revised Protocol on Shared Watercourses, adopted in 2000 in the framework of the South African Development Community. The overall objective of this Protocol includes facilitating the establishment of agreements and institutions for the management of shared watercourses.<sup>8</sup>

The European Union (EU) Water Framework Directive (WFD) of 2000<sup>9</sup> is based on inter alia, the Water Convention. Due to its requirement to identify competent authorities for international river basins, the EU WFD is an important document for the international legal regime of joint bodies. The EU WFD streamlines earlier disintegrated water policy rules and establishes a coherent framework for the protection of inland surface waters, transitional waters, coastal waters and groundwaters. The EU WFD recognizes the river basin as a main natural unit for the protection of aquatic environment and aims to implement the principles of IWRM. The Directive requires EU Member States to identify river basin districts, which may include one or more river basins, and to produce within nine years a river basin management plan and programmes of measures for each river basin district.

According to the EU WFD, a river basin covering the territory of more than one Member State is assigned to an international river basin district. In this case, Member States sharing the basin should aim at producing a single international river basin management plan. The Member States may, for this purpose, use existing structures stemming from international agreements. In order to implement this provision, many existing commissions became the platforms for coordination of the EU WFD implementation. For example, the Coordination Committee Rhine was set up in the framework of the International Commission for the Protection of the Rhine (ICPR) to coordinate the implementation of the EU WFD in the Rhine River basin district. In addition to countries participating in the ICPR, the Coordination Committee Rhine includes Austria, Belgium (Wallonia) and Liechtenstein.

The International Commission for the Protection of the Oder against Pollution (Oder Commission), the International Commission for the Protection of the Elbe, the International Commission for the Meuse/Maas, the International Commission for the Scheldt, and the International Commission for the Protection of the Danube River (ICPDR) are coordination platforms for other international river basin districts. Other joint bodies, for example, the International Commissions for the Protection of Mosel and Saar against Pollution (Mosel-Saar Commissions) and the International Sava River Basin Commission (Sava Commission), participate in the implementation of the Directive in the relevant sub-basins. Therefore, the role given by the EU WFD to joint bodies is ample evidence of the importance of existing joint commissions.

Where a river basin district extends beyond the territory of the EU, the EU WFD stipulates that a Member State shall endeavour to establish appropriate coordination with relevant non-

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<sup>8</sup> The Agreement on Basic Principles for Rational Use and Protection of Transboundary Watercourses in the Member States of the Commonwealth of Independent States is a framework document on transboundary waters of relevance for EECCA. This Agreement was concluded in 1998 and entered into force in 2002. Belarus, the Russian Federation and Tajikistan are Parties to this Agreement. The Agreement stipulates that its implementation shall be realized, inter alia, by entering into bilateral and multilateral agreements and treaties. The Agreement does not address the establishment of joint bodies.

<sup>9</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.

Member States, with the aims of achieving the EU WFD objectives throughout the river basin district and producing a single river basin management plan. Cooperation with many EECCA countries takes place in this area.

## **2. INSTITUTIONAL MECHANISMS FOR TRANSBOUNDARY WATER COOPERATION**

### **2.1. Types of institutional arrangements**

The Water Convention requires that bilateral or multilateral agreements or arrangements concluded by riparian Parties shall provide for the establishment of joint bodies. Under the Convention, a joint body means “any bilateral or multilateral commission or other appropriate institutional arrangements for cooperation between the Riparian Parties”.

In 2000, some 150 agreements on transboundary waters in the UNECE region were in force or had recently been signed.<sup>10</sup> The Transboundary Freshwater Dispute Database, a project of the Oregon State University (United States of America), includes information about 450 international, freshwater-related agreements worldwide, covering the years 1820-2007.<sup>11</sup> Within this variety of transboundary waters agreements, the following three types of institutional arrangements with regard to inter-State cooperation can be identified:

- No designation of institution to implement the agreement;
- Plenipotentiaries (governmental representatives) are appointed to facilitate the implementation of the agreement;
- A joint commission<sup>12</sup> is established to facilitate inter-State cooperation in implementation of the agreement.

### **2.2. No designation of institution to implement the agreement**

A few agreements on transboundary waters do not provide for the establishment of any body or institutional mechanism. This approach is typical for agreements which regulate a narrow area of cooperation, e.g. the Agreement between Norway and the USSR on the Utilization of Water Power on the Pasvik/Paatso River (1957), the Agreement between Norway and the USSR Concerning Water Abstraction by Norway from the Upper Reservoir of the Borisoglebsk Hydropower Plant at the Transboundary River Pasvik (1976) and the Agreement between the Government of the Russian Federation and the Government of the People’s Republic of China Concerning Guidance of Joint Economic Use of Separate Islands and Surrounding Water Areas in Frontier Rivers (1997).

Often countries enter into agreements that do not envisage any bodies or other institutional mechanisms, but subsequently realize the need to establish an institutional mechanism to streamline implementation. One example is the Amazon Cooperation Treaty, signed in 1978 by Bolivia, Brazil, Colombia, Ecuador, Guyana, Peru, Suriname and Venezuela, whose aim is to promote joint actions towards the harmonious development of the Amazon Basin. In 1995,

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<sup>10</sup> Water Management: Guidance on Public Participation and Compliance with Agreements, UNECE/UNEP 2000.

<sup>11</sup> Transboundary Freshwater Dispute Database, a project of the Oregon State University <http://www.transboundarywaters.orst.edu/>.

<sup>12</sup> For the purposes of this publication, “joint commission” may include joint bodies named “committee”, “organization”, “authority”, etc.

these eight nations decided to establish the Amazon Cooperation Treaty Organization. Another example is the Nile Basin Initiative, begun in 1992. In 2007, negotiations resulted in the Nile River Basin Cooperative Framework Agreement, which calls for the establishment of a permanent Nile River Basin Commission.

### **2.3. The institution of plenipotentiaries compared with that of joint commissions**

In international practice, the institution of joint commissions clearly prevails over the institution of plenipotentiaries.<sup>13</sup> The institution of plenipotentiaries is common mainly for the agreements in CEE and EECCA. The appointment of plenipotentiaries was typical of agreements between the USSR and neighbouring countries,<sup>14</sup> and for agreements between the socialist States of CEE.<sup>15</sup> However, the USSR also entered into agreements providing for the establishment of joint commissions, e.g. the Agreement between USSR and Finland Concerning Frontier Water Systems of 1964.

The institution of plenipotentiaries is common in agreements dating from the beginning of the 1990s involving EECCA countries (see agreements 1, 4, 9, 12, 13, 18 in table 1). Today, however, plenipotentiaries no longer prevail in EECCA. A number of agreements involving EECCA States provide for the establishment of joint commissions (see agreements 2, 3, 5, 7, 8, 11, 14, 19, 20, 22, 23 in table 1).

While the institution of plenipotentiaries is typical for agreements concerning boundary waters, joint commissions worldwide are mostly created to ensure the basin approach in protection and use of transboundary river basins. Both institutions may exist for the same States with partially overlapping geographical coverage. For instance, according to the Agreement between Czechoslovakia and Poland Concerning the Use of the Water Resources in Frontier Waters (1958), the Czech Republic and Poland appoint plenipotentiaries. In addition, since 1996, the Czech Republic, Germany and Poland have cooperated through the Oder Commission.

A similar situation is likely to emerge with regard to the relationships between the Republic of Moldova and Ukraine if they sign the recently drafted Agreement on Cooperation for the Protection and Sustainable Development of the Dniester River basin. The new agreement provides for the establishment of a commission and its secretariat. However, the institution of plenipotentiaries will remain effective under the Agreement of 1994 (see agreement 4 in table 1). It is important to stress that where two or more joint bodies exist in the same catchment area, the Water Convention requires them to coordinate their activities to strengthen the prevention, control and reduction of transboundary impact.

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<sup>13</sup> Actively working joint commissions include, inter alia, the commissions listed in annex II, as well as: the Russian-Estonian Commission on Protection and Rational Use of Transboundary Waters, the Russian-Estonian Intergovernmental Commission on Fisheries, Finnish-Swedish Frontier Rivers Commission, the Russian Federation-Belarus Commission on Protection and Rational Use of Transboundary Water Bodies, the Russian Federation-Kazakhstan Commission on Joint Use and Protection of Transboundary Water Bodies, the Kazakhstan-China Joint Commission on Use and Protection of Transboundary Rivers, the Permanent Indus Commission, the Indo-Bangladesh Joint Rivers Commission, the Mahakali River Commission, the Organization for the Development of the Gambia River, the Limpopo River Basin Commission, the Zambezi River Authority and the Joint Authority for the Management of the Nubian Sandstone Aquifer System.

<sup>14</sup> See, for example, the Agreement between the Government of the Polish People's Republic and the Government of the USSR Concerning the Use of Water Resources in Frontier Waters (1964).

<sup>15</sup> See, for example, the Agreement between the Government of Czechoslovak Republic and the Government of the Polish People's Republic Concerning the Use of the Water Resources in Frontier Waters (1958).

Some countries appoint the same officials to act simultaneously as plenipotentiaries for several agreements. For example, in the beginning of 2000, the Slovak Government appointed the same public official as plenipotentiary for the boundary waters agreement with Hungary and for a similar agreement with Ukraine. In the beginning of 2003, in the Russian Federation, the same public official was appointed as plenipotentiary for two agreements (see agreements 1 and 9 in table 1), as well as Chairperson of the Russian part of the Finnish-Russian Commission, Chairperson of the Russian part of the Russian Federation-Kazakhstan Commission, Co-Chairperson of the Russian-Estonian Commission and Co-Chairperson of the Russian Federation-Belarus Commission. In most cases, the plenipotentiaries still hold their positions as civil servants and must combine their plenipotentiary duties with their regular functions (e.g. as heads or deputy heads of departments in ministries or agencies). The above practice leaves plenipotentiaries with limited opportunity to learn the specifics of each basin and take them into account in their activities. It also decreases the amount of time the plenipotentiary can devote to each of the transboundary water basins he or she is responsible for. On the other hand, combining regular functions in a ministry or agency with tasks of a plenipotentiary gives a certain guarantee that decisions taken by plenipotentiaries will be taken into account at the national level. However, holding their regular positions as civil servants in water, environmental or agricultural agencies, plenipotentiaries may be inclined to assert the agency's interests in their work, which may weaken the application of IWRM.

In contrast to joint commissions, plenipotentiaries typically lack any additional staff or other organizational structure responsible for implementing the agreement and decisions taken. They also tend to lack financial resources for activities to implement the agreement. The agreements usually only describe the functions and tasks of the plenipotentiaries in general terms.

Plenipotentiaries often receive public criticism for failing to establish mechanisms to disseminate information or ensure public participation and involvement of stakeholders (e.g. NGOs, youth, women, water users' associations, business, local authorities). In contrast, close cooperation with NGOs and their participation in commissions' work, as well as wide public awareness, have become normal practice for Western European joint commissions.

The institution of plenipotentiaries is being strengthened in agreements from the early 1990s concluded by or with participation of EECCA States. This is bringing the plenipotentiary mechanism closer to that of joint commissions; in particular the joint commissions involving EECCA States. These new agreements describe in more detail the plenipotentiaries' activities and meetings, and empower them to form working groups, call upon experts and organize expert meetings (agreements 9 and 18 in table 1), as well as provide for the opportunity to have secretaries (agreements 1 and 4 in table 1). Plenipotentiaries attend their meetings as heads of delegations, and working groups established by the plenipotentiaries may be analogous to the working groups set up by joint commissions.<sup>16</sup>

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<sup>16</sup> For example, Ukraine has entered into agreements concerning cooperation on water economy issues in boundary waters with all neighbouring countries (Russian Federation (1992), the Republic of Moldova (1994), Slovakia (1994), Poland (1996), Hungary (1997), Romania (1997), and Belarus (2001)). Under the agreements with Belarus, the Republic of Moldova, Russian Federation, Romania and Hungary, the plenipotentiaries establish and overview the activities of joint working groups. The bilateral commissions, set up under the agreements with Poland and Slovakia, have established working groups as well. Therefore, in 2004, Ukrainian representatives worked in the framework of a number of working groups, including four with Belarus, three with the Republic of Moldova, six with the Russian Federation, three with Romania, three with Hungary, five with Poland, and three with Slovakia. At the same time, Ukrainian representatives did not differentiate between activities of the working groups established in the framework of bilateral commissions and working groups established by the plenipotentiaries. The working groups were often established for activities in specific basins.

The plenipotentiaries may develop detailed rules for their activities, as well as for public participation.<sup>17</sup>

### **3. MAIN FEATURES AND ACTIVITIES OF JOINT BODIES**

#### **3.1. Scope of application**

Where a watercourse agreement is concluded between States, it shall define the waters to which it applies. This is a requirement of the United Nations Convention of 1997. The Water Convention also requires the riparian Parties to specify the catchment area, or part(s) thereof, subject to cooperation.

According to their scope of application, watercourse agreements and joint bodies can be divided into those covering:

- An entire (or almost entire) basin of a transboundary watercourse
- Part of a basin
- Only boundary waters
- Cooperation within a particular project, programme or use of a transboundary watercourse.

A number of joint commissions extend their activities to the entire (or almost entire) basin of a transboundary watercourse. For example, the basin of the Danube River is the world's most international basin, as its waters run through the territories of 19 countries. Because of the basin's size and the need to ensure effective cooperation, the Convention on Cooperation for the Protection and Sustainable Use of the Danube River (1994) stipulates that only countries sharing more than 2,000 km<sup>2</sup> of the total hydrological catchment area may become Parties to the Convention. Therefore, the Parties to the Convention that participate in ICPDR activities include 14 States and the European Community. Countries which share less than 2,000 km<sup>2</sup> of the catchment area (Albania, Italy, Poland, Switzerland and the former Yugoslav Republic of Macedonia) cooperate with ICPDR on the implementation of the EU WFD.

At the same time, there are cases in which watercourse agreements and joint bodies do not cover critical parts of basins. The Mekong River Commission was established in 1995 by the agreement of the Governments of Cambodia, Lao People's Democratic Republic, Thailand and Viet Nam. China – which contributes 16 per cent of the Mekong's flow – and Myanmar do not participate in the 1995 Agreement.

There are also a number of agreements and joint bodies that cover only boundary waters. In such cases, cooperation has the additional goal of ensuring the stability of international boundaries in areas where they are formed by transboundary waters. Such bilateral agreements are quite typical for EECCA and CEE countries, as well as for others. In EECCA and CEE, such agreements often provide for the institution of the plenipotentiaries as a joint body.

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<sup>17</sup> For example, in 2006 the plenipotentiaries appointed to facilitate the implementation of the Agreement between the Republic of Moldova and Ukraine of 1994 (agreement 4 in table 1) approved three regulations: 1) flood protection at the transboundary watercourses and inner waters; 2) water-ecological monitoring and water-quality control; and 3) actions in case of emergency pollution. In 2007, these plenipotentiaries adopted a regulation on stakeholder participation.



### *Defining boundary (frontier) waters*

The definitions of waters in the boundary waters agreements vary substantially. For example, the 1994 Agreement of the Republic of Moldova and Ukraine (agreement 4 in table 1), providing for the institution of the plenipotentiaries, covers those sections of rivers and other surface watercourses that mark or are located on the border between the Contracting Parties, as well as any surface and ground waters, which cross the border. Therefore, this Agreement covers only 120 km out of the 1,500-km-long Dniester River, one of the transboundary watercourses covered by the Agreement.

The Treaty between Hungary and Austria Concerning the Regulation of Water Economy Questions in the Frontier Waters (1956) covers water bodies in the territory of either country within 6 km from the frontier.

At the same time, some agreements (e.g. the Frontier Rivers Agreement between Finland and Sweden of 1971) include a wide definition of boundary waters that form the scope of activity for joint bodies. In this case, the boundary waters are not the sections of but the entire water bodies that form the boundary or cross the boundary, as well as their tributaries.

To facilitate the implementation of the Agreement between Finland and the USSR Concerning Frontier Watercourses of 1964, frontier guards from these countries compiled a list of all transboundary watercourses between the Soviet Union and Finland. The Joint Finnish-Russian Commission approved the list in 1971. There are 20 watercourses and 448 lakes, rivers, ponds and streams.

Agreements and joint bodies that regulate cooperation within a particular project, programme or use are quite widespread in international practice. One example is the Agreement between Argentina and Uruguay Concerning the Utilization of the Rapids of the Uruguay River in the Salto Grande Area (1946). It established the Mixed Technical Commission of Salto Grande empowered to create a hydropower complex near the cities of Concordia (Argentina) and Salto (Uruguay). The Commission now deals with maintenance of the complex. Another example involves the Agreement between Kazakhstan and Kyrgyzstan on the Use of Water Management Facilities of Intergovernmental Status on the Rivers Chu and Talas (2000), and the Chu-Talas Commission that was set up afterwards. The Commission is responsible for the joint management of the water management facilities listed in the Agreement.

The United Nations Convention of 1997 attempts to prevent concluding watercourse agreements “in private”. It stresses the right of every watercourse State to participate in the negotiation of and to become a party to a watercourse agreement that applies to the entire watercourse. A watercourse State whose use of a watercourse may be affected to a significant extent by the implementation a proposed watercourse agreement that applies only to a part of the watercourse or to a particular project, programme or use is entitled to participate in consultations and, where appropriate, in the negotiation thereof with a view to becoming a party to such agreement. The United Nations Convention of 1997 allows the conclusion of an agreement with respect to an entire international watercourse or any part thereof or a particular project, programme or use except in so far as the agreement “adversely affects, to a significant extent”, the use by one or more other watercourse States of the waters of the watercourse, without their express consent.

***The trend to enter into agreements and create joint bodies  
with the participation of all riparian States***

There is a clear trend in international practice towards concluding watercourse agreements with the participation of all riparian States to implement the basin approach and ensure the application of IWRM for transboundary waters. Existing joint bodies are endeavouring to establish cooperation with States that are not participants of agreements and eventually to have all riparian States as Parties to the relevant agreement.

The Lake Chad Basin Commission was created in 1964 by the Heads of State of the four countries sharing the lake, namely Cameroon, Chad, Niger and Nigeria. In 1994, for its share of the lake basin, the Central African Republic was admitted as the fifth member of the Commission. Another example deals with the Organization for the Development of the Senegal River, which was established in 1968 by three States: Mali, Mauritania and Senegal. The fourth basin State, Guinea, did not join this new organization. Recently, a process was initiated to develop organizational and technical terms for admission of Guinea to the Organization.

The Mosel-Saar Commissions are another example of this trend. France, Germany and Luxembourg established the International Commission for the Protection of Mosel against Pollution by the 1961 Protocol to the 1956 Convention on Canalization of Mosel. The implementation of the EU WFD became an incentive for inviting Belgium – which shares 1 per cent of the Mosel basin – to participate as an observer to the Commission.

At the same time, some States resist participating in agreements on transboundary watercourses, whether framework agreements or those for specific watercourses. Turkey has signed neither the Water Convention nor the United Nations Convention of 1997. Turkey faces serious criticism for implementing large water diversion projects without consultations with Iraq and the Syrian Arab Republic. The second example is China. Its decisions on water diversion and construction of water management facilities at the Irtysh and Ili have raised concerns in neighbouring countries and the environmental community. China participates in bilateral agreements; however, the Kazakhstan-China Commission (agreement 19 in table 1) approaches the discussion of these problems with extreme caution. Attempts by Kazakhstan to involve the Russian Federation in the settlement of the situation over the Irtysh are not supported by China, which insists on the bilateral format of the negotiations.

Despite the requirement to define waters in watercourse agreements present in both the United Nations Convention of 1997 and the Water Convention, there are many agreements involving EECCA countries that do not define the waters to which they apply. In this context, the Agreement between the Russian Federation and Estonia of 1997 (agreement 14 in table 1) may be considered a positive example. The Agreement explicitly indicates that it applies to transboundary waters of the Narva River Basin, including Pskovsko-Chudskoye/Peipsi Lake.

### **3.2. Competence, functions and tasks of joint bodies**

Early agreements on transboundary watercourses that provided for the establishment of joint bodies most commonly covered one or a few areas only, predominantly navigation and trade. Over time, the competence of joint bodies has expanded to include fishing and fisheries, water allocation, irrigation, power generation, construction of water facilities and bridges, and the protection against floods. Later, the protection and use of groundwaters, measures to improve water quality, protection of ecosystems, preservation of landscape diversity and cultural

heritage, exchange of best available technology, as well as public participation became increasingly important for joint bodies.

### *Groundwaters in the competence of joint bodies*

Transboundary groundwaters are increasingly regulated by inter-State agreements and the joint bodies established by these agreements. For example, in the agreements concluded between or with participation of EECCA States from the early 1990s, groundwaters are included in the competence of some joint commissions (agreements 2, 8, 20 in table 1) and plenipotentiaries (agreements 1, 4, 9, 18 in table 1). The Agreement between the Russian Federation and Estonia of 1997 (agreement 14 in table 1) does not divide transboundary waters into surface waters and groundwaters, which allows the joint commission to deal with groundwater protection and management.

At the same time, the work of many joint bodies in the area of transboundary groundwaters is still insufficient – and this applies not only to the EECCA joint bodies. The staffs of joint bodies are often trained in the management of surface waters rather than groundwaters. Water supply from groundwaters and the licensing of water abstraction are not supervised by joint bodies.

The inventory of transboundary groundwaters in the Caucasus, Central Asia and South-Eastern Europe, done under the auspices of the Water Convention in 2007,<sup>18</sup> aims to contribute, inter alia, to the intensification of action on the management and protection of transboundary groundwaters by States and joint bodies in these subregions. In the EU Member States and neighbouring countries, implementation of the EU WFD is a driver for joint bodies to strengthen their work on transboundary groundwaters.

The competence of a great number of existing joint bodies is relatively broad. Their functions and tasks are comprehensive and diverse. This is necessary to enable joint bodies and riparian States to implement the basin approach and the principles of IWRM. The agreements providing for the establishment of joint bodies usually regulate in detail the joint bodies' functions, powers and tasks.

The following functions of joint bodies can be identified:

- **Coordination and advisory function**, which includes coordination of and assistance to riparian States in their activities to implement the agreement.
- **Executive function**, which includes direct activities of a joint body to implement the agreement.
- **Control of implementation and dispute settlement function**, which includes monitoring of implementation, reporting on implementation, and settling differences and disputes.

The functions of joint bodies are defined by their tasks and powers. According to the Water Convention, the tasks of joint bodies shall be at least the following:

- (a) To collect, compile and evaluate data in order to identify pollution sources likely to cause transboundary impact;

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<sup>18</sup> *Our Waters: Joining Hands across Borders. First Assessment of Transboundary Rivers, Lakes and Groundwaters*. ECE, United Nations, New York and Geneva, 2007.

- (b) To elaborate joint monitoring programmes concerning water quality and quantity;
- (c) To draw up inventories and exchange information on the pollution sources likely to cause transboundary impact;
- (d) To elaborate emission limits for waste water and evaluate the effectiveness of control programmes;
- (e) To elaborate joint water-quality objectives and criteria, and to propose relevant measures for maintaining and, where necessary, improving the existing water quality;
- (f) To develop concerted action programmes for the reduction of pollution loads from both point sources (e.g. municipal and industrial sources) and diffuse sources (particularly from agriculture);
- (g) To establish warning and alarm procedures;
- (h) To serve as a forum for the exchange of information on existing and planned uses of water and related installations that are likely to cause transboundary impact;
- (i) To promote cooperation and exchange of information on the best available technology, as well as to encourage cooperation in scientific research programmes;
- (j) To participate in the implementation of environmental impact assessments relating to transboundary waters, in accordance with appropriate international regulations.

***Facilitating exchange of information on the best available technology***

According to the Water Convention, the tasks of joint bodies shall include, inter alia, promoting cooperation and exchange of information on the best available technology. The Convention names several ways how Riparian Parties shall facilitate the exchange of best available technology. These ways are: the promotion of the commercial exchange of available technology; direct industrial contacts and cooperation, including joint ventures; the exchange of information and experience; and the provision of technical assistance.

A remarkable work to facilitate exchange of information on the best available technology has been done by the ICPDR. The ICPDR coordinated the development of recommendations on the best available techniques in the food industry (2000), the chemical industry (2000), the chemical pulping industry (2000), the paper making industry (2000), and at agro-industrial units (2004).

A recent example of the role a joint body can play in facilitating transfer of technology can be found in the Mekong River Commission. In 2008, this Commission opened a Regional Flood Management and Mitigation Centre in Phnom Penh, Cambodia. The Center gathers information from water monitoring systems all over the Mekong Basin. It also provides training and technology transfer to technicians of Cambodia, Lao People's Democratic Republic, Thailand and Viet Nam.

The tasks listed in the Water Convention reflect the three major functions of joint bodies. The coordination and advisory function includes tasks (a), (d), (e), (f), (h) and (i). The executive function includes tasks (b), (c), (g) and (j). The control of implementation and dispute

settlement function is partially present in task (d). At the same time, the difference between the coordination and advisory function and the executive function is sometimes not distinct and depends on the extent of participation of an individual joint body in the implementation of a certain task.

The Water Convention also provides for the tasks of joint bodies to cooperate with relevant joint bodies, established by coastal States for the protection of the marine environment, and to coordinate activities with other joint bodies in the same catchment area. It also requests Parties to conduct consultations through a joint body to develop cooperation regarding issues covered by the Convention.

To take into account the specifics and needs of a watercourse as well as purposes and priorities of States which enter into agreement and set up a joint body, the joint body may be entrusted with a wider set of tasks than those listed in the Water Convention.

In addition to the tasks listed in the Water Convention, a joint body may have for example the following tasks related to the coordination and advisory function:

- To organize exchange of hydrological forecasts (see, for example, the tasks of the Russian Federation-Kazakhstan Commission (agreement 2 in table 1));
- To coordinate the establishment of a unified information system (see, for example, the tasks of the Sava Commission);
- To draft proposals on maintenance, restoration and protection of aquatic and littoral ecosystems (see, for example, the tasks of the Oder Commission);
- To propose protective measures to prevent water pollution resulting from accidents (see, for example, the tasks of the International Commission for the Protection of the Elbe);
- To coordinate actions to prevent floods, as well as activities related to ice passage (see, for example, the tasks of the Russian Federation-Kazakhstan Commission (agreement 2 in table 1));
- To take measures to fight consequences of temporary drought (see, for example, the tasks of the Permanent Okavango River Basin Water Commission);
- To develop River Basin Management Plans (see the tasks of commissions entrusted to coordinate the implementation of the EU WFD);
- To draft proposals to improve the national legislation of riparian Parties with regard to transboundary waters (see, for example, the tasks of Russian-Estonian Commission (agreement 14 in table 1));
- To review and approve training programmes for the personnel of riparian States (see, for example, the tasks of the Joint Committee, a body of the Mekong River Commission).

In addition to the tasks listed in the UNECE Water Convention, a joint body may also have for example the following tasks related to the executive function:

- To issue permits for the construction of installations, for discharge of water and for fishing (among the tasks of the Finnish-Swedish Frontier Rivers Commission only);
- To set the regime for large water reservoirs (see, for example, the tasks of the ICWC), to decide on the use of water management facilities (see, for example, the tasks of the Chu-Talas Commission);
- To determine, in cooperation with border authorities, border-crossing procedures for personnel serving the water management facilities (see, for example, the tasks of the Chu-Talas Commission);
- To make decisions providing conditions for safe navigation (see, for example, the tasks of the Sava Commission);
- To implement environmental programmes (see, for example, the tasks of ICWC);
- To confer with donors to obtain the financial and technical support necessary for project/programme implementation (see, for example, the tasks of the Joint Committee under the Mekong River Commission).

The control of implementation and dispute settlement function may include the following tasks and powers:

- To perform a self-assessment and make recommendations concerning cooperation of Parties in accordance with the agreement (almost all joint bodies are entrusted with this task);
- To report regularly on the activities of the joint body (annually in ICPDR, ICPR, the International Commission on the Meuse/Maas, the International Commission for the Scheldt, the Sava Commission, the Mosel-Saar Commissions, the Finnish-Norwegian Transboundary Water Commission; once every two years in the Oder Commission), to report on monitoring and assessment and to provide other reports upon the request of the Parties;
- To inform the public about the state of the watercourse and about activities of the joint body (see, for example, the tasks of ICPR);
- To put forward proposals regarding the amendment of the watercourse agreement and other arrangements between the Parties (see, for example, the tasks of the Finnish-Norwegian Transboundary Water Commission);
- To facilitate the settlement of differences and disputes concerning interpretation and implementation of the agreement.

The common rule is that the joint bodies are the first institutions to discuss differences and disputes. Only in the case of a failure to settle a difference or a dispute through a joint body, should other means of dispute settlement be applied. For example, the Russian Federation-Belarus Commission (under agreement 20 in table 1) has to “facilitate the settlement of disputed questions concerning the use and protection of transboundary waters”. The Russian Federation-Kazakhstan Commission (under agreement 2 in table 1) has a similar task. Disputes concerning implementation of the Agreement not settled by this Commission shall

be settled by negotiations at the level of Governments of the Parties. The Agreement between Ukraine and the Russian Federation of 1992 (agreement 1 in table 1) entrusts the plenipotentiaries with addressing disputes concerning the interpretation and implementation of this Agreement. If the plenipotentiaries fail, the dispute should be settled by the competent authorities of the Parties. The Convention on Cooperation for the Protection and Sustainable Use of the Danube River (1994) requests Parties to seek a solution of a dispute by negotiation or by any other means of dispute settlement, “if appropriate” with assistance by ICPDR.

Disputes not settled by a joint body shall be settled by other peaceful means of dispute settlement. For example, the Framework Agreement on the Sava River Basin (2002) names such peaceful means as negotiations, good services, mediation or conciliation, a fact-finding expert committee, and referring the dispute to an arbitral tribunal or to the International Court of Justice.

The activities of the Joint Finnish-Russian Commission, established by the Agreement between the Republic of Finland and the USSR Concerning Frontier Watercourses of 1964, are a classic example of the role that a joint body can play in regulating differences. The Commission actively participated in settling the issue of compensation for the losses incurred by the Finnish hydroelectric power station Imatra due to construction of a dam and a hydroelectric power station in Svetogorsk (the Russian Federation). Consideration of this issue by the Commission allowed for reaching an intergovernmental agreement in 1972. The Commission also developed Discharge Rule of Lake Saimaa and the Vuoksi River, laid down in the intergovernmental agreement of 1989. The Discharge Rule makes it possible to change discharge volumes rapidly and flexibly. Implementation of the Discharge Rule is supervised by the Commission, to which the Parties report on implementation, discuss implications and, in some cases, agree on compensation.

The most recent examples of settlements of differences and disputes include the referral to a neutral expert by Pakistan under the Indus Waters Treaty (1960) with regard to the points of differences concerning the project of Baglihar hydroelectric plant on the Chenab River in India. The referral followed the failure of the Permanent Indus Commission to settle differences. In 2007, a Swiss expert, appointed by the World Bank after consultation with the Parties, issued an expert determination concerning the key technical characteristics of the project.

Another example is the Case Concerning Pulp Mills on the Uruguay River (Argentina v. Uruguay), under consideration by the International Court of Justice since 2006. The case was initiated by Argentina under the Statute of the River Uruguay of 1975 and relates to construction by Uruguay of two pulp mills. In July 2006, the International Court of Justice called the Parties “to implement in good faith the consultation and cooperation procedures provided for by the 1975 Statute, with CARU (the Administrative Commission of the River Uruguay) constituting the envisaged forum in this regard”.

### **3.3. Organizational structure**

Organizational structure is the most obvious characteristic that distinguishes the two major types of joint bodies, the plenipotentiaries and the joint commissions. The plenipotentiaries have a relatively simple organizational structure. For example, according to the Agreement between the Republic of Moldova and Ukraine of 1994 (agreement 4 in table 1), the Parties notify each other of the appointment of the plenipotentiary and two deputies. Meetings of the plenipotentiaries are organized annually; however, they may also meet more often. Between

meetings, the plenipotentiaries should keep in contact. The plenipotentiaries have secretaries and have established working groups. This reflects the previously mentioned trend of strengthening of the institution of plenipotentiaries since the beginning of the 1990s.

The joint commissions usually have a more developed structure to ensure stability and sustainability of their work. The organizational structure of joint commissions most commonly includes a decision-making body or bodies, executive bodies and working or subsidiary bodies.

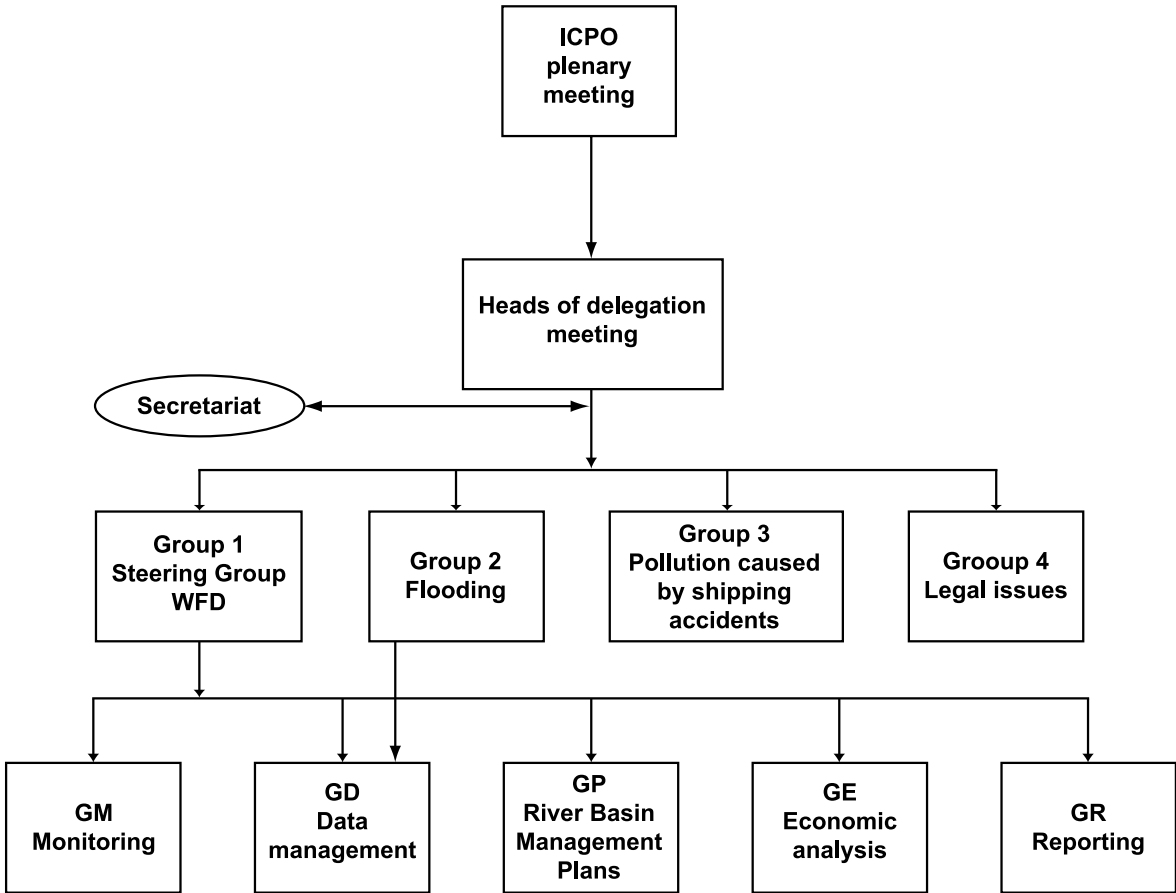
The organizational structure of joint commissions may include the following elements: conference of the Parties, a plenary of the Commission, delegations of Parties, a body comprising heads of delegations, the Commission's chairperson, a secretariat, working groups, expert groups, an auditing commission, a consultative group of donors, an information centre, a training centre, national offices of the joint body and observers. The examples below show the diversity of organizational structures and prove the expediency for the commissions to have, apart from decision-making bodies, executive and working bodies in order to ensure continuity and consistency of activities, as well as implementation of decisions.

**The International Commission for the Protection of the Oder against Pollution (Oder Commission)** acts on the basis of the Convention of 1996 between Poland, Czech Republic, Germany and the European Community, which entered into force in 1999. The European Community is no longer a Party, because all participating countries have become EU Member States. The Commission consists of the delegations of the Parties. Each Party determines the composition of its delegation. The number of members in the delegations varies. Chairmanship of the Commission rotates every three years. The Commission meets once a year. Extraordinary meetings may be convened by the Chairman after consulting the heads of delegation or at the request of a delegation. Heads of Delegation Meetings may be organized between the Commission's meetings.

The Oder Commission sets up working groups and appoints their chairpersons (see Figure 1). As far as possible, delegates shall be appointed as chairpersons of the working groups. The Commission may set up standing or ad hoc sub-groups under its working groups. The secretariat, based in Wrocław, Poland, manages documentation, organizes meetings and assists the Commission, the Chairman and the working parties in the performance of their tasks. The secretariat is subordinated to the Chairman and headed by an Executive Manager. The Commission also appoints three auditors, proposed by the delegations, to serve for a term of three years and to audit the annual statement of accounts. The Conferences of Contracting Parties at the ministerial level formally are not part of Commission's organizational structure, although they take place periodically.



**Figure 1. Organizational structure of the Oder Commission<sup>19</sup>**

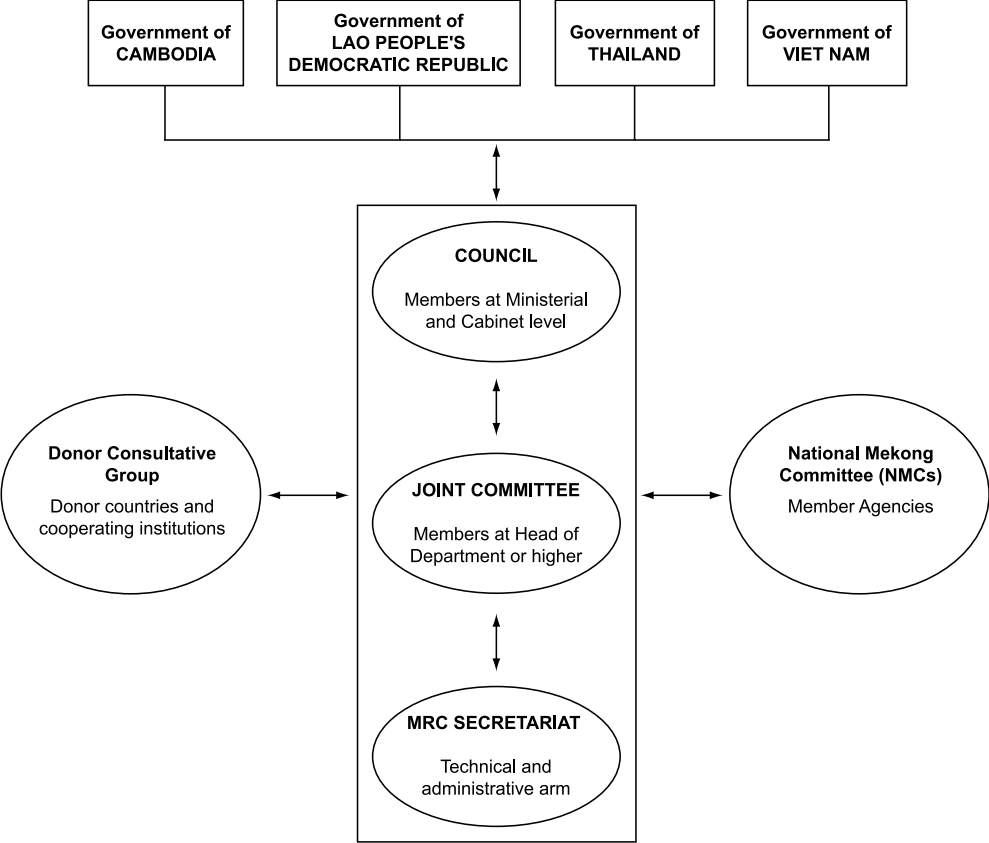


The organizational structure of the Oder Commission has shown flexibility and capacity to adapt, thus allowing it to better respond to the Commission’s tasks. In May 2002, the Commission received the mandate to coordinate the implementation of the EU WFD within the international Oder River basin. As the past structure of the Commission could not address the increasing challenges related to the new tasks, the plenary meeting of the Commission adopted a new structure in the end of 2002. New working groups were created, including ad hoc groups for addressing short-term tasks. Mandates and workplans of existing working groups were amended.

**The Mekong River Commission** was established in 1995 by the Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin between the Governments of Cambodia, Lao People's Democratic Republic, Thailand and Viet Nam. Two upstream riparian countries, China and Myanmar, are Dialogue Partners to the Commission. As shown on Figure 2, the Commission consists of three bodies: the Council, the Joint Committee and the secretariat. The Council, which meets once a year, consists of one member from each Party at the ministerial or cabinet level (therefore, the Council resembles the Conference of the Parties). The Council takes policy decisions. The Joint Committee consists of one member from each Party at no less than the head of department level. The Joint Committee is responsible for the implementation of the decisions of the Council and supervises the activities of the secretariat.

<sup>19</sup> Source: <http://www.mkoo.pl>

**Figure 2. Organizational structure of the Mekong River Commission<sup>20</sup>**



The secretariat, based in Vientiane, Lao People's Democratic Republic, provides technical and administrative services under the direction of a Chief Executive Officer. By tradition, the Chief Executive Officer is not a citizen of a riparian Party. The secretariat has a number of sections and divisions, which coordinate the implementation of specific programmes. About 120 staff are employed by the secretariat. The National Mekong Committees coordinate implementation of the Commission’s programmes at the national level. Donor countries and cooperating institutions form the Donor Consultative Group. The Commission uses the services of independent auditors for verification of financial accounts.

**The Interstate Commission for Water Coordination of Central Asia (ICWC)** was established in 1992 by Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan for implementation of their 1992 Agreement (agreement 3 in table 1). ICWC is composed of the heads of national water management authorities. ICWC holds its meetings on a quarterly basis, and may meet more often if necessary. The place of meetings rotates among countries. The host country chairs the meeting. The organizational structure of ICWC includes several executive bodies.

The executive bodies of ICWC include the basin water organizations “Amudarya” and “Syrdarya”. They provide water resources within the limits established by the ICWC and are in charge of exploitation of water management installations, inter-State canals and other facilities in the respective river basins. The Scientific-Information Centre of ICWC is the body in charge of analysis and information, and collaborates with a network of scientific and research organizations from the five countries. As of 2008, it has its headquarters in Tashkent, Uzbekistan, and has national branches in three countries. The Coordination-Metrological

<sup>20</sup> Source: <http://www.mrcmekong.org/>

Centre was established with the aim of ensuring implementation of inter-State programmes for water resources use and protection in the field of automation and metrology in the Aral Sea basin. ICWC also includes a Training Centre, which organizes professional training for high- and medium-level specialists. The ICWC secretariat is responsible for preparation of draft documents and organisation of ICWC's meetings, accounting and reporting. As of 2008, the secretariat is based in Khojent, Tajikistan, and has five staff. ICWC and its bodies are part of the structure of the International Fund for Saving the Aral Sea.

**The International Commission for the Protection of the Danube River (ICPDR)** was established in accordance with the Convention on Cooperation for the Protection and Sustainable Use of the Danube River (1994). The Parties to the Convention are Austria, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Germany, Hungary, Montenegro, the Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Ukraine and the European Community. ICPDR consists of delegations of the Parties and convenes at least once a year. Chairmanship of the Commission is held in turn by the Parties for one year. To ensure consistency, the President of the Commission may be supported by the previous President and by the successor. Between the ordinary meetings of the ICPDR, meetings of the Standing Working Group may be held. The Standing Working Group consists of the heads of delegation and/or their nominated representatives. It prepares agendas for Commission meetings and guides expert group activities between Commission meetings.

The permanent secretariat of ICPDR was officially opened in 1999 in Vienna. It has 8 staff members and is led by the Executive Secretary, appointed by the Commission. The secretariat's main duties are to support the work of ICPDR and its expert bodies, to coordinate the ICPDR programme of work, to maintain DANUBIS (the ICPDR information system), and to support the cooperation between the basin countries in the implementation of the EU WFD.

The Commission establishes expert groups. Currently, these include the River Basin Management Expert Group, the Pressures and Measures Expert Group, the Monitoring and Assessment Expert Group and the Flood Protection Expert Group. These are supported by the Ad Hoc Information and GIS<sup>21</sup> Expert Group, the Ad hoc Public Participation Expert Group and the Ad Hoc Strategic Expert Group. The expert groups can form task groups to address specific issues with the involvement of additional experts. In 2007, these included the Hydromorphology Task Group, the Accident Prevention Task Group, the Groundwater Task Group, the Flood Monitoring and Forecasting Task Group, the Economics Task Group and the Accident Emergency Warning System Task Group.

Observers play an important role in the Commission's activities. In early 2009, 19 organizations had an observer status in ICPDR. These include NGOs, organizations representing private industry and intergovernmental organizations. ICPDR appoints independent auditors upon the proposal of any Party. The auditors' nationality cannot be the same as that of the President and the Executive Secretary.

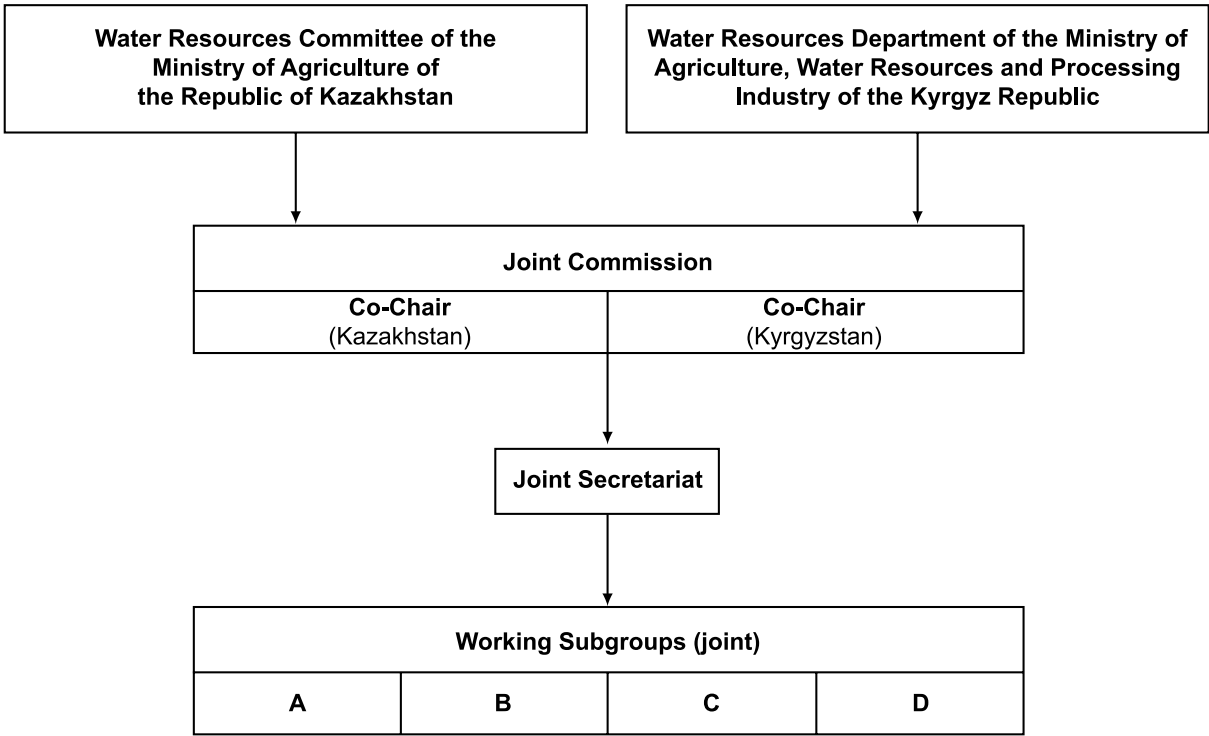
**The Commission of the Republic of Kazakhstan and Kyrgyz Republic on the Use of Water Management Facilities of Intergovernmental Status on the Rivers Chu and Talas (Chu-Talas Commission)** was established in 2006 for the implementation of the Agreement of 2000 (agreement 17 in table 1). The sources of the Chu and Talas lie in the territory of Kyrgyzstan, where water management facilities such as dams, water reservoirs and canals are also located. In accordance with the Agreement of 2000, Kyrgyzstan has a right to

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<sup>21</sup> Geographic information system.

compensation from Kazakhstan for a share of expenses spent to ensure safe and reliable exploitation of these water management facilities.

**Figure 3. Organizational structure of the Chu-Talas Commission<sup>22</sup>**



The Chu-Talas Commission consists of two parts (see fig. 3): the Kazakh part of the Commission, which includes its Chairperson and members, and the Kyrgyz part of the Commission, which includes its Chairperson and members. The members of the Commission are appointed by the respective Governments. Sessions of the Commission are organized at least twice a year. The Commission has a permanent executive body, the secretariat which includes the secretariats of both the Kazakh and Kyrgyz parts of the Commission. The secretariat holds regular meetings alternately in Kazakhstan and Kyrgyzstan. The secretariat's main tasks are described by regulations approved by the Commission covering, inter alia, preparation of the meetings of the Commission, administrative and organizational management, development of annual reports and some coordination functions. The secretariat coordinates the activities of working sub-groups set up by the Commission. To date, these include working subgroups on: (a) legal and institutional issues; (b) allocation of water resources; (c) hydrotechnical works and reconstruction of facilities; and (d) economics, environment, monitoring and data exchange.

**3.4. Rules of procedure**

The watercourse agreements which provide for the establishment of joint bodies usually give only general directions with regard to their establishment, organizational structure, functions and tasks. Many procedural issues concerning joint bodies' activities are not reflected in the watercourse agreements. In joint commissions, they are often described in rules of procedure or regulations.

<sup>22</sup> Source: <http://www.talascu.kz>

In the majority of cases, the watercourse agreements leave it up to the commission to develop and adopt the rules of procedure.<sup>23</sup> Even in case that there are detailed rules available with regard to the joint commission in the text of the agreement, the countries grant the commission the right to develop rules of procedure on its own. For example, the Statute of the ICPDR is an integral part of the Convention on Cooperation for the Protection and Sustainable Use of the Danube River (1994), while the Statute of the Sava Commission is a part of the Framework Agreement on the Sava River Basin (2002). At the same time, both Commissions have developed and adopted their rules of procedure further specifying the provisions of the Statutes.

The development of the rules of procedure by an interim body before an agreement enters into force could be viewed as a positive example. For example, having signed the Convention on the International Commission for the Protection of the Oder in 1996 and understanding that the process of ratification and entry into force would take some time, the Czech Republic, Germany, Poland, and the European Community issued a declaration authorizing the immediate commencement of activities by an interim commission. This interim commission drafted the rules of procedure that were adopted after the Convention entered into force in 1999.

The rules of procedure usually do not regulate in detail the composition of joint commissions and the appointment of members. These issues, as a rule, are regulated by the agreement, which establishes a joint body. At the same time, the rules of procedure may describe certain procedural issues, such as the notification by heads of delegation to the secretariat of the list and contact information of members of the commission (see, for instance, the new Rules of Procedure of the Oder Commission of 2002).

The rules of procedure usually regulate in detail the issues of chairmanship, although such basic provisions as the rotation and term of chairmanship, as well as powers to represent the commission, are normally described in the inter-State agreement. For example, the rules of procedure of ICPDR (2002) describe inter alia the functioning of a “troika” of Presidents, regulate the way of appointing a substitute or a successor in cases the Presidency temporarily or permanently falls vacant, and provide details on the powers of the President to convene ordinary and extraordinary meetings and to preside at all the meetings of the International Commission and the Standing Working Group. The rules of procedure describe the powers of the President to give directives to the Executive Secretary, as well as the duty of the President to inform the public about the outcome of meetings.

In most cases, the rules of procedure regulate in detail the convocation of sessions and meetings of the commission and its working bodies as well as the preparation of agenda and documents to be considered by the commission. For example, the rules of procedure of the Sava Commission (2005) state that the sessions of the Commission should be held in the Seat of the Commission unless the Sava Commission decides otherwise. They describe in detail the development of a preliminary agenda by the Commission’s Chairman and the right of

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<sup>23</sup> See, for example, the Agreement between Finland and Norway on a Finnish-Norwegian Transboundary Water Commission of 1980, the Convention on Cooperation for the Protection and Sustainable Use of the Danube River of 1994, the Convention on the International Commission for the Protection of the Oder of 1996, the Statute of the Commission on the Use of Water Management Facilities of Intergovernmental Status on the Rivers Chu and Talas developed based on 2000 Agreement (agreement 16 in table 1), the Convention on the International Commission for the Protection of the Elbe of 1990, the International Agreement on the Meuse/Maas of 2002, the International Agreement on the Scheldt of 2002, the Framework Agreement on the Sava River Basin of 2002, the Agreement on Cooperation for the Sustainable Development of the Mekong River Basin of 1995 and the Indus Waters Treaty of 1960.

representatives of each Party to ask for items to be placed on the draft agenda (the Sava Commission is composed of two representatives of each Party). The rules of procedure describe the timely submission of documents for consideration by the Commission, preparation of the minutes and the reporting of the sessions. They also address in detail the activities of permanent and ad hoc expert groups within the Sava Commission.

### *Official languages*

Procedural issues include the issue of official languages of the joint body. This issue is described, in the first place, in the agreement that sets up a joint body, and may further be developed by the rules of procedure.

The agreements which establish joint bodies most commonly fix the official languages of the Parties as the official languages of the commission. At the same time, agreements with a considerable number of Parties set as official languages the most popular languages of the region. In the case that a language is widespread in the region, an agreement of two or several countries may proclaim it as a working language of a joint commission.

For example, the Agreement between the Russian Federation and Estonia on Cooperation in Protection and Rational Use of Transboundary Waters of 1997 gives the status of official languages of the Commission and its working groups to Russian and Estonian. According to the Convention of 1994, the official languages of ICPDR are English and German. According to the Statute of the Chu-Talas Commission, the official languages of the Commission are Kazakh, Kyrgyz and Russian, whereas the working language at Commission sessions is Russian.

### **3.5. Decision-making principles**

Watercourse agreements that establish joint bodies usually provide for consensus as a major decision-making principle. For example, according to the Convention on the Protection of the Rhine (1999), decisions of ICPR shall be taken unanimously. Each delegation has one vote. The delegation of the European Community and delegations of Member States participate in the voting depending on whether the measures to be carried out fall within the competence of the Community or within the competence of the Member States. The European Community votes with the number of votes corresponding to the number of its Member States, which are Contracting Parties to the Convention. Except for the delegation of the European Community, abstention of only one delegation shall not constitute an impediment to unanimity.

The Convention on Cooperation for the Protection and Sustainable Use of the Danube River (1994), which has 15 Parties including the European Community, considers consensus as a main principle for adopting decisions and recommendations of ICPDR. At the same time, should consensus not be attainable, the President of the Commission shall declare that all efforts at reaching agreement by consensus have been exhausted. In this case, the Commission shall adopt decisions or recommendations by a four-fifths majority vote with a quorum of at least two thirds of the Parties. Each Party has one vote irrespectively of its share in the basin. In the International Commission on the Meuse/Maas, all decisions should be taken unanimously in the presence of the majority of delegations. However, the budget of the Commission and its internal and financial regulations may only be approved when all delegations are present.

### *Decision-making in writing*

In recent years, decision-making in writing has become a common procedure in the activity of joint bodies. For example, the ICPR Rules of Procedure and Financial Regulations (2004) stipulate that between the plenary assemblies the President of the Commission or one of the delegations may initiate a draft resolution. The President passes on the draft resolution to all delegations. If this draft is not unanimously accepted within two months, it is considered to be rejected, but must be put on the agenda of the next plenary assembly.

### **3.6. Secretariat**

A permanent secretariat is common for the institution of joint commissions, although joint commissions may exist without such body. For example, the permanent secretariat of Mosel-Saar Commissions was only established in 1991. For 30 years, the Presidency and chairpersons of the working groups have provided administrative support to these commissions.

The functions and activities of the secretariat are usually described in general terms in the watercourse agreement that sets up the joint commission. As a rule, secretariat activities are regulated in detail by the rules of procedure or other documents adopted by the commission. The rules of procedure usually include provisions on the establishment and functions of the secretariat. According to the rules of procedure of the Oder Commission (2002), the Executive Manager and scientific staff shall be selected by a selection board comprising the Chairman and representatives of delegations and shall be appointed by the Chairman with the agreement of the Commission. The Executive Manager shall be a member of the selection board which selects scientific staff.

The secretariat is usually a working body of a joint commission providing support to its activity. The functions and number of secretariat staff may vary quite substantially, from two to three people in the case of the Mosel-Saar Commissions, to 120 people in the case of the Mekong River Commission.

The countries participating in an agreement may opt for a gradual expansion of the functions of a secretariat. For example, in 1994 Angola, Botswana and Namibia established the Permanent Okavango River Basin Water Commission. In 2004, the members of this commission signed a memorandum setting up a secretariat to perform the following functions: administration, implementation of Commission's decisions, and information-sharing and communication. The countries intend to expand the functions of the secretariat in the future.

Documents adopted by a joint commission may also regulate the number and composition of secretariat staff, terms of reference for various positions, procedures of staff selection, appointment and dismissal, issues of remuneration and social protection. There are cases in which members of a joint body and officials of a secretariat are granted diplomatic privileges and immunities according to the agreement which sets up a joint body, and in conformity with arrangements agreed upon with the host country.

### ***Functions of secretariat: the example of ICPDR***

The document “Main Functions and Job Descriptions of the Permanent Secretariat of the ICPDR” (2002) identifies the following categories of secretariat functions: management functions, special functions and direct work functions.

Management functions include, inter alia, supporting ICPDR and the Steering Group during their meetings, supporting the ICPDR President, preparing for the Conference of the Parties, developing the annual budget and managing its implementation, coordinating and supporting the work of expert bodies and task forces, data and information management of ICPDR, developing proposals for and soliciting financial support from donors for specific national or transnational technical projects.

Special functions of the ICPDR permanent secretariat include, inter alia, technical and administrative support to the technical expert bodies established under ICPDR, liaison and consultations with technical organizations or government agencies from the contracting Parties, reporting to ICPDR on progress achieved with respect to monitoring programmes and in other programmes in the contracting Parties, managing the ICPDR information system, compiling and editing technical reports in collaboration with expert groups, preparation and dissemination of specific information addressed to the public.

Direct work functions of the permanent secretariat include, inter alia, compiling annual reports, preparing legal documents, translation of documents and correspondence, accounting and financial administration, and other functions.

### **3.7. Legal personality**

Legal personality is of the utmost importance for the activity of a joint commission and its bodies. The general rule is that in the agreement that establishes a joint commission, the Parties provide the commission with the legal personality, whereas its legal capacity is determined by the law of the country where the secretariat is located. For example, ICPDR has such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes in accordance with the law applicable at the headquarters of its secretariat. ICPR has legal personality and enjoys in the territory of the contracting Parties the legal capacity conferred on legal persons by domestic law.

Issues of labour law and social protection are usually governed by the law of the country where a commission has its seat. The relationships with the host country where the secretariat is located may be defined in a seat agreement.

### **3.8. Public participation**

Public participation is one of the key principles of IWRM. Whereas earlier agreements, which established joint bodies, had only stipulated their responsibilities on dissemination of information, many joint bodies have now accumulated considerable expertise and created a number of mechanisms to ensure active participation of NGOs and other stakeholders in their activities.

The experience of most progressive joint bodies in the field of information dissemination and public participation has been summarized in the UNECE/UNEP publication, *Water*



*Management: Guidance on Public Participation and Compliance with Agreements.*<sup>24</sup> The *Guidance* is a set of recommendations to apply the provisions of the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention, 1998) to water management, including transboundary waters. In particular, the *Guidance* includes the following recommendations:

- Riparian States and joint bodies should provide for the participation of NGOs as non-voting participants in the meetings of joint bodies and in the meetings of subsidiary organs of joint bodies. Conditions for inviting NGOs to participate as observers must be based on reasonable criteria, which should be clear to the public.
- Riparian States and joint bodies should establish procedures so that the public can have an oversight role in the conduct of transboundary cooperation.
- Riparian States shall ensure public participation in the development of international documents, plans and programmes for specific catchment areas.
- Riparian States are encouraged to provide for public participation, including NGOs, in the preparation of the international water agreements. NGOs could be invited to participate in intergovernmental negotiations.
- Joint bodies should have the opportunity to receive and consider information from the public. The public should be given the opportunity to submit inquiries in writing to the joint body. Joint bodies should develop a public communication strategy and establish a focal point for liaison with NGOs.

Guidance with regards to public participation in joint bodies can also be drawn from the Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums, adopted by the second Meeting of Parties to the Aarhus Convention in 2005. Although the Almaty Guidelines are not specifically targeted at joint bodies for transboundary water cooperation, they represent a comprehensive and up-to-date guidance on forms and mechanisms for public participation that can be applied by joint bodies.

Some joint bodies establish working groups for cooperation with NGOs and other stakeholders. For example, an Ad Hoc Public Participation Expert Group acts in the framework of ICPDR. In the period 1999–2004, the Joint Russian-Estonian Commission on the Protection and Rational Use of Transboundary Waters had a working group on cooperation with NGOs, local authorities and international organizations. NGOs and local authorities were represented in this group. However, the Commission reformed its working groups, and the functions of this working group were transferred to the new working group on IWRM.

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<sup>24</sup> *Water Management: Guidance on Public Participation and Compliance with Agreements.* ECE/UNEP Network of Expert on Public Participation and Compliance, Geneva, 2000.

### *Observer status*

Detailed rules on observer status have been developed, for instance, by the Oder Commission, the International Commission on the Scheldt, the International Commission for the Meuse/Maas, ICPDR, the Sava Commission and ICPR. These rules are quite similar, although they may differ with respect to the range of organizations which could be granted observer status (e.g. intergovernmental organizations, international and national NGOs, governmental bodies, trade unions, the private sector). At the same time, all these joint commissions consider the observer status as a main mechanism for NGO participation in their activities.

The Guidelines for Participants with Consultative Status and for Observers to ICPDR (2005) list the following criteria for international or national organization or other body to be considered for observer status: (a) that the goals and basic principles of the Danube River Protection Convention be acknowledged; (b) the existence of specialized technical or scientific competence or of other competences relating to the goals of the Convention; (c) the existence of a structured permanent administration; (d) the mandate to speak as accredited representatives; and (e) a regional or basin-wide perspective. Other joint bodies have set up similar criteria for granting observer status.

As a rule, joint bodies clearly define the list of documents that should be submitted in an application for observer status. For example, according to its rules for granting the observer status (2002), the Oder Commission requires submission of: (a) a description of organization, its competence and the experience which it could bring to the Commission's work; the last name of a representative who will participate in the meetings; (b) an explanation how the organization believes its input could be beneficial for the Commission's activities; and (c) written confirmation that the organization accepts the obligations of the Convention and the rules of procedure.

The rights and duties of observers to ICPDR include free access to the documents of the Commission and its bodies, the right to participate in the meetings with the possibility to express their position and views, the right to submit documents and proposals to the Commission, and the right to take part in the programmes and contribute to the projects initiated under the Convention. Observers cannot take part in the process of adopting decisions. Representatives of observer organizations take part in the activities of expert groups. In ICPR, working groups and project groups may decide to invite competent NGO representatives.

The conditions of observers' participation in activities of ICPR, according to its rules of procedure and financial regulations (2004), include constructive cooperation with a view to achieving the Commission's targets and respect of the President's instructions aimed at the proper conduct during meetings. According to its rules for granting the observer status (2002), the Oder Commission may deprive of observer status an organization that has repeatedly violated the obligations arising out of observer status. Under the revised internal and financial rules (1995), the International Commission for the Scheldt grants observer status to NGOs for a maximum of four years. Half a year before the end of this term, an NGO may submit an application for extension.

River forums and stakeholder conferences may become important mechanisms for public participation in joint bodies' activities. The Permanent Okavango River Basin Water Commission contributed to the establishment of the Basin-Wide Forum, which includes 10

community representatives (fishermen, craftspeople, farmers, women and youth associations) from each participating country (Angola, Botswana and Namibia). The forum members meet at least biannually at the national level and at least once a year at the basin level. The Stakeholder Conference of 2005 held under the auspices of ICPDR allowed for discussion of the Danube River Basin Strategy for Public Participation in River Basin Management Planning as well as the Operational Plan for Public Participation Activities at the basin level. The Conference provided a basis for future initiatives to promote public participation.

Individual joint bodies have developed many interesting mechanisms for disseminating information aimed to promote stakeholder involvement. Many joint bodies have recently developed websites with information about their activities (see annex II). The portal managed by the Scientific and Information Centre of ICWC in cooperation with other organizations<sup>25</sup> links several websites on water resources in Central Asia, and offers a rich electronic library. The Mosel-Saar Commissions annually invite the mass media to presentations of their activity reports, to make the outcomes and challenges of cooperation known to the public. In Romania, all protocols of meetings of joint bodies involving Romanian representatives are published in the Official Journal, the periodical that publishes all laws and regulations in the country.

In recent years, joint bodies established by EECCA countries have taken some steps towards improving access to information and stakeholder participation. In most cases, however, these are limited to access to information, and may take the form of press releases on the outcomes of sessions, provision of information upon request, maintenance of a web-site or the placing of certain information on the websites of participating governmental agencies. Participation of NGOs and other stakeholders in the activities of joint bodies in some cases exists as a non-formalized practice, such as inviting some NGOs to working group meetings or sessions of a joint body. Some joint bodies discuss the idea to establish public boards with advisory functions. Lack of finances is often noted as one of the barriers to broadening access to information and public participation.<sup>26</sup>

In the end of 2007, the plenipotentiaries of the Republic of Moldova and Ukraine (agreement 4 in table 1) adopted a Regulation on Stakeholder Participation. This is the first example of a formalized procedure for dissemination of information and promotion of public participation in the joint bodies' activities in EECCA. The Regulation provides for the development by the Parties of a register of stakeholders and describes the way of informing these stakeholders about activities of the plenipotentiaries. Stakeholders may submit issues for discussion by the plenipotentiaries. They may comment on drafts of documents, and may submit their suggestions to the plenipotentiaries. At the same time, the Regulation does not explicitly provide for participation of stakeholders in the plenipotentiaries' meetings.

### **3.9. Financing**

Watercourse agreements establishing joint bodies usually include provisions about financing. Financial commitments of the Parties largely depend on the institutional mechanism and the complexity of the organizational structure. However, the general rule is that each Party

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<sup>25</sup> See the portal (<http://www.cawater-info.net>) created within the framework of the CAREWIB project funded by the Swiss Agency for the Development and Cooperation and implemented by the Scientific and Information Centre of ICWC jointly with UNECE and UNEP/GRID-Arendal.

<sup>26</sup> See, for example, the remarks by the ICWC Scientific Information Centre delivered in 2006 in the consultation process on the Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums. These are available at: <http://www.unece.org/env/pp/ppif-response.htm>.

finances the costs connected with participation of its representatives and experts in the joint body's activities as well as the costs of monitoring in its territory. For example, according to the Agreement between Ukraine and the Russian Federation of 1992 (agreement 1 in table 1), each Party covers the travel costs of the plenipotentiaries, their deputies and experts. Under the Convention on the International Commission for the Protection of the Elbe (1990), each Party shall bear the cost of its representation in the Commission and working groups as well as the cost of regular monitoring carried out in its territory.

Other expenses, such as the funds for implementation of tasks and functions of a joint body and the expenses of a secretariat are mostly typical for joint commissions, which have a more complicated organizational structure. These expenses are covered from the commission's budget.

Contributions of Parties usually are the main source of the budget. Most commonly, the size of contributions is determined by the agreement, although it may be agreed upon by the Parties at a later date in the framework of the joint body. As a rule, agreements provide for differentiated contributions<sup>27</sup> calculated using various criteria (e.g. share of basin, per capita income). Agreements may also fix equal contributions by participating countries (for example, in the Sava Commission). The Convention on Cooperation for the Protection and Sustainable Use of the Danube River provides that the total budget shall be contributed by the Parties in equal parts, unless unanimously decided otherwise by the ICPDR. In practice, the size of Parties' contributions varies in accordance with ICPDR decisions. Joint commissions may encounter difficulties with receiving contributions (e.g. during its first year, the Sava Commission did not receive on time contributions from two Parties).

Many joint commissions are empowered to create reserve funds (amounting to 10% of the budget) from reduced expenditures and interest. Apart from contributions to the budget, Parties can make voluntary contributions for specific projects in the framework of a joint commission. A special fund can be established for covering expenses in relation to activities of the presidency.

A partnership between a joint commission and the private sector can also be a source of funding for individual projects. In 2005, ICPDR developed the Principles for Cooperation and Relations with Business and Industry. The Principles determine that such cooperation should not diminish the right for self-determination or action of the Commission. Cooperation that involves financial support for activities should only be for additional special projects outside the core activities of the Commission. Since 2005, ICPDR has developed a partnership with Coca-Cola. The partnership aims to promote public awareness and involvement in projects to conserve and protect freshwater ecosystems relating to the Danube River basin.

Another funding mechanism is the establishment of a financial fund by the States participating in an agreement. In 1974, the member countries of the Intergovernmental Coordinating Committee of La Plata Basin Countries created the Financial Fund for the Development of the River Plate Basin (FONPLATA). Brazil and Argentina participate with 33.33 per cent of the capital, while Bolivia, Uruguay and Paraguay hold shares equivalent to 11.11 per cent each. The objective of FONPLATA is the funding, within the framework of article I of the 1969 Treaty on River Plata Basin, of studies, projects, programmes and works

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<sup>27</sup> For example, this is true for the budgets of the International Commission for the Protection of the Elbe, the Oder Commission, the International Commission for the Meuse/Maas, the International Commission for the Scheldt, the Mosel/Saar Commissions, ICPR and the Lake Chad Basin Commission.

aimed at harmonious development and physical integration of the River Plate, by allocating the Fund's own financial resources and resources from other financial sources.

Another example is the International Fund for Saving the Aral Sea (IFAS), created in 1993 by the Central Asian Heads of States. The mission of IFAS is to fund joint environmental and research programmes and projects aimed at saving the Aral Sea, improving the environmental situation in the areas affected by the disaster and addressing common social and environmental challenges in the subregion. The Fund is based on contributions of its founders (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan) and participants. Other States can also become founders, and international organizations, legal entities and individuals can become participants. Since 1998, the size of contributions is calculated from the budget revenues of Kazakhstan, Turkmenistan, and Uzbekistan in the amount of 0.3 per cent, and from the budget revenues of Kyrgyzstan and Tajikistan in the amount of 0.1 per cent.

Donor support is another source for financing activities of joint bodies. In some joint commissions, donor support is considered an additional source of funding for specific projects and makes up the special funds which are different from the commission's budget (e.g. in ICPDR). In other joint commissions, donor funds form the main part of the budget. In 2008, the main donors of the Mekong River Commission included Australia, Belgium, Denmark, Finland, France, Japan, the Netherlands, Sweden, the European Commission and the Asian Development Bank (ADB), which contributed in total 16 million US\$ to the Commission's budget. The four riparian Parties contributed US\$ 956,000, or 5.8 per cent of the budget.

Donor support is interlinked with the issue of ensuring the financial sustainability and independence of a joint body. The low ratio of capital from national sources to capital from international sources implies financial instability and dependency from external funding. This does not prevent a joint body from implementing its tasks, as demonstrated during a number of years by the Mekong River Commission. However, the existence of financial commitments by Parties to support the core activities of a joint body is a prerequisite for ownership, respect and implementation of joint bodies' decisions by riparian Parties. In addition, a G8-initiated study of donor activity in transboundary water cooperation in Africa<sup>28</sup> proved that existence of a river basin organization increases a basin's chances of receiving donor support.

The vast majority of agreements between or with participation of EECCA States providing for the establishment of joint bodies do not envisage the budgets for such bodies. Each participating State should unilaterally finance the activities to implement decisions of a joint body in its territory. Such financing usually comes from the budgetary funds of ministries or agencies whose representatives work in a joint body, and this funding is often very limited. In cases where a Party wishes to entrust another Party with implementation of water management and protection measures or designing works, or when such measures and works are to be implemented jointly, this should be subject to separate contracts or agreements (see, for example, agreement 1 in table 1).

### **3.10. Cooperation with national authorities and implementation of decisions**

Implementation of a joint body's decisions is possible only through cooperation between the joint body and the national authorities of participating countries. Some agreements establishing joint bodies require that the decisions of joint bodies be approved at the national

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<sup>28</sup> Donor activity in transboundary water cooperation in Africa. Results of G8-initiated survey 2004-2007, prepared by GTZ (deutsche Gesellschaft für technische Zusammenarbeit).

level according to the laws of the participating countries. For example, the Agreement between Czechoslovakia and Poland Concerning the Use of the Water Resources in Frontier Waters (1958), still in force for the Czech Republic and Poland, prescribes that proposals adopted by the plenipotentiaries shall not be binding until they have been approved in accordance with the law of each Party. The agreements may not provide for the need of such approval. However, the implementation of joint bodies' decisions, in any case, usually requires the adoption of some documents by national authorities. The only exception is the Finnish-Swedish Frontier Rivers Commission, which directly issues and recalls permits for some water uses and therefore replaces the national authorities. Finland and Sweden, however, are currently planning a reform of this commission.

Adequate representation in a joint body of the national authorities, ministries and agencies responsible for water resources management contributes to the implementation of that joint body's decisions. The inclusion in a joint body and its working organs of representatives of only one agency (usually one responsible for water or environment or agriculture) may lead to weakening IWRM and may limit possibilities for implementing decisions at the national level. At the same time, the representation of countries in a joint body, especially in its decision-making organs, should be at a high political level, in order to ensure further implementation of decisions at the national level.

Reporting mechanisms for the Parties to a joint body on implementation of individual decisions (as in ICPR) or within the framework of general reporting commitments (as in ICPDR) can both be regarded as mechanisms to ensure the implementation of decisions.

Another mechanism to support implementation is the appointment by participating countries of competent authorities responsible for implementation of the agreement in their territories. An agreement may stipulate the duty of the Parties to nominate competent authorities (e.g. the Framework Agreement on the Sava River Basin), or may simply name such authorities. For example, the Agreement between the Russian Federation and Belarus of 2002 (agreement 20 in table 1) names the Ministry of Natural Resources of the Russian Federation and the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus as the competent authorities for implementing the Agreement.

The creation by a joint body of additional structures at the national level is a further way to ensure decisions' implementation. For example, the National Mekong Committees coordinate Mekong River Commission's programmes at the national level and provide links between the Commission's secretariat and the national ministries and line agencies.

Irrespective of mechanisms to coordinate and support implementation of decisions, it is very important that the riparian States consider implementation not as a burden, but rather as a process of cooperation, mutual assistance and support. The Convention on the Protection of the Rhine (1999) requests Parties to report to the ICPR on measures they have taken on the basis of ICPR decisions and on problems arising in implementation of these measures. If a Party cannot implement the Commission's decisions, in full or in part, it shall report this. The Commission organizes consultations and may decide that measures will be taken to assist the implementation of the decisions. According to the Statute of the ICPDR, the Commission's decision becomes binding on the first day of the eleventh month following the date of its adoption for all Parties that voted for it and have not within that period notified the Executive Secretary that they are unable to accept the decision. A decision becomes binding for any other Party only if it notifies the Executive Secretary that it is able to accept the decision.

Therefore, the States are provided with an opportunity to analyse their capacities and to prepare for implementation of Commission's decisions.

Ensuring implementation of decisions is extremely relevant for joint bodies established by or with participation of EECCA States. Although these joint bodies face different challenges with regard to implementation, the major problem is that their decisions often have a narrow influence on issues important for cooperation. This is largely due to the fact that water management authorities are the only governmental authorities represented in a joint body. In some cases, local authorities participate in the activities of joint bodies (this is true, in particular, for joint bodies involving the Russian Federation), which helps to focus cooperation on the needs of boundary regions and contributes to implementation at the local level. However, environment, fishery, health, energy, hydrometeorology, economy and finance authorities at best participate in the activities of a joint body on a case-by-case basis or in the framework of selected working groups.

Although some reporting does take place (e.g. in form of monitoring reports or activity reports developed prior to regular sessions of commissions or plenipotentiaries, or in form of publications on selected issues), the majority of agreements between or involving EECCA States do not include any reporting requirements, either in relation to development by a joint body of activity, monitoring or other reports upon request of the Parties, or in relation to reporting by Parties concerning the implementation of the decisions adopted by a joint body. The Statute of the Chu-Talas Commission, approved in 2006, may therefore be considered a positive practice in this respect. The Statute requires Chairpersons of the Commission to report at the sessions of the Commission on measures taken to ensure implementation of decisions. The Statute also explicitly empowers the Chu-Talas Commission to consider and approve annual reports.

#### **4. INTERNATIONAL COOPERATION OF JOINT BODIES**

The UNECE Water Convention suggests that riparian Parties invite a coastal State directly and significantly affected by transboundary impact to be involved in the activities of joint bodies established by riparian Parties. The Water Convention also requires joint bodies to cooperate with joint bodies established by coastal States for the protection of the marine environment as well as with joint bodies in the same catchment area. The goals of such cooperation are to harmonize the work of joint bodies and to strengthen the prevention, control and reduction of transboundary impact.

The cooperation of joint bodies may be implemented via granting observer status, signing agreements or memoranda on cooperation or setting up joint working groups or task forces, as well as through implementation of joint projects.

Granting observer status is quite common for the river commissions in the UNECE region. Such cooperation is implemented both between commissions with different regulatory fields and between commissions overlapping geographically. For example, ICPDR grants observer status to the Danube Commission, established by the Convention regarding the Regime of Navigation on the Danube (1948), and to the Sava Commission (the Sava is a tributary of the Danube). In 2007, these three commissions agreed upon a Joint Statement on Inland Navigation and Environmental Sustainability in the Danube River Basin. In a similar way, ICPR grants observer status to the Central Commission for Navigation on the Rhine established in accordance with decisions of the 1815 Congress of Vienna, as well as to the Mosel-Saar Commissions. ICPR also grants observer status to "neighbouring" commissions,

such as the International Commission for the Meuse/Maas, the International Commission for the Scheldt and the International Commission for the Protection of the Elbe. Many of above mentioned commissions grant observer status to each other.

Cooperation of river commissions takes place in other regions as well, e.g. in 2004 the Intergovernmental Coordinating Committee of La Plata Basin Countries and the Amazon Cooperation Treaty Organization signed a Letter of Understanding concerning the exchange of information and cooperation in activities of common interest.

There are no examples of such cooperation in EECCA. However, in some cases, there is also no need for a formalized cooperation, since the same officials participate in activities of several joint bodies. For example, in 2007, the same public official served as the Plenipotentiary of Ukraine for the Agreement of 1994 with the Republic of Moldova and for the Agreement of 1997 with Romania.

#### *Cooperation of river commissions and sea commissions*

The Commission on the Protection of the Black Sea against Pollution, established by the Convention of 1992, and ICPDR have developed close cooperation. In 2001, these commissions signed a Memorandum of Understanding. The Joint Danube-Black Sea Technical Working Group was established to support the implementation of the Memorandum. This body is currently drafting guidelines for achieving good environmental status for the coastal waters of the Black Sea, in line with the EU WFD. The Commission on the Protection of the Black Sea against Pollution and ICPDR are both members of the DABLAS Task Force<sup>29</sup>, set up in 2001 as a platform for cooperation between international financing institutions, donors and countries of the region to ensure the protection of water and water-related ecosystems in the Danube and the Black Sea.

Many other examples of cooperation between river and sea commissions exist. One is that of the ICPR and the OSPAR Commission, which promotes international cooperation under the Convention for the Protection of the Marine Environment of the North-East Atlantic (1992). The two Commissions grant each other observer status.

In recent years, cooperation of river commissions that do not necessarily overlap geographically has become more and more important. The concept of twinning suggested by the Netherlands at the Second World Water Forum in 2000 in The Hague implies that river basin organizations located in different regions of the world have valuable experience to share, and that the exchange of such experience could contribute to their institutional strengthening, improvement of activities and increased efficiency. Ultimately, such exchange is an instrument contributing to the implementation of IWRM. The concept of twinning occupies an important place in the activities of the International Network of Basin Organizations (INBO).<sup>30</sup>

Efforts to establish joint bodies receive wide support from the international organizations (e.g. UNECE, the Economic and Social Commission for Asia and the Pacific (ESCAP), UNDP, the

<sup>29</sup> Danube Black Sea (DABLAS) Task Force for co-operation on water protection in the wider Black Sea Region ([http://ec.europa.eu/environment/enlarg/dablas/index\\_en.htm](http://ec.europa.eu/environment/enlarg/dablas/index_en.htm)).

<sup>30</sup> The project "Promoting Twinning of River Basins for Developing Integrated Water Resources Management Practices" in the framework of the INBO-Global Water Partnership Associated Programme "Developing and Strengthening of River Basin Organizations" has been active for several years, supported by the European Commission.



Organization for Security and Co-operation in Europe (OSCE), the European Union), financial institutions (e.g. World Bank, ADB) and bilateral donors (e.g. Finland, Sweden, United Kingdom, United States).

### ***Role of international organizations in setting up the Chu-Talas Commission***

In 2000, Kazakhstan and Kyrgyzstan entered into an agreement (agreement 17 in table 1) which provided for the opportunity to create permanent commissions in future. The process of setting up the Chu-Talas Commission was successfully promoted by international organizations.

Since 2003, the establishment of a permanent commission has been supported by a joint project of UNECE, ESCAP and OSCE: “Support for the creation of a transboundary water commission on Chu and Talas Rivers between Kazakhstan and Kyrgyzstan”. In 2004, the EU-TACIS project “Support for Regional Water Management and Strengthening the Capacity of Basin Water Organizations for Improved Resource Planning” was implemented in partnership with IFAS. The outcome of the project was a strategic document, “IWRM in Chu and Talas Basins”. Since 2005, the ADB project “Improvement of Shared Water Resources Management in Central Asia” has supported, inter alia, financing of the Commission’s secretariat.

The Statute of the Chu-Talas Commission was approved in 2006. It regulates the scope of activity, composition, main tasks and powers of the Commission, as well as the procedure for border crossing. The inauguration of the Commission took place in 2006. By early 2009, the Commission had met seven times.

The creation of the Chu-Talas Commission may serve as an example of successful cooperation between the riparian States with respect to the use of transboundary river resources, as well as between international organizations to support efforts of riparian States. The experience of Chu-Talas Commission could be used when creating other river basin commissions in Central Asia.

Specific efforts towards the establishment of joint bodies are part of several international initiatives. Strengthening transboundary water cooperation in South Eastern Europe is the goal of the Petersberg Phase II/Athens Declaration Process. The Stability Pact for South Eastern Europe has also provided support to such initiatives, in particular the Sava River cooperation. The ENVSEC Initiative, a joint effort of UNDP, UNEP, OSCE, UNECE and the Regional Environmental Center for CEE (with the North Atlantic Treaty Organisation as an associate member) develops and implements transboundary water cooperation projects. Cooperation on transboundary waters in Africa is supported through the Africa Action Plan, agreed by G8 leaders in 2002. In many subregions, including EECCA, the establishment of joint bodies and strengthening transboundary water cooperation are considered to be among the important tasks of the EU Water Initiative, a partnership initiated by the EU at the World Summit on Sustainable Development in Johannesburg in 2002. The implementation of the EU WFD and the European Neighbourhood Policy may contribute to the development of joint bodies with participation of EECCA countries.

Financial support to individual joint bodies is provided, in particular, by the World Bank, GEF, the European Investment Bank, the African Development Bank, ADB, the Islamic Development Bank, the European Commission, Canada, Denmark, Finland, France,

Germany, Italy, Japan, the Netherlands, Norway, Sweden, Switzerland, the United Kingdom, the United States as well as other countries and organizations.

## **5. CONCLUSIONS AND RECOMMENDATIONS FOR THE ESTABLISHMENT AND IMPROVEMENT OF JOINT BODIES IN COUNTRIES IN EASTERN EUROPE, CAUCASUS AND CENTRAL ASIA**

The international practice of transboundary water cooperation shows considerable experience accumulated by riparian States in setting up joint bodies responsible for facilitating the implementation of transboundary waters agreements and in developing institutional modalities. Taking into account the predominance of the institution of joint commissions over that of plenipotentiaries, it is important to stress the variety of existing joint commissions, which differ from one another for example in terms of the scope of application, competence, functions, powers, organizational structure.

None of the existing joint bodies can be considered as a model for others, since joint bodies are established in relation to specific waters in order to address particular tasks in the context of real political, economic and social conditions. At the same time, the practice of existing joint bodies and the development of international law on the management of transboundary water resources allow for identifying certain principles of organization and activities, which increase the efficiency of joint bodies and contribute to reaching a mature level in cooperation of the riparian States. Such principles include:

- Broad competence of a joint body, which allows for addressing in a complex way, on the basis of IWRM, the entire spectrum of issues related to the management, use and protection of transboundary waters.
- Clear definition of the waters subject to cooperation, in accordance with the basin approach, and participation of all basin countries in a joint body. The conclusion of bilateral agreements and establishment of bilateral joint bodies for boundary waters is important; however, it should not be regarded as a substitute to cooperation on the entire transboundary basin(s).
- Clearly defined powers for the joint body, which are sufficient for effective activities related to the management, use and protection of transboundary waters.
- An organizational structure that allows for developing and adopting decisions as well as implementing them. This presumes the existence of decision-making, executive and working bodies, including a permanent organ to support the activities of a joint body. It also presumes a clear definition of tasks and functions for each element of an organizational structure.
- Effective mechanisms for cooperation of a joint body with national authorities, and the availability of mechanisms to support implementation of decisions.
- Financial means for implementation of joint programmes and support of a joint body's organizational structure, and, if needed, the availability of a mandate for fundraising.
- Well-developed reporting mechanisms.

- Mechanisms for public participation and stakeholder involvement in the activity of a joint body.
- Coordination of activities with other joint bodies in the same catchment area, as well as with relevant joint bodies established for preservation of the marine environment.

Many of the existing joint bodies in EECCA countries have weak institutional mechanisms which may include the following problems:

- Lack of adequate powers to implement IWRM.
- Prevalence of joint bodies whose scope of regulation includes boundary areas of transboundary watercourses on the basis of bilateral agreements and, in a number of transboundary water basins, lack of joint bodies whose scope of regulation would encompass entire basins.
- Incomplete representation of national authorities in the joint body, which usually implies the predominance of the water management authorities and the lack of representatives from environment, fishery, health, energy, hydrometeorology authorities, economy and finance ministries, or merely formal participation of those representatives in the activities of individual working organs.
- Poor implementation of a joint body's decisions due to the lack of resources, insufficient motivation among national authorities, inadequate representation of national authorities in the joint body, and the lack of coordination at the national level.
- Underperformance of some functions by joint bodies, most commonly functions related to water quality and environmental protection.
- Lack of financial means for implementation of joint programmes, partially because of the lack of financial commitments of the riparian Parties to cover these costs in the agreements which establish joint bodies.
- Absence of executive and working organs in many joint bodies, which leads to interruptions in activities and poor coordination. The majority of joint bodies in EECCA need to establish small but permanent secretariats.
- Lack of mechanisms for public participation and stakeholder involvement as well as lack of broad access to information developed by joint bodies, and absence or improper implementation of provisions for disseminating information.
- Lack of requirements for regular reporting.

Efforts and activities aimed at reaching new agreements and establishing new joint bodies between or with participation of the EECCA countries should be guided by the following considerations:

- Mutual trust among the riparian States and the motivation to cooperate are prerequisites for entering into agreements and establishing joint bodies. At the same time, even when such trust does not exist, cooperation may start with joint activities of national authorities on technical issues or in specific areas of cooperation, as well as

from joint activities of NGOs and other stakeholders. When a basin-wide agreement by all riparian States cannot be reached, cooperation may start from an agreement and a joint body established by some riparian States with a view to attracting all riparian States to such cooperation in the future.

- Conducting a joint study of a basin may be useful. Among other things, such an exercise can identify the benefits of cooperation for all potential participants in an agreement and a joint body.
- Analysis of existing agreements and joint bodies with participation of the riparian States (when such agreements and bodies exist) is necessary in order to identify lessons-learned on shortcomings and strengths.
- Analysis of national authorities, organizations and institutions in each riparian State is necessary in order to identify their competences, functions and expertise to contribute to IWRM as well as to ensure close cooperation of all relevant national authorities with the joint body to be created. To secure a vital future for an agreement, it is important to involve in the negotiations representatives of the ministries of justice, foreign affairs, economy and finance. Although the majority of agreements existing worldwide leave it up to the riparian States to determine the composition of delegations in the joint body, it may be expedient when concluding new agreements with participation of the EECCA countries to determine the inter-ministerial character of delegations in the agreement.
- It is important to make a stakeholder analysis in order to ensure stakeholder participation in the negotiations and to develop mechanisms for stakeholder participation in a joint body's activities.
- International organizations can offer valuable expertise and become neutral facilitators of the dialogue between riparian States. UNECE, the Meeting of the Parties to the Water Convention and its secretariat have and can continue to play an important neutral role in initiating the process of developing agreements in a number of EECCA basins. Existing joint bodies can offer wide expertise with regard to the organizational structure and mechanisms. The joint bodies created by coastal States can become important allies in work on establishing joint bodies for relevant watercourses.
- It is important to ensure financial sustainability of a joint body by defining the financial commitments of the Parties and by analysing possible additional funding mechanisms. In EECCA countries, it is important to provide for the financing of a joint body by establishing a separate line in the State budget.

## Annex I

### SUMMARY OF PROPOSALS WITH REGARD TO THE ESTABLISHMENT OF NEW JOINT BODIES AND STRENGTHENING OF SOME EXISTING JOINT BODIES IN EASTERN EUROPE, CAUCASUS AND CENTRAL ASIA

Based on discussions at the international workshop, “River basin commissions and other institutions for transboundary water cooperation” (Almaty, Kazakhstan, 23–25 October 2007)

| <b>River basin</b>  | <b>Joint bodies</b>   | <b>Major challenges and perspectives for cooperation</b>  |
|---|---|---|
| <p>Prut River, Danube Delta (Republic of Moldova, Romania, Ukraine)</p> | <p>ICPDR acts on the basis of the Convention on Cooperation for the Protection and Sustainable Use of the Danube River (1994). The Republic of Moldova, Romania, and Ukraine participate in ICPDR (agreement 8 in table 1).</p> <p>Plenipotentiaries are appointed to facilitate the implementation of the Agreement between Ukraine and Romania of 1997 (agreement 13 in table 1).</p> <p>Plenipotentiaries are appointed to facilitate the implementation of the Agreement between the Republic of Moldova and Ukraine of 1994 (agreement 4 in table 1).</p> <p>A joint commission acts in accordance with the Agreement between the Ministry of Waters, Forests and Environmental Protection of Romania, the Ministry of Environment and Territorial Development of the Republic of Moldova, and the Ministry of Environment and Natural Resources of Ukraine Concerning Cooperation in the Zone of the Danube Delta and Lower River Prut Nature-Protected Areas of 2000.</p> <p>A joint working group of the Republic of Moldova and Romania concerning fisheries at the Prut River and Stanca-Costesti artificial lake acts on the basis of the Agreement of 2003 (agreement 21 in table 1).</p> | <p>There is a close cooperation with the Republic of Moldova and Ukraine in implementation of the EU WFD in the Danube River Basin. According to the Agreement of 2000, there is a cooperation in nature-protected areas of the Danube Delta and the Lower Prut.</p> <p>Since 2004, the construction by Ukraine of a deep-water navigation canal (the Bystroe Canal) without prior notification of Romania had attracted great international attention and demonstrated the need for increasing the efficiency of transboundary cooperation in the Danube Delta.</p> <p>The bilateral cooperation between the Republic of Moldova and Romania is implemented on the basis of three documents: the Agreement between the Ministry of Waters, Forests and Environmental Protection of Romania and the Department of Environmental Protection of the Republic of Moldova Concerning Cooperation in Environmental Protection and Sustainable Use of Natural Resources (1997), the Regulation on Operation and Maintenance of the Hydrotechnic Knot “Stanca-Costesti” on the Prut River (1985), and the Memorandum of Understanding on Cooperation at River Prut and Danube River between the National Administration Apele Romane and Apele Moldovei (1995). To raise the efficiency of cooperation and to strengthen the institutional framework of cooperation, in 2006 Romania relaunched the process of concluding a new transboundary waters agreement with the Republic of Moldova.</p> |

| River basin   | Joint bodies   | Major challenges and perspectives for cooperation   |
|---|--|---|
|   | <p>A Joint Commission of the Hydrotechnic Knot "Stanca-Costesti" on the Prut River and a Joint Subcommission for Operation of the Hydrotechnic Knot "Stanca-Costesti" both act on the basis of the Regulation on Operation and Maintenance of the Hydrotechnic Knot "Stanca-Costesti" on the Prut River of 1985.</p> |   |
| Zapadnaya Dvina/Daugava River (Belarus, Russian Federation, Latvia) | <p>A joint Russian Federation-Belarus Commission acts on the basis of the Agreement of 2002 (agreement 20 in table 1).</p>   | <p>A draft of a trilateral Agreement on Cooperation in the Field of Use and Protection of Water Resources in Zapadnaya Dvina/Daugava River Basin was developed in 2003. The draft provides for the establishment of a joint commission. The draft is going through procedures for approval in the countries.</p>  |
| Zapadnyi Bug River (Belarus, Poland, Ukraine)                       | <p>The Ukrainian-Polish Commission acts in accordance with the Agreement of 1996 (agreement 11 in table 1). Plenipotentiaries from Ukraine and Belarus are appointed to facilitate the implementation of the Agreement of 2001 (agreement 18 in table 1).</p>  | <p>Existing joint bodies may benefit from improving public participation mechanisms, strengthening reporting and distribution of reports to a wider range of stakeholders, and from the revision of functions.</p> <p>A basis for bilateral cooperation between Poland and Belarus was provided by the Agreement between Poland and USSR of 1964. At present, a new intergovernmental agreement on transboundary waters between Belarus and Poland is under development.</p>  |
|   |  | <p>The Agreement on Cooperation between the Hydrometeo Department of the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus and the Institute of Hydrometeorology and Water Resources of Poland of 2003 ensures regular exchange of hydrometeorology data and joint hydrometeorology activities.</p> <p>There is discussion of the possibility of developing a trilateral agreement for Zapadnyi Bug River Basin.</p>  |
| Neman/Nemunas River (Russian Federation, Belarus, Lithuania)        | <p>A joint Russian Federation-Belarus Commission acts on the basis of the Agreement of 2002 (agreement 20 in table 1).</p>   | <p>The cooperation takes place in the framework of bilateral environmental protection agreements (Agreement between Belarus and Lithuania on Cooperation in Environmental Protection of 1995, Agreement between Russian Federation and Lithuania on Cooperation in Environmental Protection of 1999).</p> <p>There is also an Agreement of 2003 between the Joint Research Center of the Ministry of Environment of Lithuania and the Hydrometeorology Agency of Lithuania, on the one side, and the Kaliningrad Centre on Hydrometeorology and Environmental Monitoring, on the other, Concerning Cooperation in Monitoring and Exchange of Data on Transboundary Waters.</p> <p>The draft of a trilateral intergovernmental Agreement on Cooperation in the Field of Use and Protection of Water Resources in Neman/Nemunas River Basin was prepared in 2003.</p> |

| River basin  | Joint bodies   | Major challenges and perspectives for cooperation  |
|--|--|--|
| Narva River, Lake Chudskoye/Peipsi (Russian Federation, Estonia) | Joint Russian-Estonian Commission acts on the basis of the Agreement of 1997 (agreement 14 in table 1).<br>Russian-Estonian Intergovernmental Commission on Fisheries acts on the basis of the Agreement of 1994 (agreement 7 in table 1). | <p>The draft provides for the establishment of a joint commission. The draft is going through approval procedures in the countries.</p> <p>The Joint Russian-Estonian Commission on the Protection and Rational Use of Transboundary Waters has recently been restructured. There are now two working groups instead of four, and therefore the scope of activities for each group has broadened. The working group on cooperation with local authorities, NGOs and international organizations which existed in the period 1999–2004 was abandoned, although its functions were transferred to a new group. The public is not directly involved in the work of the Commission, although experts (including NGOs) may take part in meetings of the working groups. Although the Agreement of 1997 lacks specific reporting requirements, strengthening the reporting mechanisms and dissemination of reports could contribute to the effectiveness of cooperation.</p> <p>There is a need to develop the cooperation between two commissions, the Joint Russian-Estonian Commission on the Protection and Rational Use of Transboundary Waters and the Russian-Estonian Intergovernmental Commission on Fisheries.</p>   |
| Dniester River (Republic of Moldova, Ukraine)                    | Plenipotentiaries are appointed to facilitate implementation of the Agreement between the Republic of Moldova and Ukraine of 1994 (agreement 4 in table 1).  | <p>The plenipotentiaries have established four working groups (one of them deals with the Dniester River). A transboundary diagnostic study in the Dniester River Basin was developed in 2005. In 2006, the plenipotentiaries adopted three Regulations: Floods Protection at the Transboundary Watercourses and Inner Waters; Water-Ecological Monitoring and Water Quality Control; Actions in Case of Emergency Pollution. In 2007, the plenipotentiaries adopted two Regulations: Stakeholder Participation in Activities of the Plenipotentiaries; and Cooperation on the Joint Management of Dniester River Basin Website (<a href="http://www.dniester.org">http://www.dniester.org</a>).</p> <p>There are suggestions to ensure permanent participation in the work of plenipotentiaries of environmental, health and emergency authorities (some representatives are included in the working groups; however, they participate only from time to time). It is suggested that more attention be paid to such functions as prevention of water pollution, assessment of biological resources, and development of IWRM schemes. It may be expedient to establish cooperation with other joint bodies, including those established for the protection of the Black Sea environment.</p> <p>Within the framework of an ENVSEC project, drafts were developed of a Regulation on Cooperation in Sanitary Epidemiological Monitoring of Water Quality, and an Agreement on Cooperation in the Protection and Sustainable Development of the Dniester River Basin. The latter provides for the establishment of a joint commission.</p> |

| River basin   | Joint bodies  | Major challenges and perspectives for cooperation   |
|---|---|---|
| Dnieper/Dnipro River (Russian Federation, Belarus, Ukraine) | <p>Plenipotentiaries are appointed to facilitate implementation of the Agreement between Belarus and Ukraine of 2001 (agreement 18 in table 1).</p> <p>The joint Russian Federation-Belarus Commission acts in accordance with the Agreement of 2002 (agreement 20 in table 1).</p> | <p>The Russian Federation-Belarus Commission agreed on the Regulations for its working groups. The Commission adopts work plans for working groups. It has developed an effective programme for joint monitoring of transboundary sections of the Dnieper/Dnipro.</p> <p>A stakeholder analysis was made within the framework of the UNDP-GEF Dnipro Basin Environment Programme. There is a need to improve mechanisms of public participation in the activities of joint bodies in the basin.</p> <p>A new intergovernmental agreement between Belarus, Russian Federation and Ukraine on Cooperation in the Field of Management and Protection in the Dnieper/Dnipro River Basin was developed within the framework of the UNDP-GEF Dnipro Basin Environment Programme (<a href="http://www.dnipro-gef.net">http://www.dnipro-gef.net</a>). The draft is going through procedures for approval in the countries. The draft provides for the establishment of a joint commission.</p> <p>A draft management plan for the Pripjat River basin was developed in the framework of the TACIS project "Transboundary River Basin Management: Phase 2 for the Pripjat Basin" (<a href="http://www.pripjatplan.org">http://www.pripjatplan.org</a>). There is also a proposal to establish a joint commission for the Pripjat basin.</p> |
| Pripjat River (Belarus, Ukraine)                            | Plenipotentiaries are appointed to facilitate implementation of the Agreement between Belarus and Ukraine of 2001 (agreement 18 in table 1).  | <p>The TACIS project "Transboundary River Basin Management: Phase 2 – Seversky Donets" aims to improve integrated water resource management in the basin. A draft management plan for the Seversky Donets River Basin and a proposal to establish a joint commission were developed.</p>  |
| Seversky Donets River (Russian Federation, Ukraine)         | Plenipotentiaries are appointed to facilitate the implementation of the Agreement between Ukraine and the Russian Federation of 1992 (agreement 1 in table 1).  | <p>There are efforts towards the conclusion of an intergovernmental agreement on Seversky Donets. The "conclusion of Agreement between the Government of the Russian Federation and the Cabinet of Ministers of Ukraine on the protection and use of transboundary water bodies in Seversky Donets basin and implementation of an interregional environmental programme" is part of the draft "List of activities for 2008–2009 on implementation of the Border Regional Cooperation Strategy in the Russian Federation".</p>   |



| <b>River basin</b>  | <b>Joint bodies</b>  | <b>Major challenges and perspectives for cooperation</b>   |
|---|--|--|
| <p>Kura-Aras River basin (Armenia, Azerbaijan, Georgia, the Islamic Republic of Iran, Turkey)</p> | <p>There is neither an agreement nor a joint body covering the entire Kura-Aras River basin.</p> <p>Bilateral commissions (between Armenia and the Islamic Republic of Iran, between Azerbaijan and the Islamic Republic of Iran) act on the basis of the Agreement between the USSR and Iran of 1957.</p> <p>Bilateral commissions on boundary waters (between Armenia and Turkey, between Georgia and Turkey) act on the basis of the Convention between USSR and Turkey of 1927.</p> <p>Since 2004, there is an Interstate Commission of Armenia and Turkey on the Use of Akhuryan Water Reservoir.</p> <p>The Intergovernmental Commission on Economic Cooperation of Azerbaijan and Georgia acts since 2004. Its functions cover, among others, the cooperation in the area of monitoring the environmental safety of transboundary waters, including the assessment of pollution in the Kura River, and joint clean-up measures.</p> | <p>In Armenia, Azerbaijan and Georgia, there are a number of projects to facilitate transboundary cooperation in the Kura-Aras River Basin. In 2007, two projects were ongoing: the USAID South Caucasus Water Programme and the ENVSEC project, “Development of Legal and Institutional Frameworks for the Cooperation in the Kura-Aras River Basin”. Both aimed to create legal and institutional frameworks for cooperation and, in the long run, the establishment of a joint body.</p> <p>In June 2008, the EU Project “Trans-Boundary River Management Phase II for the Kura River basin” started in Armenia, Georgia and Azerbaijan. The purposes are to support the establishment of transboundary monitoring and information management systems to improve transboundary cooperation in the basin. The Kura-Aras River Basin is also the focus of the UNDP/GEF project “Reducing Transboundary Degradation of the Kura-Aras River Basin” and of the ENVSEC project “Development of bilateral agreement on the management of transboundary watercourses between Azerbaijan and Georgia”.</p> |
| <p>Samur River (Azerbaijan, Russian Federation)</p>   |  | <p>An intergovernmental agreement on joint use and protection of transboundary Samur River was negotiated in the period 2000–2004. However, the negotiations did not result in the signing of an agreement.</p>  |

| River basin   | Joint bodies  | Major challenges and perspectives for cooperation  |
|---|---|--|
| Irtys River (China, Kazakhstan, Russian Federation.), Ili River (China, Kazakhstan, Kyrgyzstan) | <p>The Joint Russian Federation-Kazakhstan Commission acts on the basis of the Agreement of 1992 (agreement 2 in table 1) and covers the rivers Irtys, Ishim, Tobol, Ural, Bolshoy Uzen' and Malyi Uzen'.</p> <p>The Kazakhstan-China Joint Commission acts on the basis of Agreement of 2001 (agreement 19 in table 1) and covers Irtys and Ili rivers, as well as streams and small rivers.</p> <p>The Joint Russian Federation-China Commission is established by Agreement of 2008 (agreement 23 in table 1).</p> | <p>The Joint Russian Federation-Kazakhstan Commission has a working group for each river. There are suggestions to organize working groups in accordance with their functions (monitoring, flood passage, protection of waters and liquidation of environmental accidents, transboundary protected areas and the protection of biodiversity). There are also proposals to involve in the work of the commission large water users and the public. There is a need for wider distribution of information, since the Protocols and annual reports of the commission are not published in mass media.</p> <p>The Kazakhstan-China Joint Commission has a narrow scope of activities (monitoring and joint research) and approaches the discussion of China's water allocation projects very carefully.</p> <p>There is ongoing work, in particular in Kazakhstan, to draft a new agreement between China, Kazakhstan and Kyrgyzstan on the Integrated Management of Ili-Balkhash Basin.</p> |
| Amudarya and Syrdarya Rivers (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan)     | <p>ICWC of Central Asia was established in 1992 (for implementation of the agreement 3 in table 1). ICWC and its bodies are part of the International Fund for Saving the Aral Sea, set up in 1993.</p>   | <p>There is a need to raise the efficiency of participation in ICWC activities of authorities in addition to water management authorities. There are suggestions to pay more attention to implementation of such tasks as ensuring water quality, implementation of environmental programmes, and protection of groundwaters.</p> <p>Central Asian countries have developed a rather complicated scheme of institutions dealing with water resources. However, there are problems in coordination and exchange of information between the structural elements of this scheme. In 2008, the ICWC adopted new ICWC Regulations and a charter on the rotation of executive bodies of ICWC and their leadership.</p>   |
| Rivers Chu and Talas (Kazakhstan, Kyrgyzstan)   | <p>The Chu-Talas Commission was established in 2006 to facilitate the implementation of the Agreement of 2000 (agreement 17 in table 1).</p>  | <p>It is important to clearly define the status and funding mechanism for the secretariat of the Chu-Talas Commission, in particular to clarify the issue of financing from the national budgets. The need to expand the functions of the Commission is also being discussed. There is a need for a wider and more effective participation in the work of the Commission of other authorities than water management authorities. Proposals to develop mechanisms for public participation (possibly, through a Chu-Talas Basin Council) are discussed.</p>   |

| River basin  | Joint bodies | Major challenges and perspectives for cooperation   |
|--|--------------|---|
| <p>Khodja-Bakirgan River (Kazakhstan, Tajikistan), Shakhimardan-Sai River (Kyrgyzstan Uzbekistan,), Kunduz River, Kukcha River and other tributaries of the Pjanj River (Afghanistan, Tajikistan-)</p> |              | <p>The legal basis for small transboundary rivers in Central Asia either does not exist or is outdated.</p> |
| <p>Zeravshan River (Tajikistan, Uzbekistan)</p>  |              | <p>There is a great need to establish a bilateral institution for the management of the Zeravshan.</p>      |

## Annex II

### LIST OF WEBSITES OF JOINT BODIES

|  |   |   |
|--|---|---|
| International Commission for the Protection of the Oder against Pollution                                    | Czech Republic, Germany, Poland, European Community   | <a href="http://www.mkoo.pl/">http://www.mkoo.pl/</a>                         |
| International Commission for the Protection of the Elbe  | Czech Republic, Germany, European Community   | <a href="http://www.ikse-mkol.org/">http://www.ikse-mkol.org/</a>             |
| International Commission for the Protection of Lake Geneva   | France, Switzerland   | <a href="http://www.cipel.org/">http://www.cipel.org/</a>                     |
| International Commission for the Protection of Lake Constance  | Austria, Germany (Baden-Wurtemberg, Bavaria), Switzerland   | <a href="http://www.igkb.de/">http://www.igkb.de/</a>                         |
| International Commission for the Meuse/Maas  | Belgium (Brussels-Capital region, Flemish region, Walloon region), France, Germany, Luxembourg, Netherlands   | <a href="http://www.meuse-maas.be/">http://www.meuse-maas.be/</a>             |
| International Commission for the Scheldt   | Belgium (Brussels-Capital region, Flemish region, Walloon region), France, Netherlands  | <a href="http://www.isc-cie.com/">http://www.isc-cie.com/</a>                 |
| Joint Finnish-Russian Commission on the Utilization of Frontier Waters                                       | Finland, Russian Federation   | <a href="http://www.rajaviesikomisio.fi/">http://www.rajaviesikomisio.fi/</a> |
| International Commissions for the Protection of Mosel and Saar Against Pollution                             | For Mosel: France, Germany, Luxembourg<br>For Saar: France, Germany   | <a href="http://www.iksms-cipms.org">http://www.iksms-cipms.org</a>           |
| International Commission for the Protection of the Rhine   | France, Germany, Luxembourg, Netherlands, Switzerland, European Community   | <a href="http://www.iksr.org/">http://www.iksr.org/</a>                       |
| International Commission for the Protection of the Danube River  | Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Germany, Hungary, Montenegro, Republic of Moldova, Romania, Slovakia, Slovenia, Serbia, Ukraine, European Community | <a href="http://www.icpdr.org/">http://www.icpdr.org/</a>                     |
| International Sava River Basin Commission  | Bosnia and Herzegovina, Croatia, Serbia, Slovenia   | <a href="http://www.savacommission.org/">http://www.savacommission.org/</a>   |
| International Commission for the Protection of Italo-Swiss Waters  | Italy, Switzerland  | <a href="http://www.cipais.org/">http://www.cipais.org/</a>                   |
| Interstate Commission for Water Coordination of Central Asia   | Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan  | <a href="http://www.icwc-aral.uz/">http://www.icwc-aral.uz/</a>               |
| Commission on the Use of Water Management Facilities of Intergovernmental Status on the Rivers Chu and Talas | Kazakhstan, Kyrgyzstan  | <a href="http://www.talachu.kz/">http://www.talachu.kz/</a>                   |
| Mekong River Commission  | Cambodia, Lao People's Democratic Republic, Thailand, Viet Nam  | <a href="http://www.mrcmekong.org/">http://www.mrcmekong.org/</a>             |
| Amazon Cooperation Treaty Organization   | Bolivia, Brazil, Colombia, Ecuador, Guyana, Peru, Suriname, Venezuela   | <a href="http://www.otca.info/">http://www.otca.info/</a>                     |
| Intergovernmental Coordinating Committee of La Plata Basin Countries   | Argentina, Bolivia, Brazil, Paraguay, Uruguay   | <a href="http://www.cicplata.org/">http://www.cicplata.org/</a>               |

|   |  |   |
|---|--|---|
| Mixed Technical Commission of Salto Grande            | Argentina, Uruguay   | <a href="http://www.saltogrande.org/">http://www.saltogrande.org/</a> |
| Administrative Commission of the River Uruguay        | Argentina, Uruguay   | <a href="http://www.caru.org.uy/">http://www.caru.org.uy/</a>         |
| International Boundary and Water Commission           | Mexico, United States  | <a href="http://www.ibwcc.state.gov/">http://www.ibwcc.state.gov/</a> |
| International Joint Commission                        | Canada, United States,   | <a href="http://www.ijc.org/">http://www.ijc.org/</a>                 |
| Great Lakes Commission                                | Eight States of the United States. Associate members: Ontario and Quebec         | <a href="http://www.glc.org/">http://www.glc.org/</a>                 |
| Niger Basin Authority                                 | Benin, Burkina Faso, Cameroon, Chad, Côte d'Ivoire, Guinea, Mali, Niger, Nigeria | <a href="http://www.abn.ne/">http://www.abn.ne/</a>                   |
| Permanent Okavango River Basin Water Commission       | Angola, Botswana, Namibia  | <a href="http://www.okacom.org/">http://www.okacom.org/</a>           |
| Organization for the Development of the Senegal River | Mali, Mauritania, Senegal  | <a href="http://www.omvs.org">http://www.omvs.org</a>                 |

The UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes of 1992 places a significant emphasis on institutional cooperation between countries. It requires countries to enter into agreements and to establish joint bodies, such as river basin commissions and other institutions for transboundary water cooperation.

This publication analyses structures and activities of joint bodies for transboundary water cooperation and presents recommendations for developing cooperation and establishing and improving joint bodies in the countries of Eastern Europe, Caucasus and Central Asia. It focuses particularly on aspects where existing joint bodies in Eastern Europe, Caucasus and Central Asia could improve their activities by strengthening institutional mechanisms. It describes major challenges and perspectives for cooperation in specific river basins.

A draft of this publication was developed to stimulate discussions at the workshop, "River basin commissions and other institutions for transboundary water cooperation" (Almaty, Kazakhstan, 23–25 October 2007), in the framework of the Capacity for Water Cooperation project, which aims to strengthen the capacity of transboundary water management in countries in Eastern Europe, Caucasus and Central Asia. The workshop was co-organized by the United Nations Economic Commission for Europe, the United Nations Development Programme and the Organization for Security and Co-operation in Europe in the framework of the Environment and Security Initiative.



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**Enquiries about the CWC project can be addressed to:**

**Water Convention Secretariat  
United Nations Economic Commission for Europe  
Palais des Nations  
CH-1211 Geneva 10, Switzerland  
Tel: +41 22 917 2463  
Fax: +41 22 917 0107  
E-mail: [water.convention@unece.org](mailto:water.convention@unece.org)  
Website: [www.unece.org/env/water/cwc.htm](http://www.unece.org/env/water/cwc.htm)**

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