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Principles for Effective Joint Bodies for Transboundary Water Cooperation

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



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FOREWORD

Approximately 40 per cent of the world's population lives in river and lake basins shared by two or more countries and over 90 per cent lives in countries that share transboundary basins. Transboundary waters therefore underpin the development and well-being of billions of people. As the management of water resources across transboundary basins can impact on co-riparian countries, cooperation is critical to ensure that water resources are used in an equitable and reasonable way, safeguarding their sustainability without compromising the development aspirations of the different riparian countries.

Experience worldwide shows that transboundary cooperation is most effective in the framework of joint bodies. They are instrumental to ensure long-term transboundary water cooperation. The establishment of joint bodies, such as river, lake and groundwater commissions, is also a main obligation under the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention).

The Principles for Effective Joint Bodies for Transboundary Water Cooperation, presented in this publication, distil valuable lessons from the experiences of joint bodies worldwide, Parties to the Water Convention and other States, as well as other stakeholders. These experiences were gathered through an extensive consultation process under the Water Convention. At its seventh session (Budapest, 17-19 November 2015) the Meeting of the Parties to the Water Convention formally adopted the principles and encouraged countries to use them.

The principles seek to facilitate the establishment and work of joint bodies and ultimately to contribute to reaching a high level of cooperation between riparian States. The principles are highly relevant in the light of the opening of the Water Convention to all United Nations Member States and can assist countries in implementing one of its main obligations.

They are also an important tool to achieve Sustainable Development Goal (SDG) 6 on clean water and sanitation and its target 6.5, which calls for implementing integrated water resources management at all levels, including through transboundary cooperation. It is particularly noteworthy that the description of global SDG indicator 6.5.2, which measures progress on transboundary cooperation in accordance with target 6.5, states clearly that for cooperation to be considered operational it has to be underpinned by a joint body. This further underscores the importance of these principles.

We encourage all countries sharing transboundary waters and existing joint bodies to use these principles to foster an effective and fruitful cooperation over our precious shared water resources.



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BACKGROUND TO THE PRINCIPLES

According to the definition of the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention), which is serviced by the United Nations Economic Commission for Europe (ECE), a “joint body” means any bilateral or multilateral commission or other appropriate institutional arrangements for cooperation between riparian countries. The existing joint commissions and other joint bodies for transboundary water cooperation differ from one another, for example, in terms of the scope of their application, competence, functions, powers and organizational structure. Because of this diversity of institutional arrangements for transboundary water cooperation, it is challenging to draw general conclusions or make recommendations about their set-up or operation. Furthermore, the practice of existing joint bodies has been established in specific hydrological, political, economic, ecological/environmental and social contexts.

Nevertheless, the experience of joint bodies and the development of international law on the management of transboundary water resources can provide a basis for identifying certain principles of organization and activities that generally increase the efficiency of joint bodies and can contribute to reaching a mature level of cooperation between the riparian States.

For instance, the publication *River Basin Commissions and Other Institutions for Transboundary Water Cooperation* prepared under the Water Convention in 2009 reviewed good practices in the pan-European region¹.

Building on that work, at its sixth session (Rome, 28–30 November 2012) the Meeting of the Parties to the Convention decided to promote the exchange of experience and good practices of joint bodies worldwide and develop recommendations. To that end, two workshops were organized in Geneva: the first on the legal and institutional aspects (23–24 September 2013) and the second on the technical aspects (9–10 April 2014) of establishing and operating joint water bodies. The workshops reviewed experiences on a broad range of issues, such as intersectoral coordination, the management of infrastructure, groundwater management, environmental protection, financing and communication. The two workshops made it possible to gather important expertise on the work of joint bodies, which in turn provided a good opportunity to take stock and define some elements of their good and efficient operation.

1 United Nations publication, Sales No. E.09.II.E.16. Available from <http://www.unece.org/index.php?id=11628>.

The Principles for Effective Joint Bodies for Transboundary Water Cooperation presented below have been developed on the basis of the discussions at the two workshops, the feedback provided thereafter and the comments received at and after the ninth and tenth meetings of the Working Group on Integrated Water Resources Management (Geneva, 25–26 June 2014 and 24–25 June 2015, respectively). This extensive consultation process aimed to ensure the global appropriateness and usefulness of the principles and to enrich them by including experience worldwide.

The principles seek to synthesize valuable lessons from the collective experience of joint bodies for transboundary water cooperation, Parties to the Water Convention and other States, as well as other stakeholders. They are classified in two main categories: one related to the establishment of joint bodies, their structure and functions, and a second related to the operational aspects of joint bodies.

The principles were formally adopted by the Meeting of the Parties to the Water Convention at its seventh session (Budapest, 17–19 November 2015), encouraging countries sharing transboundary waters worldwide to make use of them when establishing new joint bodies or strengthening existing ones.



PRINCIPLES FOR EFFECTIVE JOINT BODIES

The principles of organization and activities set out below generally increase the efficiency of joint bodies for transboundary water cooperation and contribute to reaching a higher level of cooperation between riparian States. Despite the effort to make the principles general enough to be widely applicable, it is acknowledged that, due to the differences between such joint bodies related to their mandates and the scope of their work, as well as to the challenges that they address, not all the principles will be applicable or relevant in each case.

1. ESTABLISHMENT, STRUCTURE AND FUNCTIONS

BROAD COMPETENCE

The broad competence of a joint body allows for addressing in a complex way, on the basis of an integrated water resources management (IWRM) approach, the entire spectrum of issues related to the sustainable development, management, use (including infrastructure) and protection of transboundary waters.

CLEAR DEFINITION OF THE WATERS

A clear definition of the waters subject to cooperation, in accordance with the basin approach, is crucial, as well as the participation of all basin countries in a joint body. The conclusion of bilateral agreements and the establishment of bilateral joint bodies for boundary or frontier waters (i.e., depending on the approach, from the section of the transboundary waters around the border to the whole transboundary basin) is important; however, it should not be regarded as a substitute for cooperation on the entire transboundary basin(s). Aquifers and other groundwater bodies should be considered in the scope of agreements, although drawing up a separate agreement on groundwaters, particularly where a given aquifer is unrelated to surface waters or cannot be easily assigned to a specific international river basin, is also an opportunity. Including coastal waters in the scope of agreements should be encouraged.



CLEARLY DEFINED TASKS AND POWERS

Tasks and powers² for the joint body need to be clearly defined, and these need to be sufficient for effective activities related to the management, development, use and protection of transboundary waters. Tasks and powers sufficient to ensure the effective activities of a joint body will differ from case to case. The Water Convention lists the non-exhaustive core set of tasks of joint bodies, at the same time allowing Riparian Parties to tailor their institutional framework for cooperation to their specific needs.

2 The functions of joint bodies, as described in *River basin commissions and other institutions for transboundary water cooperation* include: (a) a coordination and advisory function; (b) an executive function; and (c) a control of implementation and dispute settlement function. These can be further detailed in the tasks.

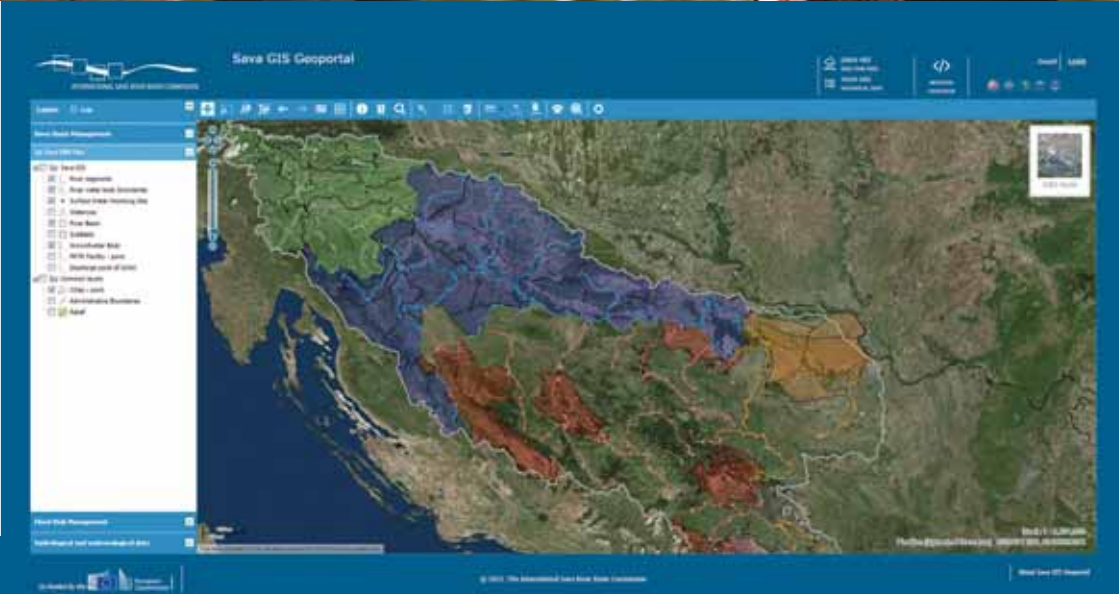
WATER CONVENTION'S

MAIN PROVISIONS ON JOINT BODIES

Article 9 of the Water Convention requires riparian Parties to enter into bilateral or multilateral agreements or other arrangements on their transboundary waters. The Convention requires that such agreements or other arrangements shall provide for the establishment of joint bodies. Article 9 also defines the main tasks to be undertaken by joint bodies. These include the following:

- > **To collect, compile and evaluate data in order to identify pollution sources likely to cause transboundary impact;**
- > **To elaborate joint monitoring programmes concerning water quality and quantity;**
- > **To draw up inventories and exchange information on the pollution sources mentioned likely to cause transboundary impact;**
- > **To elaborate emission limits for waste water and evaluate the effectiveness of control programmes;**
- > **To elaborate joint water-quality objectives and criteria, and to propose relevant measures for maintaining and, where necessary, improving the existing water quality;**
- > **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);**
- > **To establish warning and alarm procedures;**
- > **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;**
- > **To promote cooperation and exchange of information on the best available technology, as well as to encourage cooperation in scientific research programmes;**
- > **To participate in the implementation of environmental impact assessments relating to transboundary waters, in accordance with appropriate international regulations.**

The Convention also requires that joint bodies be the framework for other cooperation activities, such as consultations between riparian Parties, common research and development and exchange of information.



ADEQUATE ORGANIZATIONAL STRUCTURE

An organizational structure that allows for developing and adopting decisions as well as implementing them is essential. This entails the existence of decision-making, executive and working (technical) bodies, including preferably a permanent organ (secretariat) to support the activities of a joint body. It also requires a clear definition of tasks and functions for each body in the organizational structure.

ADEQUATE REPRESENTATION OF NATIONAL AUTHORITIES

An adequately broad and comprehensive representation of national authorities in the joint body should be ensured, implying participation beyond the water management authorities to include representatives from the areas of environment, fishery, agriculture, transport, health and energy, hydrometeorology authorities and economy and finance ministries, as appropriate. An appropriate breadth of representation of authorities is linked to the actual water uses in the shared basin or aquifer and their relative importance. A balance may need to be struck between ensuring that the different interests and concerns are considered and maintaining the structure at a size and scope that allows it to operate effectively. If very broad participation in the joint body is not practical, opportunities for coordination, including regular consultations with non-represented State agencies should be provided³.

FLEXIBLE AGREEMENT

A certain flexibility of the agreement establishing the joint body is needed, making it possible to progressively develop cooperation, in terms of scope, mandate and the riparian States involved. 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 of the riparian States, with a view to attracting all riparian States to participate in the future.

AVAILABILITY OF SUPPORT

The availability of technical, informational, scientific and other support for the activities of joint bodies, through the appropriate design of the organizational structure, is critical. The establishment of subsidiary bodies like working groups or task forces on topics of relevance to the work of the joint body allows for flexibility in responding to thematic issues, including emerging ones, and for involving the necessary technical expertise. They are also potential forums for involving external expertise and for public participation.

³ The Global Environment Facility (GEF) has as a principle for its projects to establish an inter-agency committee for preparations of transboundary discussions. This could be an option to involve a broad or full inclusion of agencies. Too many actors in the actual commission may lead to an unfocused discussion.

REGULARITY

The principle of regularity in the work of a joint body implies a clearly agreed meeting schedule ensuring regular meetings on all levels.

AVAILABILITY OF INFORMATION

A good information basis to support the activities of a joint body, including joint studies of the basin, is necessary. This refers to the availability of information on, among others, the quality and quantity status of waters, environmental and biodiversity conditions, economic and social conditions, and water uses and other pressures. A valuable part of this may be an analysis of the national authorities, organizations and institutions in each riparian State to identify their competences, functions and expertise contributing to IWRM, as well as to ensure the close cooperation of all the relevant national authorities with the joint body, which can be complemented with a stakeholder analysis⁴.

MANDATE TO IDENTIFY AND ASSESS BENEFITS

A mandate to identify and assess accurately the potential benefits of transboundary water cooperation, taking into account economic, social, environmental and geopolitical aspects, is beneficial.

4 The Transboundary Diagnostic Analyses, promoted by GEF, which are science-based analyses of transboundary water-related concerns and opportunities that exist in multi-country water systems, can be mentioned as an example of a broad-based study of a transboundary basin or an aquifer. They are used to identify priorities for joint action, as well as the root causes and scope of the concerns or opportunities.



2. OPERATION

2.1 PROCEDURAL CONSIDERATIONS

ACCOUNTABILITY MECHANISMS

Effective accountability mechanisms for the joint body should be in place to ensure the implementation of its activities and obligations.

MECHANISMS FOR COOPERATION AND IMPLEMENTATION

Effective mechanisms for cooperation of the joint body with national authorities are necessary, as well as the availability of mechanisms to support implementation of decisions.⁵

CLEARLY DEFINED REPORTING LINES AND MECHANISMS

Clearly defined reporting lines and mechanisms should be established.

PUBLIC PARTICIPATION AND STAKEHOLDER INVOLVEMENT

Mechanisms for public participation and stakeholder involvement in the activities of the joint body are key. Appropriate tools for public participation and stakeholder involvement should be selected according to their purpose — i.e., to identify stakeholders and interested public, to notify, inform or consult the stakeholders and the public, or to take due account of their comments — reflecting also the specific context and the objectives.

For a consistent provision of necessary funds to support public participation and stakeholder involvement, it is important to institutionalize the mechanisms for participation of stakeholders and public. Drawing on the ECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, the following criteria should be taken into account for effective public participation and stakeholder involvement: equity and inclusiveness; accountability and transparency; flexibility; effectiveness and responsiveness.

NEUTRAL FACILITATORS AND EXTERNAL EXPERTISE

Neutral facilitators and external expertise are valuable in the process of initiating or restarting a dialogue and cooperation.⁶

5 See footnote 3 on inter-agency committees above. An appropriate intersectoral scope also serves coordination.

6 Advice and practical case-tailored assistance can be provided by the Water Convention's Implementation Committee in a facilitative, supportive and preventive manner, in accordance with the cooperative spirit of the Convention.



COORDINATION WITH OTHER JOINT BODIES

Activities should be coordinated with other joint bodies in the same catchment area, as well as with relevant joint bodies established for the preservation of the marine environment.

EXCHANGE OF INFORMATION AND DATA

The joint body should function as a forum for the exchange of information and data, including on planned measures and activities, and for the harmonization of monitoring approaches.

2.2 SELECTED TECHNICAL ASPECTS

ENSURING THE CONSIDERATION OF GROUNDWATER ISSUES

A mechanism that ensures the involvement of groundwater expertise and the consideration of groundwater issues in the work of the joint body, whose scope includes integrated management of transboundary surface water and groundwater, is needed.

FACILITATION OF IMPACT MONITORING AND ASSESSMENT

Facilitation of the assessment of impacts (transboundary and intersectoral) from developments in the basin, and the agreement on such assessments between the riparians at the transboundary level, is crucial. The joint body should provide a framework for monitoring of the long-term impacts of infrastructure projects and then, as appropriate, for signalling or even agreeing on the possible need for mitigation or compensation.

CAPACITY TO ADAPT TO CHANGE

It is essential that the joint body has the capacity or can provide the means to flexibly handle variations in water availability and water quality, allowing for adjustments to changes in flow resulting from climate variability and change, as well as to respond to extreme hydrological events.

EARLY WARNING MECHANISMS

Early warning mechanisms, e.g., alert systems in case of emergencies such as accidental pollution, extreme weather events, landslides, etc., should be in place.





2.3 FINANCIAL AND HUMAN RESOURCES

ADEQUATE FINANCIAL AND HUMAN RESOURCES

Adequate, stable and timely financial and human resources in the riparian States and in the secretariat of a joint body (where it exists) are necessary to support, in a sustainable manner, the joint body's organizational structure; to ensure the development, adoption and implementation of decisions and, as appropriate, to provide means for the implementation of joint programmes.

FINANCIAL SUSTAINABILITY

Financial sustainability of a joint body should be ensured by clearly defining the financial commitments of the Parties and by analysing possible additional funding mechanisms. As a priority, coverage of defined core costs and minimum functionality should be ensured. The financial contributions from member countries and their in-kind responsibilities, where applicable, should be clearly defined. As appropriate, the expectations need to be reflected in a corresponding mandate for fundraising. While some funding can be provided by external donors, especially in the beginning, it is important to ensure that the operation and basic functions of a joint body are eventually supported by the riparian States themselves. Involvement of the private sector and other innovative arrangements can be explored as complementary sources of funding, but caution should be exercised not to depend heavily on such sources.



OVERVIEW OF THE PRINCIPLES

ESTABLISHMENT STRUCTURE AND FUNCTIONS	OPERATION	
Broad competence	PROCEDURAL CONSIDERATIONS	Accountability mechanisms
Clear definition of the waters		Mechanisms for cooperation and implementation
Clearly defined tasks and powers		Clearly defined lines and mechanisms
Adequate organizational structure		Public participation and stakeholder involvement
Adequate representation of national authorities		Neutral facilitators and external expertise
Flexible agreement		Coordination with other joint bodies
Availability of support	SELECTED TECHNICAL ASPECTS	Exchange of information and data
Regularity		Ensuring the consideration of groundwater issues
Availability of information		Facilitation of impact monitoring and assessment
		Capacity to adapt to change
Mandate to identify and assess benefits	FINANCIAL AND HUMAN RESOURCES	Early warning mechanisms
		Adequate financial and human resources
		Financial sustainability

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