



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

**Working Group on Integrated Water
Resources Management**

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Exchange of experience of joint bodies

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**PRINCIPLES FOR EFFECTIVE JOINT BODIES ON TRANSBOUNDARY WATER
COOPERATION**

**Submitted by the secretariat in cooperation with Germany and Finland as lead countries for activity
1.3 “Exchange of experience of joint bodies”**

I. BACKGROUND AND INTRODUCTION

The sixth session of the Meeting of the Parties decided to include in the Convention’s work programme for 2013–2015 item 1.3 Exchange of experience of joint bodies, which included the organization of two workshops in order to promote the exchange of experience and good practices of joint bodies worldwide and to develop recommendations.

The First Workshop “River Basin Commissions and Other Joint Bodies for Transboundary Water Cooperation: Legal and Institutional Aspects” (23–24 September 2013), and the Second Workshop, “River Basin Commissions and Other Joint Bodies for Transboundary Water Cooperation: Technical Aspects” (9–10 April 2014), both held in Geneva, allowed for exchanging experience on specific technical themes, notably intersectoral coordination, management of infrastructure, groundwater management, environmental protection and selected institutional issues, including financing and communication. The two workshops allowed for an important collection of expertise on the work of joint bodies, making it therefore opportune to take stock and draw some elements of good and efficient operation.

According to the definition of the UNECE Water Convention, a “joint body” means any bilateral or multilateral commission or other appropriate institutional arrangements for cooperation between the Riparian Parties. The existing joint commissions and other joint bodies for transboundary water cooperation differ from one another for example in terms of the scope of application, competence, functions, powers and organizational structure. Because of the diversity of institutional arrangements for transboundary water cooperation, it is challenging to make general conclusions or 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, joint bodies and the development of international law on the management of transboundary water resources allow for the identification of certain principles of organization and activities that generally increase the efficiency of joint bodies and contribute to reaching a mature level of cooperation between the riparian States.

Such principles, derived mostly from the pan-European experience through a workshop held in 2007 for countries in Eastern Europe, Caucasus and Central Asia, were issued in the publication: *River basin commissions and other institutions for transboundary water cooperation*.¹ That publication has been heavily drawn upon in drafting the principles.

The draft Principles for Effective Joint Bodies, as presented below, have been revised taking into account the discussions at the Second Workshop and the feedback provided after the workshop, as well as the comments received at and after the ninth meeting of the Working Group on Integrated Water Resources Management, in particular to ensure their global appropriateness and usefulness. The draft **Principles** have thus been enriched in the light of the worldwide experience from the work of river basin organizations and other joint bodies. The draft Principles aim to synthesize valuable lessons from the collective experience of the joint bodies, Parties to the Water Convention and other States, as well as other stakeholders.

The draft Principles are presented in the present document for review by the Working Group on Integrated Water Resources Management. The Working Group is invited:

- (a) To revise the Principles, provide any additional comment and entrust the secretariat to submit them for adoption by the Meeting of the Parties at its seven session (Budapest, 17-19 November 2015); and
- (b) To discuss ways and means to promote the application of the Principles by joint bodies, Parties and non-Parties, including within the framework of the future Convention's activities.

II. PRINCIPLES FOR EFFECTIVE JOINT BODIES

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

1. Establishment, structure and functions

1.1 Broad competence of a joint body, which 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.

1.2 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 the establishment of bilateral joint bodies for boundary waters /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

¹ UNECE Capacity for Water Cooperation in Eastern Europe, Caucasus and Central Asia Series, ECE/MP.WAT/32, New York and Geneva, 2009, available at <http://www.unece.org/index.php?id=11628>.

as a substitute to 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.

1.3 Clearly defined tasks and powers² for the joint body, which are sufficient for effective activities related to the management, development, use and protection of transboundary waters.

Tasks and powers sufficient for effective activities of a joint body would 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.

1.4 An organizational structure that allows for developing and adopting decisions as well as implementing them.

This principle presumes 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 presumes a clear definition of tasks and functions for each body in the organizational structure.

1.5 An adequately broad and comprehensive representation of national authorities in the joint body, implying participation beyond the water management authorities to include representatives from environment, fishery, agriculture, transport, health, energy, hydrometeorology authorities, economy and finance ministries, as appropriate.

An appropriate breadth of representation of authorities is linked to the actual water uses in the basin/aquifer and their relative importance. A balance may need to be struck between ensuring that the different interests and concerns are considered, while maintaining the structure operational. If very broad participation in the joint body is not practical, opportunities for coordination, including regular consultations with non-represented state agencies should be provided.³

1.6 Certain flexibility of the agreement establishing the joint body, allowing to progressively develop cooperation, in terms of scope, mandate and 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 riparian States with a view to attracting all riparian States to such cooperation in the future.

1.7 Availability of technical, informational, scientific and other support to joint body's activities through appropriate design of the organizational structure.

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,

² The functions of joint bodies, as described in UNECE (2009) include: (a) the coordination and advisory function; (b) the executive function; and (c) control of implementation and dispute settlement function. These can be further detailed in the tasks.

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/full inclusion of agencies. Too many actors in the actual commission may lead to an unfocused discussion.

and for involving the necessary technical expertise. These are also potential fora for involving external expertise and for public participation.

1.8 Regularity in the work of a joint body.

This principle presumes a clearly agreed meeting schedule ensuring regular meetings on all levels.

1.9 A good information basis to support the activities of a joint body, including joint studies of the basin.

This refers to the availability of information on, among others, 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 national authorities, organizations and institutions in each riparian State 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, complemented with a stakeholder analysis.⁴

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

2 Operation

Procedural considerations

2.1 Effective accountability mechanisms for the joint body to ensure the implementation of its activities and obligations.

2.2 Effective mechanisms for cooperation of the joint body with national authorities, and the availability of mechanisms to support implementation of decisions.⁵

2.3 Clearly defined reporting lines and mechanisms.

2.4 Mechanisms for public participation and stakeholder involvement in the activity of the joint body.

Appropriate tools for public participation should be selected, according to the purpose — to identify stakeholders, to notify, to inform, to consult, and to take into due account — reflecting the specific context and the objectives. For a consistent provision of necessary funds to support public participation, it is important to institutionalize public participation mechanisms. Drawing on the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), the following are recalled as key principles relating to public participation: equity and inclusiveness, accountability and transparency, flexibility, effectiveness and speed, as well as responsiveness.

2.5 Use of neutral facilitators and external expertise in the process of initiating/restarting a dialogue and cooperation.⁶

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, root causes and scope for the concerns or opportunities.

⁵ See item on inter-agency committee above. An appropriate inter-sectoral scope also serves coordination.

2.6 Coordination of activities with other joint bodies in the same catchment area, as well as with relevant joint bodies established for the preservation of the marine environment.

2.7 Functioning as a forum for the exchange of information and data, including on planned measures and activities, and for the harmonization of monitoring approaches.

Selected technical aspects

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

2.9 Facilitation of the assessment of impacts (transboundary and inter-sectoral) from developments in the basin, and of the agreement on such assessment between the riparians at the transboundary level.

Providing a framework for monitoring the long-term impacts of infrastructure projects and then, as appropriate, signalling or even agreeing on the possible need for mitigation or compensation.

2.10 Capacity/Provision of means for flexibly handling 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.

2.11 Early warning mechanisms, e.g. alert system in case of emergencies such as accidental pollution, extreme weather events, landslides etc.

3. Financial and human resources

3.1 Adequate, stable and timely financial and human resources in the riparian States and in the secretariat of a joint body (in cases where it exists) 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.

3.2 Financial sustainability of a joint body 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 operation and basic functions of a joint body are eventually supported by riparian States themselves. Involvement of the private sector and other innovative arrangements could be explored, as complementary sources of funding, while exercising caution not to depend heavily on such sources.

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