

Governance in the Context of Transboundary Groundwaters: the UNECE Water Convention's Model Provisions



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Transboundary groundwaters: Challenges (1)

Legal

- Different concepts across the region: groundwater bodies (EU) vs. aquifer;
- Different geological settings and national approaches to the definition of groundwater bodies have slowed down the process of identifying transboundary ones;
- No specific groundwater agreements in UNECE region except Franco-Swiss;
- Limited reference to groundwater in existing transboundary water agreements: often included in scope, but little cooperation in practice.

Transboundary groundwaters: Challenges (2)

Institutional

- In many countries, groundwater is under different authority than surface waters; low integration;
- Low availability of information, poor groundwater monitoring in some parts of the region (e.g. the Caucasus and parts of Central Asia);
- Poorly developed transboundary cooperation (lack of exchange of information, joint delineation and status assessment, methodologies and programmes for joint monitoring);
- Limited involvement of groundwater experts in the work of existing joint bodies – at best working groups on groundwater.

Transboundary groundwaters: Legal obligations

- Equitable and reasonable utilization, incl. sustainability;
- Obligation not to cause significant harm;
- Obligation to cooperate (enter into specific agreements, exchange information, notify and consult, establish management plans, etc...);
- *ILC Draft Articles (2008)*: aquifer States are encouraged to enter into bilateral and multilateral agreements; aquifer States should establish joint mechanisms of cooperation (similar to *1997 UN Watercourses Convention*);
- *UNECE Water Convention (1992)*: Riparian Parties shall enter into bilateral or multilateral agreements which shall provide for the establishment of joint bodies.

UNECE Model Provisions on Transboundary Groundwaters (1)

- Challenges in practical implementation of Water Convention's obligations, together with specificity of groundwater => Meeting of the Parties to UNECE Water Convention (2009) mandated the Legal Board together with Working Group on IWRM to elaborate study with proposals for future action;
- Active participation of UNESCO and International Association of Hydrogeologists;
- Preliminary study on the application of the principles of the Convention to transboundary groundwater (2010);
- Model Provisions adopted by MOP in 2012.

UNECE Model Provisions on Transboundary Groundwaters (2)

- Non-binding guidance;
- Build on the ILC Draft Articles;
- To be used by Parties and non-Parties when entering into or reviewing bilateral or multilateral agreements on transboundary groundwaters (in the form of an additional protocol to an existing agreement or a new and separate specific agreement on groundwaters);
- Accompanied by commentaries with references to international commitments and existing State practice.

UNECE Model Provisions on Transboundary Groundwaters (3)

Provision 1

- Obligation to take all appropriate measures to prevent, control and reduce any transboundary impact;
- Obligation to use transboundary groundwaters in an equitable and reasonable manner, taking into account all relevant factors.

Provision 2

- Obligation to use transboundary groundwaters in a sustainable manner.

UNECE Model Provisions on Transboundary Groundwaters (4)

Provision 3

- Obligation of cooperation in the common identification, delineation and characterization of their transboundary groundwaters;
- Programmes for the joint monitoring and assessment of quantity and quality of transboundary groundwaters .

Provision 4

- Integrated management of transboundary groundwaters and surface waters.

UNECE Model Provisions on Transboundary Groundwaters (5)

Provision 5

- Prevention, control and reduction of the pollution of transboundary groundwaters.

Provision 6

- Exchange of information and available data on transboundary groundwaters.

Provision 7

- Joint or coordinated plans for the proper management of their transboundary groundwaters.

UNECE Model Provisions on Transboundary Groundwaters (6)

Provision 8

- Environmental impact assessment;
- Notification of the other Party and consultations;
- Access to information, public participation and access to justice with respect to the conditions of transboundary groundwaters .

Provision 9

- Joint body.

Next steps

- ✓ Translate the Model Provisions into practice – protocols to existing agreements, new agreements;
- ✓ Raising capacity for implementation;
- ✓ Cooperation with partners - UNESCO, joint bodies for transboundary water cooperation, governments, stakeholders...

...contributing to improved groundwater governance!

THANK YOU