

HOW TO PREPARE BANKABLE PROJECTS FOR FINANCING CLIMATE CHANGE ADAPTATION IN TRANSBOUNDARY BASINS

Dakar, Senegal, 21-23 June 2017

International Context

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Session agenda

- General transboundary challenges
- L/RBO challenges
- Role of International Law and transboundary projects
 - International
 - Regional
 - National
 - Principles at play (International Law)
- Responding to the Challenges and Opportunities

Institutional challenges

- Transboundary cooperation is hard!
- TWRM is a complex process requiring an comprehensive and multi-levelled stakeholder consultation and participation
- Requires much more time and effort than many other projects due to extensive stakeholder engagement needs
- Lack of overall coordination between regional, national, and sub-national adaptation activities, This is particularly acute in large basins with many countries and difficult diplomatic relationships. L/RBO can play a key coordination role in bringing parties to the table.
- Globally, uneven effectiveness has been experienced in transboundary project preparation and implementation
- Why – there are many reasons but one of the most important is the underlying point that all Basin structures draw their authority from participating national governments and often their resources as well

Sovereignty challenges

- Issues with coordination and integration of basin-scale planning with national planning demands, both planning and implementation, including in climate change responses
- Often, the necessary functional water agreements are not available between States and their neighboring countries and this negatively affects regional cooperation – often evident in Africa
- This issue remains even as development funding changes, e.g. the GCF, that still support sovereign actions as opposed to regional actions, and incentivise single state approach
- Single-country model is often more simple in terms of disbursement, procurement, monitoring and evaluation of projects
- Responses to this, such as NDC's, are still concerned with within-state options as opposed to transboundary projects
- But unilateral actions/responses to climate may be less effective than when working together, but unilateral actions can be highly negative on other options, therefore L/RBOs are important ingredient in climate finance sector

General biophysical challenges

- Transboundary watersheds are a major feature in Africa and Europe, with 80% of freshwater resources in Africa
- Include Groundwater Aquifers and Surface Waters
- Major problem is generally large scale of catchments and lack of awareness of catchment interactions/reactions
- Climate variability and differing rainfall over different parts of the catchment
- At basin-scale, there is uncertainty about the scope and nature of impacts (whether biophysical or human intervention), and these uncertainties are likely to be exacerbated by climate change
- Can result in unforeseen consequences of human interventions

Transboundary resourcing challenges

- Minimal support (direct/indirect) in institutional planning documents, whether national, regional, global or – e.g. transboundary elements are more limited when it comes to elaboration in Country Strategy Papers or Regional Strategy papers or in NDC's
- Ongoing lack of resources available to transboundary organisations – the AWF experiences in this have noted a large turnover and thus a regular loss of institutional memory, long-term relationships and capacity to implement
- Gaps between planning activities and implementation – regular development of planning activities that are not able to leverage funding options downstream
- Difficulty of allocating funds to and through a multi-country body; this is especially relevant to the implementation of bankable projects and disbursement

L/RBO structures

- IRCs are formal interstate institutional governing bodies, which, as their key task, recommend to the policy makers of the participant countries, appropriate decisions regarding plans, projects and policies, especially in regard to IWRM
- What kind of governance structures are available to these, and their proposed powers?
- Agreement-based
- Basin Committees – often have limited legal strength legally – activities are mainly coordination or advisory function
- Commissions – with some legal powers in given sectors – more effective in developing and implementing projects. Powers transferred for restricted specified task.
- Authorities – assigned a wider mandate for action including the potential hosting of investment projects. Designated powers impact on the type of projects that L/RBO can carry out or the appetite for supporting bankable projects, and must be taken into account when preparing proposals. This will impact on the type of projects that donors are prepared to support

L/RBOs resource challenges (cont'd)

- L/RBOs suffer from lack of revenue stream to qualify as potential borrower (in case of loan) for more substantive infrastructure
- Many existing funds and financing streams— those that have been historically used for development finance as well as newer instruments and funds created solely for climate finance – are structured for single-country financing
- Risk that RBO-generated projects may be seen as 'competition' by National Institutions. Concerns that supporting a transboundary project may impact on the possible uptake of an alternative national project
- Options for funding are limited when compared with sovereign states, with climate funds such as the Green Climate Fund (GCF) only available to those projects agreed to by National Designated Authorities (NDAs). Some, like the Adaptation Fund, do have specific funding for transboundary projects

Specific AWF TWRM Issues noted

- High rates of staff turnover
- Excessive bureaucracy
- Poor sharing of information represent significant threats on project delivery
- Sensitive to political changes
- Need to ensure MoU is capable of meeting the needs of the project!
- Stakeholder ownership of and commitment to TWRM projects is a key ingredient of project effectiveness
- Inadequate attention to institutional structure, rules, and capacity is likely to result in poor delivery of projects

Examples from AFDB PIDA Report (2014)

Basin	Organization	Mandate for implementing large hydraulic infrastructure	REC
Congo River	CICOS	only project examination	ECCAS
Gambia-Geba-Koliba Rivers	OMVG	yes	ECOWAS
Lake Chad	LCBC	only knowledge and information exchange	ECCAS
Niger River	NBA	yes	ECOWAS
Nile River	NBI	no	EAC
Okavango River	OKACOM	Only investigations	SADC
Orange-Senqu River	ORASECOM	only investigations and studies	SADC
Senegal River	OMVS	yes	ECOWAS
Volta River	VBA	yes	ECOWAS
Zambezi River	ZAMCOM	no	SADC
Nubian Sandstone Aquifer System	CEDARE	n/a	UAM
North West Sahara Aquifer System	OSS	n/a	UAM
Iullemeden Aquifer	OSS	n/a	UAM

International Law - Guiding Principles

- International law is important to our operations, especially transboundary projects
- Guiding principles recognised through international conventions, treaties and resolutions:
- Principle of equitable and reasonable utilization
- Unilateral declaration not to cause significant harm
- Principles of cooperation
- Information exchange
- Notification and consultation
- Peaceful settlement of disputes.

E.g. UN Watercourses

- Adopt agreements that implement or adjust the convention to their specific circumstances and needs
- Participate actively and equitably in the development and protection of international watercourses
- Take appropriate steps to minimize or avoid causing significant harm to shared watercourse states and to the water environment by preventing, reducing and controlling pollution
- Follow a procedure of consultation, negotiation, and data exchange before the drawing and implementation of plans relating to IWRM on shared waters
- Seek the peaceful settlement of disputes, following the Convention's procedures in the absence of applicable agreements

Underlying International Conventions

- A web of conventions, treaties and bilateral agreements govern the use and management of transboundary waters. These:
- Provide the framework for agreements between States
- Provide obligations on participating states (some may be vested in L/RBO's)
- Provide considerations for interpreting through actions or operations (e.g. strategic plans or investments)
- Provide dispute mechanism's
- The range and applicability of Conventions differ within different regions, but these should be specified within proposal

Example International Conventions

- 1966 Helsinki Rules on the Uses of the Waters of International Rivers
- 1997 UN Convention on Non-Navigational Uses of International Watercourses
- Charter of the United Nations
- Convention on the Settlement of Investment Disputes
- Convention on the Law of Treaties
- UNECE Water Convention(including 1st Amendment)
- Ramsar Convention
- World Heritage Convention
- Convention on the Conservation of Migratory Species
- Espoo Convention
- Aarhus Convention
- Bilateral agreements such as those with EU and surrounding states (stabilization agreements etc)

Taking Conventions into Account - Guidance

- Sovereignty is important. Waters on a states territory are subject of no lesser sovereignty than the territory itself
- Global conventions deal with general principles of transboundary water management, regional conventions address individual (sub)river basins while bilateral (or limited multilateral) agreements may address anything from an individual issue to a complete set of water management procedures among the signatory parties
- Principles in an agreement offer common ground/principles to develop coordinated and sustainable water resources development and management
- Equitable water sharing between all stakeholders must always be the ultimate goal of IWRM activities and actions
- For a state, the principles of international law may or may not be applicable to an individual issue at stake
- In general terms, the capacity for a signatory to be able to demand a co-signatory's compliance with the treaties that apply to them and treat their interests equally along the lines of the same set of treaties will increase security and legal certainty in both States

Professional Practice – Other

- Specific requirements for projects emerge through a raft of International and Regional Conventions, Treaties and Directives, that differ between global regions as well as the institutions involved in the process
- In Europe, activities such as Strategic Environmental Assessment (SEA), EIA (linked with the WFD by the assessment of river basin) and other Conventions such as Landfill Waste, Conservation of Wild Birds, Habitats, Industrial Emission etc may be applicable
- Regional Agreements, Strategies, Policies e.g. WFD are provide specific obligations in terms of actions
- REC's in Africa often have documents that may need to be acknowledged E.g. ECOWAS Water Policy

Other International Agreements/Approaches

- Paris Agreement – especially for NDC's
- Agenda for Sustainable Development 2030 (SDG's)
- These are critical inputs into L/RBO's climate change proposals to secure future funding as international organisations increase incorporation these within their own planning and implementation procedures, include screening processes
- AfDB is intending to support African States meet their NDC's and this is being included into our processes as part of its climate finance goals

Project Opportunities from the Purpose of L/RBO's

- Coordination of actions and funding at a river, lake-basin or aquifer level over similar geographic and thematic areas.
- Coordination actions can help avoid negative impacts of unilateral measures
- Build relationships and cooperation between countries advancing regional integration and avoiding conflict and social strife
- Climate change is a good platform for discussion as it affects different parts of a transboundary Basin
- Can identify development strategies whereby signatory states gain from an equitable allocation of investments and benefits.
- However, there remains scope to improve the legal basis for cooperation, to clarify the roles and responsibilities of basin institutions and to develop their respective capacity
- L/RBOS need to be able to articulate benefits!

Project types for L/RBO's

- L/RBO's should develop proposal that clearly include their competitive advantages as opposed to a perception of competition with national organizations. These include:
- Infrastructure that is held in common for common benefit or addressing differing objectives (storage basins for flood mitigation and raising water for hydropower) and sharing finance
- Surface and ground water quantity/quality projects and navigation activities
- Balancing conflicting interests to ensure ecosystem/biodiversity conservation as a basin level
- Management of flood risk and sedimentation issues
- Knowledge generation and dissemination and monitoring
- Energy (???) (esp. co-benefits mitigation)
- Avoid projects where there may be a perception that a national entity is more capable e.g. irrigation

Examples of projects supported by AWF

- The preparation of a draft convention for the Volta Basin Authority (VBA)
- The preparation of the Lake Chad Charter
- The strengthening and capacity building of the African Network of Basin Organisations (ANBO);
- The establishment of a TWRM database within the IGAD region
- The elaboration of a strategic plan for sustainable management of the Congo Basin water resources
- The preparation of a draft strategic framework, infrastructure development implementation plans and sector policies
- Cooperative framework for the integrated management of Saharan Aquifers (presently under ratification)
- Feasibility studies, designs and investment plans for the Songwe River Basin and creation of the River Basin Commission
- The characterisation of the potentialities and risk assessment of the Saharan Aquifers, as part of GICRESAIT's results

Bankable?

- What is Bankable?
- Bankability means different things to different organizations, dependent upon their underlying functions, mission and vision
- Project Cycle is important
- AWF project preparation

Entering the (AWF) pipeline

- Different paths – either demand driven or through specific calls (Climate Resilience, Sanitation)
- Screened for potential (potential impacts, institutional capacity, financial capacity)
- Address bank processes (CSS, ESS etc)
- Aligned with strategies
- Project appraisal developed and approved
- Being bankable means that the project is prepared to a level where it is implemented by other actors

AWF experiences to date

- Generally been easier to finance knowledge-based projects, including investment plans, with L/RBO's than infrastructure projects
- L/RBO's can be perceived as a more neutral facilitator than single state investment plans – could be a competitive advantage
- When undertaking screening as part of climate identification, those projects that better connect the dots between climate changes and outputs/possible outcomes are more likely to succeed
- There is value in displaying awareness of target organization strategies in proposal (e.g. AfDB's) – e.g. the country strategy papers that are prepared between respective states and IFI's. This may also reduce the perception of 'competition for resources'

How to develop bankability

- IFI's and others make investment, and look at the potential for return (not just financial) and means of reducing their investment risk
- IFI's are global citizens and also look to address global issues with investments thus international agreements and approaches such as the Paris Agreement and the Agenda for Sustainable Development 2030, as well as any local agreements are taken into account
- A good proposal needs to be able to connect the dots, between the different outputs/outcomes of the project, and be able to communicate this to the potential funder/investor!
- Especially important connect the project to a specific climate change issue in the case of climate finance
- Make sure that there is no-objection from national entities
- Reminder - Pay attention to regional needs e.g. role of African REC's (and their processes/documentation)

How to develop bankability (MoU's)

- 'Memorandum's of Understanding' and other legal agreements are scrutinized to their effectiveness and value, including transboundary states, before investment is finalised
- This includes both those between participating States and those between participating states and respective L/RBO's over institutional arrangements
- For example, MoU's for projects are referred by NEPAD to legal experts to ensure that the mechanisms in place are sufficient to get the job done!

Thank you