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DRAFT MODEL PROVISIONS ON TRANSBOUNDARY GROUNDWATERS

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I. Introduction

1. There is general agreement that groundwater has long been neglected by international water law. The majority of international water agreements address transboundary surface waters, while only a few contain specific provisions on groundwaters¹ or, even less so, are devoted specifically to groundwaters. Among the very few examples falling within the latter category, one may recall the 2007 Convention on the Protection, Utilisation, Recharge and Monitoring of the Franco-Swiss Genevese Aquifer, concluded between the communes of the Annemasse Region, the Genevese communes and the commune of Viry on the one hand and, on the other hand, the Republic and Canton of Geneva, which replaced the previous 1978 Agreement on the Protection, Utilization and Recharge of the Franco-Swiss Genevese Aquifer, concluded between the State Council of the Republic and Canton of Geneva and the Prefect of Haute-Savoie, or the 2010 Guarani Aquifer Agreement concluded between the Republic of Argentina, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay. In some water agreements their scope of application has been determined to encompass surface and ground waters, alike; nonetheless, their substantive provisions are in practice geared primarily towards surface waters.
2. The increasing awareness of the prospects of water scarcity in relation to the growing demands for clean water and to the adverse impact of climate change on the need for water has recently focused the attention of the scientific and diplomatic communities on groundwater. Against this background, given the

¹ See, for instance, article 7(e) of 1992 Agreement between Germany and Poland on Cooperation in the Field of Hydroeconomy or article 6(a) of the 1994 Convention on Cooperation for the Protection and Sustainable Use of the River Danube.

complex physical specificity of groundwater resources in their hydrological and geological aspects, even if they fall within the scope of the same general international water law principles as surface waters, the need was felt for specific regulatory guidance on the matter. The most relevant and recent development to that effect is represented by the consolidation of the general principles of international water law applicable in this area in the 2008 *Draft Articles on The Law of Transboundary Aquifers*² of the UN International Law Commission (hereinafter ILC Draft), endorsed and commended to the UN Member States by the General Assembly in 2008 and 2011³. The present exercise precisely builds on that instrument with a view to providing concrete guidance for implementing, with regard to groundwater, the 1992 UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention) in the light of the lessons learnt and the experience gained from the implementation of the Convention.

3. The conceptual matrix of the Draft Model Provisions on Transboundary Groundwaters is provided in documents LB/2011/INF.2 and LB/2010/INF.2, on the Application of the UNECE Water Convention to Groundwater. Accordingly, the Model Provisions should be read in conjunction with such documents, with special regard to terminological issues, such as the meaning of the terms “groundwater” and “transboundary groundwater” and to the specific aspects of the application of the provisions of the Water Convention to groundwater. In fact, under Art. 1, para. 1, of the Convention the general principles and rules of international water law codified therein are equally addressed to surface waters and groundwater alike. However, some features of groundwaters, such as their special vulnerability to pollution due to their more slowly renewable character with respect to surface waters, when renewable, call for further normative guidance on the proper implementation and application of the principles of the Convention in this area.
4. The present Draft Model Provisions on Transboundary Groundwaters are meant to assist States sharing transboundary groundwaters intersected by State boundaries or sharing transboundary surface waters linked with groundwaters in developing an agreement addressing the sustainable use, management and protection of those groundwaters through cooperation. Obviously, those provisions should be adjusted by the States concerned according to their specific needs and the particular characteristics of each case. The States concerned might also opt for more detailed or more stringent provisions on a case by case basis.
5. In principle, such a new specific agreement could be in the form of an additional protocol to an existing water agreement lacking specific reference to groundwater concluded in accordance with article 9 of the Water Convention. Similar specific provisions could also be included in the main body of those “agreements or arrangements” required by that provision. The possibility could also be considered that a separate specific agreement on groundwaters may be drawn up, particularly in case the Parties are of the view

² See *Report of the sixtieth session of the International Law Commission*, A/63/10, p. 19.

³ See United Nations General Assembly Resolutions 63/124 and 66/104 on the law of transboundary aquifers.

that a given aquifer is unrelated to surface waters or cannot be easily assigned to a specific international river basin district.

II. Model Provisions

Provision 1

- 1. Each Party shall, in its utilization of transboundary groundwaters, or while undertaking any activity in the recharge area of transboundary groundwaters, take all appropriate measures to prevent, control and reduce any transboundary impact.**
- 2. The Parties shall use transboundary groundwaters in an equitable and reasonable manner, taking into account all relevant factors.**

Commentary to Provision 1

1. This Provision enunciates the two general principles which, through their mutual interaction, provide the cornerstone of interstate cooperation in the field of transboundary waters, whether surface waters or groundwaters: one is the no-harm rule provided for in article 2, para. 1 of the Water Convention and the other one is the equitable and reasonable utilization principle, provided for in article 2, para. 2 (c) of the Water Convention. Both of the them are closely interlinked with the sustainability principle, set out in article 2, para. 5 (c) of the Water Convention and spelt out for the present purposes in Model Provision 2. Specific care in the application of the two principles in point to groundwater is required in relation to, *inter alia*, the lower capacity of self-depuration of groundwaters with respect to surface waters.

2. The equitable and reasonable utilization principle and the no-harm principle are not a novelty in the Water Convention process: they are both based on customary international law, as they have been repeatedly endorsed by the case-law of the International Court of Justice, and other authoritative international instruments, with special regard to the 1997 United Nations Convention on the Law of the Non-navigational Uses of International Watercourses. Most importantly for the purposes of the present exercise, they are provided for in articles 4 and 6 of the ILC Draft, as well as in article 2 para. 1 and article 6 para. 1 of the International Law Association's 1989 Bellagio Model Agreement Concerning the Use of Transboundary Groundwaters (hereinafter Bellagio Model Agreement).

3. As already anticipated, the principle of equitable and reasonable utilization and the no-harm rule are closely interlinked and neither enjoys priority over the other. This is clear from the very wording of article 2 para. 2(c) of the Water Convention, as well as from article 7 of the 1997 United Nations Convention on the Law of the Non-navigational Uses of International Watercourses. It is also characteristic that in the Guarani Aquifer Agreement, the two principles are merged in one single provision, article 3 of the Agreement.

4. The equitable and reasonable use of transboundary groundwaters should take into account all relevant factors for the apportionment of the uses of groundwaters in case of conflicting claims between the aquifer States. Those factors, whose importance should be assessed on a case by case basis, are provided in article 5 of the ILC Draft

and in article 8 para. 3 of the Bellagio Model Agreement and include, among others, some specific technical elements, such as the characteristics of the aquifer or aquifer system, the contribution of each Party to the formation and recharge of the aquifer, the availability of alternative water resources and the role of the aquifer in the related ecosystem.

Provision 2

- 1. The Parties shall use transboundary groundwaters in a sustainable manner, with a view to maximizing the long-term benefits accruing therefrom.**
- 2. To that end, the Parties shall take into due account, in allocating groundwater resources, the amount of groundwater in reserve, as well as the rate of its replenishment.**

Commentary to Provision 2

1. Paragraph 1 provides for the sustainable management of transboundary groundwaters. According to article 3, para. 19 of the 2004 Berlin Rules on Water Resources of the International Law Association, “sustainable use means the integrated management of resources to assure efficient use of and equitable access to waters for the benefit of current and future generations while preserving renewable resources and maintaining non-renewable resources to the maximum extent reasonably possible”. The sustainability principle is formulated in paragraph 1 in flexible terms, as it applies to groundwaters in a differentiated manner. In case of recharging aquifers, its aim is to “preserve renewable resources”, while in case of non-recharging at all aquifers, its object is to “maintain non-renewable resources to the maximum extent reasonably possible”. However and as far as water quality is concerned, compliance with the sustainability principle seems to require higher care with respect to groundwater than in the case of surface waters due to the higher vulnerability of the former.

2. Paragraph 2 is a specific application, for recharging aquifers, of the sustainability principle and is taken from article 4 of the 1989 UNECE Charter on Groundwater Management. It aims to strike a balance between abstraction and replenishment of groundwaters. In the same vein, Annex V of the EU Water Framework Directive (2000/60) provides that “good qualitative status implies, *inter alia*, that the level of groundwater in the groundwater body is such that the available groundwater resource is not exceeded by the long-term annual average rate of abstraction”. In fact, if water withdrawals exceed recharge, water quantity and quality of groundwaters are compromised, *inter alia* through saline water intrusion in coastal zones.

3. A practical tool for applying the provision of paragraph 2 would be for the Parties to agree on maximum quantities of abstraction, through yearly utilization programs, as provided in article 1 para. 1 of the 2007 Convention on the Protection, Utilisation, Recharge and Monitoring of the Franco-Swiss Genevese Aquifer, in article 2 para. 1 and article 9 of the previous 1978 Agreement on the Protection, Utilization and recharge of the Franco-Swiss Genevese Aquifer, in article 4, para. 1 of Annex II of the 1994 Israel-Jordan Treaty of Peace, or in paragraph 5 of the 1973 Minute 242 of

the United States – Mexico International Boundary and Water Commission, where the Parties agreed to limit groundwater pumping within a precisely defined geographic region along the Arizona-Sonora border to specifically enumerated withdrawal targets.

Provision 3

The Parties shall cooperate on the integrated management of their transboundary groundwaters and related surface waters.

Commentary to Provision 3

1. Where transboundary aquifers are related to surface waters, the Parties should integrate the management of the two resources so as to proceed to a so-called “conjunctive use” of surface and groundwaters. Such a holistic approach in favor of an integrated management of surface waters and groundwaters is envisaged in various instruments, such as articles 3 and 17 of the 1989 UNECE Charter on Groundwater Management, article 4 of the 1986 Seoul Rules on International Groundwaters of the International Law Association, article 3 para. 1(c) of the 1999 Convention on the Protection of the Rhine and article 11 of the 2002 Framework Agreement on the Sava River Basin.

2. In the same vein, according to preambular paragraph 33 of EU Directive 2000/60, “the objective of achieving good water status shall be pursued for each river basin, so that measures in respect of surface water and groundwaters belonging to the same ecological, hydrological and hydrogeological system are coordinated”.

Provision 4

1. The Parties shall take appropriate measures to prevent, control and reduce the pollution of transboundary groundwaters, especially those in a long-term perspective reserved for drinking water supply. In this context, they shall take a precautionary approach in view of uncertainty about the nature and extent of the relevant aquifers and their vulnerability to pollution.

2. Such measures may include, *inter alia* :

(a) The establishment of protection zones in particular in the recharge area of groundwaters, especially of groundwaters used or intended to be used for the abstraction of drinking water;

(b) The adoption of measures for preventing or limiting the release of pollutants into groundwaters;

(c) The regulation of land uses, including intensive agricultural practices, so as to combat pollution caused from nitrates, plant protection agents and pesticides;

(d) The definition of groundwater quality objectives and the adoption of groundwater quality criteria.

Commentary to Provision 4

1. As pollution may (depending on the type of pollutant), remain in groundwater for a long time *inter alia* due to its slow flow patterns, the self-purification capacities of

groundwater are rather low. In addition, once polluted, aquifer clean-up can be technically impossible or uneconomic. It is thus of the utmost importance to prevent pollution of groundwaters, and, to the extent possible, to improve the quality of groundwaters. To this effect, article 3 para. 1(k) of the Water Convention urges Parties to adopt and implement additional specific measures for preventing such pollution. Various legal instruments contain general provisions dealing with prevention and reduction of pollution of groundwaters, similar to the one of the first phrase in the first paragraph of Provision 4, such as article 12 of the ILC Draft, article 6 point (b) of the 1994 Convention on Cooperation for the Protection and Sustainable Use of the River Danube, article 13 para. 2(b) of the 1998 Agreement on Cooperation for the Protection and Sustainable Use of the Waters of the Spanish-Portuguese Hydrographic Basins, or article 4 para. 1(i) of EU Water Framework Directive 2000/60. The latter provides, in addition, in its article 4(b)(iii), for the implementation of measures necessary to reverse upward trends in the concentration of pollutants⁴.

2. The second phrase of the first paragraph draws inspiration from article 12 of the ILC Draft and article 38 of the 2004 ILA Berlin Rules on Water Resources, both provisions suggesting a precautionary approach so that States take early action to protect transboundary groundwaters.

3. The measures for combating pollution in the second paragraph are of an illustrative character, and no hierarchy is established among them, as it is for the Parties to assess the status and the particular needs of each transboundary aquifer and fix the priorities accordingly.

4. The establishment of protection zones is suggested in para. 8.1(c) of the 2000 UNECE Guidelines on Monitoring and Assessment of Transboundary Groundwaters, in article 14 of the 2010 Guarani Aquifer Agreement, in article 6(a) of the 1994 Danube Convention, in article 8 para. 2(a)(5) of the ILA Bellagio Model Agreement and in article 7 para. 3 of Directive 2000/60. This policy may also materialize by having recourse to a Payment for Ecosystem Services scheme⁵.

5. Concerning subparagraph (b), the adoption of measures for limiting or preventing the release of pollutants into groundwater is suggested in article 6 of EU Directive 2006/118 on the Protection of Groundwater against Pollution and Deterioration. Such measures may include the prohibition or strict regulation of the direct discharge of pollutants into groundwater⁶, the requirement of the issuance of permits for the discharge and disposal of waste⁷, and the establishment of a prior authorization regime for any artificial recharge of groundwaters or any large-scale abstraction which might compromise the quality of groundwaters⁸.

6. As far as subparagraph (c) is concerned, pollution of groundwaters from diffuse sources, in urban as well as in rural land, is an issue of major concern. One may refer

4 See also Annex V of the Directive.

5 See *Payments for Ecosystem Services in Integrated Water Resources Management*, adopted at the fourth session of the Meeting of the Parties to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, ECE/MP.WAT/2006/5.

6 See article 11 para. 2(j) of EU Directive 2000/60.

7 See *UNECE Charter on Groundwater Management*, pars. XI(1) and XI(5).

8 See EU Directive 2000/60, art. 11, para. 3(e) and para. 3(f).

to para. 8.1(a) of the UNECE Guidelines on Monitoring and Assessment of Transboundary Groundwaters, or to article 13 para. 1 of the 1978 Agreement between Canada and the United States of America on Great Lakes Water Quality. Most of the instruments dealing with the issue are focusing on agricultural practices, as contamination of groundwaters from nitrates, pesticides and fertilizers is not easily reversible⁹.

7. The adoption by the Parties of coordinated groundwater quality objectives and criteria is contemplated in Annex III point (d) of the Water Convention. In addition, article 3 of EU Directive 2006/118 provides for the establishment of groundwater quality standards and threshold values which should not be exceeded.

Provision 5

1. The Parties shall establish and implement joint or coordinated plans for the proper management of their transboundary groundwaters.

2. Such management plans may provide, *inter alia*, for:

(a) The allocation of water uses, taking into account all relevant factors, including present and future needs, as well as needs of groundwater dependent ecosystems.

(b) The recording of the volume of water abstractions and the prescription of a requirement of prior authorization for abstraction.

(c) The prescription of pumping limitations, i.e. in the form of quantification of the aggregate of annual abstraction, and of criteria for the placement of new wells.

(d) The development of concerted action programmes for preserving and rehabilitating groundwater quality.

(e) Raising awareness and providing access to information, public participation and access to justice.

Commentary to Provision 5

1. The establishment of plans for the sustainable management of transboundary groundwaters is provided in article 14 of the ILC Draft, as well as in article 8 of the Bellagio Model Agreement, and follows the spirit of article 2(6) of the Water Convention. Those plans developed by the Parties should be coordinated among them, in case one joint management plan cannot be produced. For transboundary groundwaters related with surface waters, the principle of integrated management should be taken into account. In such a case, the relevant plan for groundwaters could take the form of a specific management plan supplementing the management plan of the river basin to which the transboundary groundwaters in question are related¹⁰.

9 On this issue, see in particular Directive 91/676/EEC, concerning the Protection of Waters against Pollution Caused by Nitrates from Agricultural Sources and article 7 para. 2 of the 1994 Danube River Protection Convention.

10 See article 13 para 5 of Directive 2000/60: “River basin management plans may be supplemented by the production of more detailed programmes and management plans for sub-basin, sector, issue or *water-type*, to deal with particular aspects of water management”.

2. The elements of a management plan provided in paragraph 2 are of an illustrative character. Subparagraph (a) stems from the requirement of an equitable and reasonable use of transboundary groundwaters, in association with the sustainability principle. Specific reference is made to the needs of groundwater related ecosystems, as groundwater quality and quantity is sometimes vital for ensuring such ecosystems. Article 2 para 2(d) of the Water Convention provides, *inter alia*, that the Parties shall take all appropriate measures to ensure conservation of ecosystems. In this context, the Guidelines on the Ecosystem Approach in Water Management (ECE/ENVWA/31), should also be taken into account.

3. Subparagraph (b) draws inspiration from article 6 of the 2007 Convention on the Protection, Utilisation, Recharge and Monitoring of the Franco-Swiss Genevise Aquifer, which prescribes that all waterworks should be equipped with a device for the recording of the volume of water extracted, as well as from article 11 para. 3(e) of EU Directive 2000/60, providing for the establishment of a register of water abstractions as well as for a regime of prior authorization for abstraction.

4. Subparagraph (c) is modeled on article 8, para. 2(c) of the Bellagio Model Agreement, while article 8 of the 2007 Convention on the Protection, Utilisation, Recharge and Monitoring of the Franco-Swiss Genevise Aquifer provides also for a yearly ceiling of the aggregate of water abstractions. It should be taken into account that in some climatic zones the inter-annual variability of groundwater recharge is high and consequently the limit of abstraction needs to be set with a view of the replenishment and impact of abstraction in the long-term.

5. Subparagraph (d) provides for joint programmes by the Parties, aiming to preserve water quality. Such action may encompass the measures against pollution of groundwaters contained in model provision 3. The development by the Parties of concerted action programmes for the reduction of pollution is already suggested in article 9 para. 2(f) of the Water Convention.

6. Subparagraph (e) is modeled on Provision 2, point (d) of the 2006 UNECE Model Provisions on Transboundary Flood Management (ECE/MP.WAT/19/Add.1). Detailed provisions in this regard are provided in the 1998 UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), while, in the field of water, useful guidance may be drawn from the UNECE/UNEP publication, *Water Management: Guidance on Public Participation and Compliance with Agreements* (Geneva, 2000).

Provision 6

The Parties shall establish programmes for the joint monitoring and assessment of their transboundary groundwaters. To this end, they shall use common or harmonized standards and methodologies, agree upon key parameters which shall be regularly monitored, taking into account the specific features of groundwaters, establish a groundwater monitoring network and develop aquifer vulnerability maps.

Commentary to Provision 6

1. The wording of this provision draws from article 11 of the Water Convention and from article 13 of the ILC Draft. Joint monitoring and assessment should be conducted on the basis of the 2000 UNECE Guidelines on Monitoring and Assessment of Transboundary Groundwaters. In addition to parameters usually monitored for all water bodies, such as an analysis of the chemical composition of water or the impact of land uses or potentially polluting activities in the recharge area on the groundwaters, monitoring of groundwaters should also take into account some specific features of them, i.e. aquifer geometry, aquifer vulnerability, recharge rates and interaction with surface waters, general character of the overlying strata and hydrogeological characteristics such as hydraulic conductivity, porosity and confinement¹¹.

2. The establishment of a groundwater monitoring network is suggested in the UNECE Guidelines on Monitoring and Assessment, while article 17 of the 2007 Convention on the Protection, Utilisation, Recharge and Monitoring of the Franco-Swiss Genevise Aquifer provides for the establishment of a monitoring network intended for the issuance of warnings in case of accidental pollution. The development of aquifer vulnerability maps is suggested in the 1989 Charter on Groundwater Management as well as in article 16(ii) of the 1978 Agreement between the United States of America and Canada on Great Lakes Water Quality.

Provision 7

The Parties shall exchange information and available data on the condition of transboundary groundwaters, including data on the parameters prescribed in Provision 5. They shall also inform each other on concessions, authorizations, licenses and other rights of use of transboundary groundwaters, accorded pursuant to their respective national legislation.

Commentary to Provision 7

1. The obligation to exchange information is prescribed in article 13 of the Water Convention, article 8 of the ILC draft, article 5 para. 3 of the Bellagio Model Agreement, as well as article 12 of the Guarani Aquifer Agreement. Article 16 para. 2 of the 2007 Convention on the Protection, Utilisation, Recharge and Monitoring of the Franco-Swiss Genevise Aquifer provides that the Parties shall exchange data on the qualitative status of extracted water. The second phrase of the provision is modeled upon Annex I, para. 1(a) of the 1998 Agreement for the Protection and Sustainable Use of the Waters of the Spanish-Portuguese Hydrographic Basins.

2. In the case of groundwaters, the exchange of information should also encompass information relating to the special characteristics of aquifers. This provision is of particular importance if knowledge about the extent and nature of the aquifer, as well

¹¹ See *International Law Association, Bellagio Model Agreement concerning the Use of Transboundary Groundwaters (1989)*, as well as Directive 2000/60, Annex II, para 2.

as about the identification of its recharge and discharge zones, is inadequate and there is a need to collect more data on the matter.

Provision 8

1. All planned activities expected to adversely affect transboundary groundwaters and, thereby, to have an adverse impact on another Party shall be subject to an environmental impact assessment procedure. In addition, the Party of origin of the planned activity shall notify the other Party accordingly and, if the latter so wishes, provide the environmental impact assessment documentation and enter into consultations with that Party.

2. The obligations of paragraph 1 shall apply, *inter alia*, in case of large-scale abstractions of groundwater from the transboundary aquifer or in case of significant artificial groundwater recharge schemes.

Commentary to Provision 8

1. Article 3 para. 1(h) of the Water Convention provides that the Parties shall ensure that environmental impact assessment and other means of assessment are applied. In addition, article 15 of the ILC Draft sets the obligation for the aquifer State to assess, notify and consult with the other aquifer State in case it has grounds to believe that a particular planned activity in its territory may affect a transboundary aquifer and hence have a significant adverse effect upon another State. Detailed provisions in this regard are contained in Part III (articles 11-19) of the 1997 United Nations Convention on the Law of the Non-navigational Uses of International Watercourses, as well as in articles 9-11 of the Guarani Aquifer Agreement. An obligation to inform and consult with the other Party in case of measures with significant impact on transboundary groundwaters is also to be found in article 7(e) of the 1992 Agreement between Germany and Poland on Cooperation in the Field of Hydroeconomy.

2. In case all Parties to an agreement on the protection and use of a given transboundary aquifer are also Parties to the 1991 UNECE Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention), they might explicitly refer to this Convention in their bilateral or multilateral agreement. But even if some or all of them are not Parties to the Espoo Convention, they should endeavor to take into account its provisions when applying Model Provision 8, as the Convention provides for a comprehensive framework for the participation in the EIA process of the potentially affected State. In addition, the UNECE 2003 Protocol on Strategic Environmental Assessment is of particular assistance in case of plans and programmes and, to the extent appropriate, policies and legislation likely to affect transboundary groundwaters.

3. Paragraph 2 of Model Provision 8 highlights two cases, specific to groundwaters, where a transboundary EIA process is needed. Paragraph 12 of Appendix I of the Espoo Convention, in conjunction with article 3 of the Convention, provides for an obligation to notify and involve in an environmental impact assessment procedure any Party that might be affected by the transboundary impact of groundwater abstraction activities or artificial groundwater recharge schemes where the annual volume of water to be abstracted or recharged amounts to 10 million cubic meters or more.

Similar provisions are also to be found in Annex II, paras. 4(g) and 4(h) of the 1998 Agreement for the Protection and Sustainable Use of the Waters of the Spanish-Portuguese Hydrographic Basins, in Annex II, para. 12 of the 1997 Agreement between the Republic of Estonia and the Republic of Latvia on EIA in a transboundary context, as well as in Annex I, para. 12 of the 2002 Agreement between the Republic of Estonia and the Republic of Finland on EIA in a transboundary context. A case of interstate cooperation in assessing the effects of an activity to transboundary groundwaters has been the one of the Garzweiler site, where mining has had an impact on the level of groundwaters shared between Germany and the Netherlands. Dutch experts were involved in the drafting of EIA reports, while the public had been informed of the results of relevant monitoring programmes¹².

Provision 9

With a view to implementing the objectives and principles of the present Model Provisions and coordinate their cooperation, the Parties shall establish a joint body.

Commentary to Provision 9

The establishment of a joint body is provided in article 9 para. 2 of the Water Convention. Some instruments such as the 2007 Convention on the Protection, Utilisation, Recharge and Monitoring of the Franco-Swiss Genevise Aquifer or the 1989 Bellagio Model Agreement contain very detailed articles on the tasks of such a joint body. However, and as it is also the case with article 15 of the Guarani Aquifer Agreement, the present model provisions contain a rather brief provision on the institutional cooperation between the aquifer States. The principal reason for this pattern is that the present model provisions shall, in most of the cases, either be inserted in an agreement on surface waters or supplement that agreement in the form of a Protocol. Such an agreement will normally provide for the establishment of a joint body for cooperation on transboundary surface waters. The latter should also be entrusted to deal, either directly or through a subsidiary organ such as a sub-committee or a working group, with related groundwaters, so as to facilitate the integrated management of both surface and groundwaters¹³. However, the provision is flexible enough to allow the aquifer States to opt for a different approach, i.e. to establish a joint body dealing only with groundwaters, in case they are of the view that a certain deep aquifer is unrelated to surface waters.

¹² See http://www.bezreg-koeln.nrw.de/brk_internet/gremien/braunkohlenausschuss/index.html

¹³ In the case of the thermal cross border water aquifer, shared between Germany and Austria, the relevant expert group established by the two States in 2002 operates under the umbrella of the transboundary commission of the 1987 bilateral Treaty concerning the cooperation in water management in the Danube catchment area (Regensburg Treaty).