



Session 3

An overview of the Helsinki Water Convention

Nicholas Bonvoisin, Secretary to the Water
Convention, UNECE

Main obligations under the Convention



- Protection of transboundary waters by preventing, controlling and reducing transboundary impacts
 - Reasonable and equitable use of transboundary waters
 - Obligation to cooperate through agreements and joint institutions
- => Overall objective of sustainability**

Two categories of obligations

- Part I. Obligations for all Parties => also benefit for national legislation
- Part II. Obligations for Riparian Parties => the Convention does not replace basin agreements

A permanent framework

Part III. Institutional framework

Definitions and scope of the Helsinki Water Convention



Definitions and scope

Art. 1 (paras 1-4) and Art. 9 (paras 1 & 3)
Guide p.13 (ENG) / p.19 (AR)

Defining the sphere of application of the Convention

1. Geographic scope

Transboundary waters, surface and groundwaters, not limited to water body but covering catchment area (or recharge area for an aquifer)

Definitions and scope

2. Substantive scope

Prevention, control and reduction of transboundary impact

Holistic approach to concept of environment: addressing “significant adverse effect”

Applies to any activity that may cause transboundary impact (unspecified nature and location)

Definitions and scope

3. Eligibility to participate

Helsinki Water Convention initially a regional instrument → now a global treaty

Two categories of States: Parties (contracting Party) and Riparian Parties (bordering same transboundary waters)

Substantive norms of the Helsinki Water Convention



Substantive norms

Equitable and reasonable utilization principle

Art. 2, para 2 (c) and 5 (c)

Guide p.22 (ENG) / p.29 (AR)

Recognized as part of customary international law

Community of interest

Equality of rights of all riparians in the use of a shared water body

Practical implementation of the principle requires a case-by-case assessment where cooperation is a pre-condition

Substantive norms

No significant harm

Art. 2, para 1

Guide p.19 (ENG) / p.26 (AR)

Obligation to prevent, control and reduce transboundary impact (“No-harm rule” of customary international law)

Implementation through the development, adoption and implementation of legal, administrative, economic, financial and technical measures

Measures include (Art. 3)

- Licensing of waste-water discharges by the competent national authorities and monitoring of authorized discharges
- Best environmental practice for non-point pollution sources
- Minimization of the risk of accidental pollution
- Contingency planning

Substantive norms

Protection of ecosystems

Art. 2, para 2 (d)

Guide p.26 (ENG) / p.33 (AR)

Conservation and, where necessary,
restoration of ecosystems

Conservation: measures to maintain viable
structures, functions and species
composition

Restoration: measures to improve
ecosystems

Implementation: cf. related Guidelines

Procedural & institutional aspects of the Helsinki Water Convention



Procedural & institutional aspects

Duty to cooperate

Art. 2, para 6

Guide p.32 (ENG) / p.40 (AR)

Principle of cooperation, to be established on a permanent basis through bilateral and multilateral agreements

Vast scope of application: development of harmonized (common / coordinated) policies, programmes and strategies

Can be a gradual process (due diligence)

Based on mutual trust (good faith)

Procedural & institutional aspects

Environmental Impact Assessment

Art. 3, para 1 (h)

Guide p.53 (ENG) / p.65 (AR)

Adopt national legislation introducing an authorization regime for activities likely to cause impact on transboundary waters (cf. Appendix I to Espoo Convention)

Designation of authorities in charge of authorization regime

Ensure public information and participation in EIA procedure

Procedural & institutional aspects

Consultation & Notification (1)

Holding of consultations: Art. 10
Guide p.77 (ENG) / p.96 (AR)

Obligation to enter into consultations upon request from any Riparian Party

On basis of reciprocity, good-faith and good-neighbourliness

May concern critical event or routine cooperation

Consultation to be conducted through a joint body

Procedural & institutional aspects

Consultation & Notification (2)

Warning and alarm systems: Art. 14
Guide p.85 (ENG) / p.101 (AR)

Obligation to inform about any critical situation with possible transboundary impact

Notification procedures should be agreed (means of notification and communication)

Operate coordinated or joint communication, on the basis of compatible data transmission

Procedural & institutional aspects

Exchange of data and information

Art. 13

Guide p.82 (ENG) / p.98 (AR)

Obligation to exchange reasonably available data and information → foundation for cooperation to ensure effective protection of transboundary waters, management of water quality and quantity as well as prevention, control and reduction of transboundary impact

Procedural & institutional aspects

Joint monitoring and assessment

Art. 11

Guide p.80 (ENG) / p.95 (AR)

Obligation to implement joint programmes for monitoring the conditions of transboundary waters

Obligation to carry out joint/coordinated assessments → support the definition of measures to prevent, control or reduce transboundary impacts and verify their effectiveness

Several Guidances available

Procedural & institutional aspects

Public information

Art. 16

Guide p.93 (ENG) / p.111 (AR)

Obligation to share information with the public on conditions of transboundary waters, measures taken or planned to prevent, reduce and control transboundary impact and effectiveness of measures

Details on way to share information (reasonable time, free inspection, copies possible)

Applies at national and international levels

Procedural & institutional aspects

Bilateral and multilateral agreements

Art. 9, para 1

Guide p.63 (ENG) / p.76 (AR)

Enshrines general obligation to cooperate, providing the means and framework to implement this obligation

Obligation to enter into agreement or other arrangements = specificity of the Water Convention

For Riparians Parties with respect to other Riparians Parties

Procedural & institutional aspects

Joint institutions

Art. 9, para 2

Guide p.70 (ENG) / p.83 (AR)

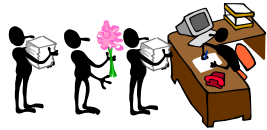
Obligation to establish joint bodies
(specificity of the Water Convention)

Detailed list of tasks to be performed by
joint body → consistency and substantive
compatibility

If existing agreements don't provide for the
establishment of joint body, take steps to
adjust instruments accordingly

Institutional framework

Meeting of the Parties



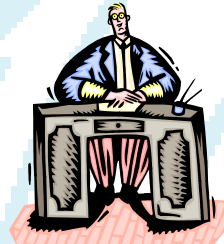
Implementation Committee



■ *Working Group on Monitoring and Assessment*

■ *Legal Board*

■ *International Water Assessment Centre*



Bureau



■ Task Force on Water and Climate

■ Task Force on Water-Food-Ecosystems-Energy Nexus

■ Joint Ad Hoc Expert Group on Water and Ind. Accidents

Working Group on Integrated Water Resources Management



Secretariat

UNECE for the Water Convention and Protocol on Civil Liability

UNECE -WHO/Europe for Protocol on Water & Health

Dispute settlement mechanism



Settlement of disputes

Art. 22

Guide p.98 (ENG) / p.117 (AR)

Obligation of peaceful settlement of dispute: seek a solution by negotiation or any other means of dispute settlement acceptable to parties to the dispute, to be conducted in good faith → flexible mechanism

Arbitration and adjudication not compulsory, but dispute prevention and assistance performed by MoP

Conclusion



The Helsinki Water Convention: Not only rights and obligations (1)

Becoming a Party = joining an institutional regime

Progressive development of the Convention

Forum for bilateral and multilateral cooperation

Sharing of experience and good practices through the intergovernmental framework

The Helsinki Water Convention: Not only rights and obligations (2)

Capacity building

Projects on the ground

Address requests on clarifications

A Party is not left alone in its dealings
with the other riparians



Thank you!

More information

including guidelines, publications and information on activities under the Convention can be found at

<http://unece.org/env/water>
water.convention@unece.org