



Legal Board

LB/2010/INF.3

Seventh meeting
Geneva, 15–16 April 2010
Item 4 of the provisional agenda

GROUNDWATER IN TRANSBOUNDARY WATER COOPERATION AGREEMENTS IN EASTERN EUROPE, CAUCASUS AND CENTRAL ASIA

A preliminary overview

Prepared by the Secretariat¹

I. BACKGROUND

1. The Meeting of the Parties at its fifth session entrusted the Legal Board to prepare a preliminary study, jointly with the Working Group on Integrated Water Resources Management, on the application of the principles of the Convention to transboundary groundwater, to be submitted to the sixth session of the Meeting of the Parties for consideration as whether further action is needed.
2. This document is intended to provide background information with regard to the application to groundwater of transboundary water agreements between or with participation of the countries in Eastern Europe, Caucasus and Central Asia (EECCA), both Parties and non-Parties to the Convention.²
3. The document is based on the information currently available to the Secretariat. It may be updated based on the inputs from Parties and non-Parties.

II. OVERVIEW

4. 30 multilateral and bilateral agreements on transboundary waters between or with participation of the countries in Eastern Europe, Caucasus and Central Asia (EECCA) have been analyzed.
5. 17 of 30 agreements are silent on the matter of groundwater. These are:

Agreement between the USSR and Persia on the joint use of transboundary rivers and waters along the border from the river Geri-Rud to the Caspian sea (1926);

Convention between the Republic of Turkey and the Union of Soviet Socialist Republics concerning water use of border rivers and streams (1927);

¹ The present overview was prepared by Ms. Natalia Nikiforova during her internship in UNECE under the supervision of the secretariat of the Water Convention.

² In EECCA region, Azerbaijan, Belarus, Kazakhstan, Moldova, the Russian Federation, Ukraine and Uzbekistan are Parties to the Convention.

Agreement between Norway and the Union of Soviet Socialist Republics on the utilization of water power on the Pasvik (Paatso) river (1957);

Agreement between the Government of the Union of Soviet Socialist Republics, the Government of Norway and the Government of Finland concerning the regulation of the lake Inari by the Kaitakoski hydro-electric power station and dam (1959);

Agreement between the Government of the Union of Soviet Socialist Republics and the Shahinshan's government of Iran on economic and technical cooperation (1963);

Agreement between the Union of Soviet Socialist Republics and the Republic of Finland on border water systems (1964);

Agreement between the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Uzbekistan, the Republic of Tajikistan and Turkmenistan on Cooperation in Joint Management of Use and Protection of Water Resources of Interstate Sources (1992);

Agreement between the Government of the Russian Federation and the Government of the People's Republic of China Concerning Protection, Regulation and Reproduction of Living Water Resources in Frontier Waters of Rivers Amur and Ussury (1994);

Agreement between the Government of the Russian Federation and the Government of the Republic of Estonia Concerning Cooperation in Protection and Use of Fish Resources in Chudskoye, Teoploye and Pskovskoye Lakes (1994);

Agreement between the Government of the Republic of Uzbekistan and the Government of Turkmenistan Concerning Cooperation on Water Management Issues (1996);

Agreement between the Government of the Russian Federation and the Government of the Republic of Estonia Concerning Cooperation in Protection and Rational Use of Transboundary Waters (1997);

Agreement between the Government of the Russian Federation and the Government of the People's Republic of China Concerning Guidance of Joint Economic Use of Separate Islands and Surrounding Water Areas in Frontier Rivers (1997);

Agreement between the Government of the Republic of Kazakhstan, the Government of the Republic of Tajikistan, and the Government of the Republic of Uzbekistan Concerning Use of Water and Energy Resources in Syrdarya River Basin (1998);

Agreement between the Government of the Republic of Kazakhstan and the Government of Kyrgyz Republic, and the Government of the Republic of Uzbekistan on the Use of Water Management Facilities of Intergovernmental Status on the Rivers Chu and Talas (2000);

Agreement between the Government of the Republic of Kazakhstan and the Government of the People's Republic of China Concerning Cooperation in Use and Protection of Transboundary Rivers (2001);

Agreement between the Government of Romania and the Government of the Republic of Moldova with Regard to the Cooperation in the Area of Protection of Fish Resources and the Regulating of Fishing in the Prut River and Stanca-Costesti Artificial Lake (2003);

Agreement between the Government of the Russian Federation and the Government of the People's Republic of China Concerning Rational Use and Protection of Transboundary Waters (2008).

6. 13 of 30 agreements include groundwater, in one way or another, in their scope. This refers to the following agreements:

Agreement between the Government of the Polish People's Republic and the Government of the Union of Soviet Socialist Republics concerning the management of water resources in border waters (1964)

Article 1:

The Contracting Parties shall co-operate closely in matters relating to the use of water resources in frontier waters, along the entire Polish-Soviet State frontier.

Article 2:

*For the purposes of this Agreement, the term "frontier waters" means:
[...] ground waters intersected by the State frontier.*

Article 3:

The purpose of this Agreement is to ensure co-operation, between the Contracting Parties in economic, scientific and technical activities relating to the use of water resources in frontier waters, including in particular: [...]

- The protection of surface and ground waters against depletion and pollution.

Agreement between the Government of Ukraine and the Government of the Russian Federation Concerning the Joint Use and Protection of Transboundary Waters (1992)

Article 1

For the purposes of this Agreement the transboundary water bodies are: ...surface and ground waters intersected by the State frontier.

Agreement between the Government of the Russian Federation and the Government of the Republic of Kazakhstan Concerning the Joint Use and Protection of Transboundary Waters (1992)

Article 1

The transboundary water objects in this Agreement are: any surface waters or ground waters which mark, cross the State Borders between the countries or are located on the State Borders

Agreement between the Government of the Republic of Moldova and the Government of Ukraine on Joint Use and Protection on Transboundary Waters (1994)

Article 1

This Agreement applies to cross-border waters, which include:

-Those sections of rivers and other surface watercourses, which mark or are located on the State Border between the Contracting Parties;

-Any surface and ground waters, which cross the State Border.

Agreement between the Government of Ukraine and the Government of Slovak Republic on the Questions of Water Management in Frontier Waters (1994)

Article 1: The scope of the agreement

This Agreement applies to [...]:

2. Surface and ground waters intersected by the State Border.

Convention on Cooperation for the Protection and Sustainable Use of the Danube River (1994)

Article 2

Objectives and principles of cooperation

(1) The Contracting Parties shall strive at achieving the goals of a sustainable and equitable water management, including the conservation, improvement and the rational use of surface waters and ground water in the catchment area as far as possible.

Article 6

Specific water resources protection measures

The Contracting Parties shall take appropriate measures aiming at the prevention or reduction of transboundary impacts and at a sustainable and equitable use of water resources as well as at the conservation of ecological resources, especially:

- (a) enumerate ground water resources subject to a long-term protection as well as protection zones valuable for existing or future drinking water supply purposes;*

Agreement between the Government of the Russian Federation and the Government of Mongolia on the Protection and Use of Transboundary Waters (1995)

Article 1

For the purposes of this Agreement, the term “transboundary waters” means rivers, watercourses, lakes, other surface waters and ground waters stores intersected by the State frontier

Agreement between the Government of Ukraine and the Government of Poland on Cooperation in the Field of Water Management in Frontier Waters (1996)

Article 1: The Frontier Waters

For the purpose of this Agreement the Frontier Waters are [...]:

2. Surface and ground waters intersected by the State Frontier.

Agreement between the Government of Ukraine and the Government of Hungary on the Questions of Water Management in Frontier Waters (1997)

Article 1: Frontier Waters

This Agreement applies to the Frontier waters which are [...]:

- surface and ground waters intersected by the State Frontier.*

Agreement between the Government of Ukraine and the Government of Romania on Cooperation in the Field of Transboundary Water Management (1997)

Article 1

For the purposes of this Agreement the terms are as stated in the article 1 of the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Helsinki, 1992)

Agreement on basic principles of cooperation on the rational use and protection of transboundary water bodies of the CIS member states (1998)

Article 1

For the purposes of this Agreement the terms cited below have the following meanings: “transboundary water body”- any surface or ground waters, which mark, cross the State Borders between two or more Countries or are located on the State Borders.

Article 2

The Parties are obliged to: [...] take measures oriented to the avoidance and abatement of the pollution or depletion of the surface and ground waters [...]

Agreement between the Government of the Republic of Belarus and the Cabinet of Ministers of Ukraine Concerning Joint Use and Protection of Transboundary Waters (2001)

Article 1

Definitions

“Transboundary waters” or “transboundary water bodies” are any surface or ground waters or water bodies, which mark, cross the State Borders between two Countries or are located on the State Borders.

Agreement between the Government of the Russian Federation and the Government of the Republic of Belarus Concerning Cooperation in Protection and Rational Use of Transboundary Waters (2002)

Article 2: The scope of the Agreement

2. This Agreement applies to the surface and ground transboundary waters.

Article 6: The environmental impact assessment

1. The Parties assess the environmental impact of domestic activities which can have a transboundary impact on transboundary water bodies. An assessment of the environmental impact is focused on the industrial and agricultural installations located in the area of the transboundary rivers and water reservoirs, as well as dams, storage reservoirs, river ports, water intakes of the ground and surface waters.

7. The following agreements between or with participation of EECCA countries were not analyzed in the present paper:

Agreement between the Government of the Union of Soviet Socialist Republics and the Government of Norway on the regulation of fishing and conservation of fish stocks in the Greense Jakob river (Voriema) and Pasvik river (Patsojoki) (1971);

Agreement between the Government of the Union of Soviet Socialist Republics and the Government of Republic of Finland on the energy use in the section of the Vuoksa river between the Imatra and Svetlogorsk hydroelectric stations (1972);

Agreement between the Government of the Kingdom of Norway and the Government of the Union of Soviet Socialist Republics concerning water abstraction by Norway from the upper reservoir of the Borisoglebsk hydropower plant at the transboundary river Pasvik (1976);

Agreement between the Government of the Union of Soviet Socialist Republics and the Government of the Socialist Republic of Romania concerning cooperation in the management of transboundary waters (1986);

Agreement on the protection of the river Tisza and its tributaries against pollution (1986);

Treaty between the Government of the Hungarian People's Republic and the Government of the Union of Soviet Socialist Republics on water management problems in the border region (1986);

Agreement between the Government of the Union of Soviet Socialist Republics and the Government of the People's Republic of China on the creation of the Soviet-Chinese commission for leading the development of plans for the complex use of border sections of the rivers of Argun and Amur (1986);

Agreement between the Government of the Russian Federation and the Government of the people's Republic of China concerning the nature reserve "lake Khanka" (1996);

Agreement between the Government of the Republic of Uzbekistan and the Government of Republic of Kyrgyzstan on the use of water-energy resources of Naryn-Syrdaryinsky hydropower stations cascade in 1997 (1996).

III. CONCLUDING REMARKS

8. The analysis of 30 bilateral and multilateral agreements on transboundary waters between or with participation of EECCA countries reveals that 13 agreements include, in one way or another, groundwater in their scope, while the rest either do not explicitly refer to groundwater or do not specify the waters to which they apply.

9. The agreements which are silent on the matter of groundwater mostly concern the regulation of specific lakes, rivers or river basins, or refer to a particular project or use. Nevertheless, there are agreements with a more general scope of application, which still do not include groundwater.

10. When agreements concern cooperation, joint use and protection of transboundary waters, groundwater is usually referred to in the scope of these agreements. The references to "groundwater" are normally included in the explanation of such terms as "frontier" or "transboundary" waters. In a few agreements, some articles mention groundwater in relation to concrete implementation measures. Beside this, there are no detailed provisions specifically related to groundwaters.