



NATIONAL WORKSHOP

THE UNECE CONVENTION FOR THE PROTECTION AND USE OF TRANSBOUNDARY WATERCOURSES AND INTERNATIONAL LAKES

KEY ASPECTS AND OPPORTUNITIES FOR IRAQ

13-14 January 2016, Amman, Jordan

REPORT

Background

Iraq mostly depends on the Tigris and Euphrates rivers for drinking water, supplying industry and agriculture. The two rivers, which account for 98% of the country's surface water, originate in Iran, Syria and Turkey. Iraq faces serious challenges in the management of its water resources with the simultaneous decrease of water availability, the deterioration of water quality, combined with the growing pressures from demographic growth and climate change impacts. Transboundary cooperation therefore becomes increasingly important to guarantee the sound management of the transboundary water resources and to contribute to the sustainable development of the country.

The United Nations Economic Commission for Europe (UNECE) Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention) has provided, since its entry into force in 1992, an important framework for improving the management of transboundary surface and groundwater resources in the pan-European region. The Convention is now open for accession by all United Nations Member States. The UNECE Water Convention can offer a solid cooperation framework for progress in the joint management of transboundary water resources for Iraq.

Iraq, which is already a Party to the 1997 United Nations Convention on Non-Navigational Uses of International Watercourses since 2001 (the United Nations Watercourses Convention, which entered into force in 2014), has repeatedly expressed its intention to become a Party to the UNECE Water Convention since 2012. A national inter-ministerial preparatory committee has been created in 2013 to study the possible accession of Iraq to the Water Convention. A list of detailed questions on the Water Convention had been submitted in 2014 by Iraq to the secretariat of the Water Convention. Building on the answers received and the work of the committee, Iraq requested UNECE to support the organization of a national workshop on the Water Convention.

The workshop contributed to the comprehensive understanding by the Iraqi competent authorities of the UNECE Water Convention, its provisions and obligations, its work on the ground as well as the benefits and possible challenges for Iraq to accede to it. The workshop was therefore an important step in the national decision making process and the preparation for accession. The workshop was co-organized by UNECE and the Ministry of Water Resources of Iraq, thanks to the financial support provided by the Swiss Agency for Development and Cooperation (SDC).

More information about the workshop and all presentations made during the workshop are available at: http://www.unece.org/env/water/workshop_Iraq2015_WaterConvention#/

Participation

Representatives of institutions and other stakeholders that play a role in transboundary water cooperation attended the workshop, in particular representatives from: Ministry of Water Resources, Ministry of Health and Environment, Agency of consultants of the Prime minister's office, General Secretariat for the Council of Ministries, Ministry of Foreign Affairs, Ministry of Agriculture, Parliament, Ministry of Water Resources & Agriculture of the Kurdistan Regional Government, Ministry of Industry and Ministry of Oil (cf. *List of participants* in Annex)

In addition, experts from the: United Nations Economic Commission for Europe, Economic and Social Commission for Western Asia, UNESCO-IHE Institute for Water Education, Ministry of Interior of Hungary, Ministry of Foreign Affairs of Greece, Eurasian National University of Kazakhstan, SDC / Swiss Cooperation Office Jordan also contributed to the workshop.

Main outcomes of the workshop

The workshop detailed the obligations of the Water Convention, helped identify the benefits of becoming a Party as well as the possible challenges of its implementation and clarified questions about the Convention's interpretation.

Building on concrete examples of the Convention's implementation on the ground by Parties, several benefits of acceding to the Convention were underlined during the workshop. Among them, it was highlighted that by becoming a Party, Iraq would, among others:

- (1) Join the solid international legal framework of the Convention, which has proven its effectiveness and provides benefits to both upstream and downstream countries.
- (2) Take advantage of and contribute to the exchange of experience by participating in activities implemented under the Convention and therefore strengthen its capacities and knowledge on transboundary water management.
- (3) Enhance its capacity to engage in cooperation with its neighbouring countries.
- (4) Signal to the internal community its willingness to cooperate on the basis of the norms and standards of the Convention and possibly facilitate access to donor cooperation.
- (5) Increase opportunities to receive support from the community of Parties.

The Ministry of Water Resources recognized that the Water Convention can offer a solid, comprehensive framework for transboundary water cooperation between Iraq and its neighbouring countries.

The present report summarizes the main outcomes of the discussions during the workshop. In addition, following the workshop, some specific questions were formally forwarded to the UNECE secretariat. The report also represents an answer to these questions, particularly in the third and fourth sections of the “Highlights” (cf. below).

Highlights of the main points of discussion and answers to questions raised

1. *The Water Convention and international water law*

The Water Convention reflects the main principles of international water law. It is a framework instrument, which comprises general rules and principles that can be tailored to the specificities of the basins. It creates an enabling environment to facilitate transboundary water cooperation and can guide the process of negotiation between neighbouring countries.

While it would be preferable that all neighbouring countries are Parties to the Convention, there are still benefits for Iraq to join the Convention even if neighbouring countries are not Parties to it yet. Indeed, Iraq could then use the Convention as a tool to support dialogue on cooperation (for example, it facilitated negotiations between Kazakhstan – Party to the Convention – and China and Kyrgyzstan – both non Parties). By becoming a Party, Iraq would indeed increase its legitimacy to approach neighbouring countries with the request to cooperate, enter into bilateral or multilateral agreements and establish joint bodies.

It was clarified that there is no difference between “transboundary waters” and “international waters”: it is only a semantic variation, but the use of one or the other expression has neither technical nor legal repercussion.

2. *The due diligence nature of the Convention’s general obligation of prevention, control and reduction of transboundary impact*

Most of the obligations of the Convention are of a due diligence nature. That means that should Iraq accede to the Convention, it would not be expected to be immediately fully in compliance with all the requirements of the Convention. Parties are expected to start with due care the process of adoption of “all appropriate measures”, proportionally to their capacity (financial, economic and technical situation), right from the time of completion of the accession process. In parallel to the accession process, it is therefore important to develop an implementation plan with a long-term perspective, which can provide the opportunity to strategically improve transboundary cooperation but also the national legislation (for example to adopt and implement integrated water resources management, revise laws, by-laws and measures).

3. *The “polluter pays” principle in the Water Convention*

As contained in the Water Convention, the “polluter pays principle” (PPP) is a regulatory tool for domestic public administrations to internalize the cost of pollution prevention, control and reduction with regard to routinely conducted polluting activities, as well as for the control and reduction of water pollution from an accidental discharge. The PPP has a primarily domestic nature, i.e. it regulates relationships between private operators and the authorities of the concerned State within the territory of a Party rather than between Parties. Accordingly, as also clearly spelled out in the *Guide to Implementing the Water Convention* formally adopted by the Meeting of the Parties (see

para 133 (d)), the PPP does not provide legal grounds to claims for the payment of compensation for water pollution between Parties.

4. *Scope of the Convention and relationship to international law of the seas*

With regards to the physical scope of the Water Convention, article 1, paragraph 1, of the Convention, defines “transboundary waters” as “any surface or ground waters which mark, cross or are located on boundaries between two or more States”. According to the *Guide to Implementing the Water Convention*, “Surface waters include waters collecting on the ground in a stream, river, channel, lake, reservoir or wetland”. It excludes sea waters from the scope of the Convention: “wherever transboundary waters flow directly into the sea, these transboundary waters end at a straight line across their respective mouths between points on the low-water line of their banks”. However, article 2, paragraph 6 requires the Parties to protect “the environment of transboundary waters or the environment influenced by such waters, including the marine environment”. While the final objective of the Water Convention is to also contribute to the protection of seas from land-based pollution, the pollution of seas doesn’t fall under its scope. This objective pertains to subregional agreements negotiated in order to protect the recipient sea and coastal areas, such as the 1978 Kuwait Regional Convention for Cooperation on the Protection of the Marine Environment from Pollution ratified by Iraq and its 1990 Protocol for the Protection of the Marine Environment against Pollution from Land-Based Sources. Therefore, the Water Convention cannot provide a legal basis for any claim related to the pollution of seas.

5. *Financial contributions*

There is no mandatory financial contribution for Parties to the Water Convention: financial contributions to the Convention’s trust fund, which supports the effective implementation of the Convention’s programme of work, are of a voluntary nature.

Conclusions and next steps

The national workshop contributed to the reflection in Iraq on possible accession to the UNECE Water Convention. It concluded that joining the Convention and becoming part of its community of Parties would bring several benefits to Iraq. However, it was pointed out that administrative accession to the Convention should not be an objective *per se*, but only a first step towards the improvement of cooperation and water management on the ground. A national specialized inter-ministerial team of experts could then be established to develop a national plan defining the concrete step-by-step implementation of the Convention.

Annex 1 – List of Participants

	Institutions	Name	Email
1	Ministry of Water Resources	Eng. Mohsin Al Shimary Minister of Water Resources, Head of Delegation	waterresmin@yahoo.co.uk
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11	Ministry of Health and Environment	Mr. Anaam Thabet	anaamthaa@yahoo.com
12	Ministry of Health and Environment	Mr. Jabbar Zayed	jabbarzayed@yahoo.com
13	Agency of consultants of Prime minister's office	Mr. Ahmed El Habeeb	ahmed.elhabeeb@yahoo.com
14	General Secretariat for the Council of Ministries	Mr. Mohammed Zamel Saeed Legal advisor	mhd_zamil@yahoo.com
15	Ministry of Foreign Affairs	Mr. Salwan Anjo	salwan.mofa@aol.com
16	Ministry of Foreign Affairs	Mr. Hayder Al-Tamimi	haydertamimi@yahoo.com
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21	Parliament	Dr. Awfa Zuhair	awfazuhair74@yahoo.com
22	Parliament	Mr. Sabah Muosa	sabahm_a_hassan@yahoo.com
23	Ministry of Water Resources	Mr. Mohammed Hasan	mohammedhassan_erbil@ya

	& Agriculture of the Kurdistan Regional Government		hoo.com
24	Ministry of Industry	Mr. Alla Mussa Ali Al-Shubber	alaamshubber@yahoo.com
25	Ministry of Oil	Mr Laith Abdulhussein Kadhim Director of Legal Directorate	laith_al_shahir@yahoo.com
26	United Nations Economic Commission for Europe (UNECE)	Ms. Francesca Bernardini Secretary to the Water Convention	Francesca.bernardini@unece.org
27	United Nations Economic Commission for Europe (UNECE)	Ms. Chantal Demilecamps Environmental Affairs Officer	Chantal.demilecamps@unec e.org
28	Economic and Social Commission for Western Asia (ESCWA)	Mr. Ziad Khayat First Economic Affairs Officer, Water Resources Section	Khayat@un.org
29	UNESCO-IHE Institute for Water Education	Ms. Zaki Shubber Lecturer in Law and Water Diplomacy	zshubber@gmail.com
30	Consultant to UNECE	Mrs. Raya Marina Stephan	raya.stephan@yahoo.com
31	Ministry of Interior, Hungary	Mr. Peter Kovacs Head of Department of River Basin Management,	peter.kovacs@bm.gov.hu
32	Ministry of Foreign Affairs, Greece	Mr. Alexandros Kolliopoulos Legal Counsellor, Legal Department	kollio@mfa.gr
33	Eurasian National University, Kazakhstan	Mr. Serik Akhmetov Professor	serik.akhmetov@wic.kz
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Annex 2 – Final Agenda



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Hotel Le Meridien, Amman, Jordan

FINAL AGENDA

Wednesday 13 January 2016

8:30-9:00 *Registration of participants and welcoming coffee*

9:00-09:45 *Opening session*

Welcoming remarks

Mr. Mahdi Ghadhban, Ministry of Water Resources of Iraq

Mr. Peter Kovacs, Chair of the Bureau of the UNECE Water Convention

Ms. Francesca Bernardini, Secretary to the Water Convention, UNECE

Overview of the workshop programme

Ms. Chantal Demilecamps, UNECE

Introductory tour de table

9:45-11:15 *Session 1: International legal instruments to advance cooperation on shared waters*

Chair: Mr. Murtadha Jumaah Hasan, Ministry of Water Resources

General principles of international water law

Ms. Raya Marina Stephan, consultant to UNECE

General explanations about the main features of the UNECE Water Convention

Ms. Francesca Bernardini, Secretary to the UNECE Water Convention

Definitions and physical scope of the UNECE Water Convention

Ms. Chantal Demilecamps, UNECE

Questions and answers

11:15 – 11:45 *Coffee break*

11:45-13:15 *Session 2: Transboundary water cooperation in Iraq*

Chair: Mr. Forat Altimini, Member of the Parliament

Status of transboundary waters in Iraq: summary of pressures, management issues and successes

Ms. May Yousif and Mr. Mr. Ali Mohammed Jawad, Ministry of Water Resources

Overview of cooperation with neighboring countries

Ms. May Yousif and Mr. Mr. Ali Mohammed Jawad, Ministry of Water Resources

Panel discussion: Reflections on possible ways for improving transboundary water cooperation

(5 minutes for each panelist):

- Why is transboundary water cooperation important for your institution?
- What are the opportunities for progress?
- How could the strengthening of the legal and institutional framework support the management of transboundary waters?

- Mr. Luay Ali Hussien, Ministry of Water Resources
- Mr. Hayder Al-Tamimi, Ministry of Foreign Affairs
- Mr. Ahmed El Habeeb, Prime Minister's Office
- Mr. Mohammed Zamel Saeed, General Secretariat for the Council of Ministries
- Mr. Jabbar Zayed, Ministry of Health and Environment
- Mr. Alaa Al-Hasani, Ministry of Agriculture
- Ms. Shirouq Alabayachi, Member of the Parliament

Discussion with participants

13:15 – 14:45 *Lunch Break*

14:45-17:30 *Session 3: Interactive discussion on the obligations of the UNECE Water Convention, the benefits and challenges of its implementation*

Chair: Ms. Francesca Bernardini, UNECE

Part I – Provisions related to all Parties

General provisions: obligation to prevent, control and reduce transboundary impact; equitable and reasonable utilization; principle of cooperation

Mr. Alexandros Koliopoulos, Ministry of Foreign Affairs, Greece and Ms. Raya Marina Stephan, consultant to UNECE

Prevention, control and reduction of transboundary impact; Monitoring and exchange of information

Mr. Alexandros Kolliopoulos, Ministry of Foreign Affairs, Greece and Mr. Peter Kovacs, Ministry of Interior, Hungary

Part II - Provisions related to riparian Parties

Bilateral and multilateral cooperation

Mr. Peter Kovacs, Ministry of Interior, Hungary and Mr. Alexandros Kolliopoulos, Ministry of Foreign Affairs

Joint monitoring and assessment; Exchange of information between riparian Parties; Warning and alarm systems

Mr. Serik Akhmetov, Kazakhstan and Ms. Chantal Demilecamps, UNECE

Prevention and settlement of disputes

Ms. Zaki Shubber, UNESCO-IHE and Ms. Francesca Bernardini, UNECE

After each point, there will be Q&As for clarification

17:30 Closure of Day 1

19:00-21:00 Reception dinner at restaurant Sufra, Rainbow street, Jebel Amman.

Thursday 14 January 2016

8:30-8:45

Introductory speech by H.E. Eng. Mohsin al Shimmary, Minister of Water Resources of Iraq

Wrap up from day 1

Ms. Francesca Bernardini, UNECE and Ms. Shirouq Alabayachi, Member of the Parliament

8:45-10:45 ***Session 4: Implementing the Water Convention: challenges, success stories and lessons learnt***

Chair: H.E. Eng. Mohsin al Shimmary, Minister of Water Resources

Implementing the Water Convention: country experience from Kazakhstan

Mr. Serik Akhmetov, representative from Kazakhstan

Implementing the Water Convention: country experience from Hungary

Mr. Peter Kovacs, Ministry of Interior, Hungary

Implementing the Water Convention: country experience from Greece

Mr. Alexandros Kolliopoulos, Ministry of Foreign Affairs, Greece

How the Water Convention promotes transboundary water cooperation on the ground

Ms. Chantal Demilecamps, UNECE

Discussions

10:45-11:15 Coffee break

11:15-13:30 *Session 5: Moving forward and conclusions*

Chair: Mr. Anaam Thabet, Ministry of Health and Environment

Preliminary conclusions of the National Committee of Iraq: why being a Party to both water conventions?

Mr. Murtadha Al-Sudani, representative from the National Committee

How to become a party and basic requirements for implementation and compliance

Ms. Francesca Bernardini, UNECE

Comments by Parties to the Convention on accession process

Discussions on next steps

Report on outcomes of group discussion

Mr. Mohammed Zamel Saeed, General Secretariat for the Council of Ministries

13:30-13:45 *Closing*