

Session 5 - Revision and clarification concerning Joint Bodies: Section II, question 3

Second meeting of the drafting group on the guide to reporting under
the water convention and as a contribution to SDG indicator 6.5.2
Geneva, Switzerland, 3-4 September 2019

Sarah Tiefenauer-Linardon
Water Convention secretariat, UNECE

Question 3

Is your country a member of any joint body or mechanism for this agreement or arrangement? [28]

Yes / No
If no, why not?

Where there is a joint body or mechanism

(a) If there is a joint body or mechanism, which kind of joint body or mechanism (please tick one)? [29]

- Plenipotentiaries [30]
- Bilateral commission [31]
- Basin or similar commission [32]
- Expert group meeting or meeting of national focal points [33]

Notes included in the Draft Guide on questions 3, 3 a

[28] A ‘**joint body or mechanism**’ can be **defined** as ‘any bilateral or multilateral commission or other appropriate institutional arrangements for cooperation between the Riparian Parties’ (**Article 1(5)**, Water Convention). **The Guide to Implementing the Water Convention** (ECE, 2013, paras. 258-260) highlights several common features of such a joint body or mechanism, namely i) a permanent body meeting at reasonably regular intervals; ii) composed of representatives of the riparian States, headed usually by officials, authorised for that purpose by governments; iii) usually comprised of a decision-making body, an executive body, and iv) usually having a secretariat; and v) sometimes supplemented by subsidiary bodies, such as working or expert groups, monitoring units, data and processing units, a network of national offices, a consultative group of donors, an information centre, a training centre and/or observers.

[29] While likely to have the aforementioned features in common, a ‘joint body or mechanism’ may be called by a variety of names, including ‘plenipotentiaries’, ‘basin or bilateral commission’, ‘expert group meeting’, ‘meeting of national focal points’, ‘joint water authority’, ‘committee’, or ‘working group’.

[30] “Plenipotentiaries for transboundary waters”, can be described as, “an **official** coming from a water management, environmental protection or other relevant national authority, appointed by a national government to facilitate and coordinate the implementation of a transboundary water agreement on behalf of a riparian States” (ECE, 2013, para. 260).

[31] A “bilateral commission” may encompass the common features of a joint body or mechanism as described in note [28]. In contrast to a “basin or similar commission”, a bilateral commission will only be made up of **two neighbouring States**, and it is likely to cover all or several transboundary waters shared between those countries. A bilateral commission is likely to have a more detailed institutional structure than plenipotentiaries.

[32] A “basin or similar commission”, may follow a similar institutional structure to a “bilateral commission”, but a key distinction is that a basin or similar commission is established for a **specific basin** and all countries within that basin may be members – whereas a bilateral commission has only two country members.

[33] An “expert group meeting” or a “meeting of focal points” is likely to be similar to plenipotentiaries, but may follow a **less formalised** structure and schedule of meetings.

Question 3 (continuation)

(b) Does the joint body or mechanism cover the entire transboundary basin, sub-basin, or part of a basin? [34]

Yes / No

(c) Which States (including your own) are members of the joint body or mechanism? (please list):
[fill in]

(d) Are there any riparian States that are not members of the joint body or mechanism? (please list):
[fill in] [35]

Notes included in the Draft Guide on questions 3 b, c, d

[34] The **geographical scope** of a joint body or mechanism can usually be found within the agreement or arrangement in which it is established, and is likely to align to the geographical scope of the agreement or arrangement itself (see notes [16] and [17] above; see also ECE, 2018b, p. 18).

[35] As explained in note [19], an agreement or arrangement may cover the entire basin but not all riparian or aquifer States may be members of it. Question 3(d) seeks to capture this eventuality by providing the opportunity to list any country that is not party to a joint body or mechanism.

Question 3 (continuation)

(e) If not all riparian States are members of the joint body or mechanism how does the joint body or mechanism cooperate with them?

- No cooperation
- They have observer status [36]
- Other (*please describe*): [fill in]

Notes included in the Draft Guide on questions 3 e

[36] While a country may not be a **full member** of a joint body or mechanism, they may participate in its meetings and activities as **observers**. For **example**, while not being members of the International Commission for the Protection of the Rhine, Austria, Italy, Liechtenstein and the Wallonia Region of Belgium are given observer status within the Rhine Commission because they share parts of the Rhine river basin. Basin-wide activities are implemented through a Co-ordination Committee of members and non-members of the Rhine Commission.

Question 3 (continuation)

(f) Does the joint body or mechanism have any of the following features (*please tick the ones applicable*)?

A secretariat [37]
If the secretariat is a permanent one, is it a joint secretariat or does each country host its own secretariat? (Please describe): [fill in]

A subsidiary body or bodies [38]
Please list (e.g., working groups on specific topics): [fill in]

Other features (please list): [fill in] [39
40]

Notes included in the Draft Guide on questions 3 f

[37] A “**secretariat**” plays a range of primarily administrative functions within a joint body or mechanism. While multilateral joint bodies or mechanisms generally establish a joint secretariat, bilateral arrangements may allocate the functions of the secretariat between the two countries involved, i.e., each country hosts its own secretariat. In other situations, the establishment of a secretariat may not be deemed necessary (see Saruchera & Lautze, 2016).

[38] A **joint body** or mechanism may establish subsidiary bodies in order to support the implementation of its activities. These subsidiary bodies – often called a working group, technical committee, task force or team – cover a wide array of topics, including flood management, hydrogeology and groundwater, water quality, navigational, ecosystem and biodiversity conservation, pollution prevention, accidental pollution, communication, finance, legal matters and data management (see ECE, UNESCO & UN-Water, 2018, p. 46).

Comments: Implementation Committee: To expand examples from UNECE region I suggest to include example of subsidiary bodies of ICWC in Central Asia too

[BOX] Examples of subsidiary bodies under the Zambezi Water Commission

[39] For example, how are **gender considerations** accounted for in any decision-making processes.

Comments: Implementation Committee: Because it is a very new area it might be necessary to include several examples.

[40] Where available, an organigram of the joint body or mechanism may be included.

Question 3 (continuation)

(g) What are the tasks and activities of this joint body or mechanism? [41]

Joint monitoring [42]

(h) What are the main difficulties and challenges that your country faces with the operation of the joint body or mechanism, if any?

Governance issues [43]

Notes included in the Draft Guide on questions 3 g, h

[41] **Tasks** and **activities** of a joint body or mechanism may include those stated in the agreement itself or those that have been added by the joint body, or its subsidiary bodies. Envisaged tasks and activities of joints bodies or mechanisms are provided for under **Article 9(2)** of the Water Convention, and further explained in the ECE, *Guide to Implementing the Water Convention* and *Principles for Effective Joint Bodies for Transboundary Water Cooperation* (ECE, 2013, paras 261-263; ECE, 2018b). Both tasks and activities which joint bodies coordinate and tasks which they implement should be included; as well as tasks and activities that are basin-wide or only implemented in part of the basin. Where only implemented in part of the basin further explanation might be provided at the end of the question, i.e., under “[fill in]”.

[42] For a definition of “joint monitoring” see note [25] above.

[43] “**Governance issues**” in relation to a joint body or mechanism relates to the manner in which decision are made, in terms of, for example, legitimacy, i.e., equitable representation in decision-making (see also question 13 below), accountability and transparency.

Comments: Implementation Committee: Governance issues have been among the least understood (at least in Russian speaking countries). We might need to expand explanation a bit more.

Question 3 (continuation)

(i) Does the joint body or mechanism, or its subsidiary bodies meet regularly?

(j) What are the main achievements with regards to the joint body or mechanism? [fill in]
[44]

(k) Did the joint body or mechanism ever invite a non-riparian coastal State to cooperate? [45]

Notes included in the Draft Guide on questions 3 i, j, k

[44] **Achievements** might, for example, cover the development of joint products, the establishment of joint processes or working structures, or the creation of trust and mutual understanding.

[45] The Water Convention provides that, “in cases where a coastal State, being Party to this Convention, is directly and significantly affected by transboundary impact, the Riparian Parties can, if they all so agree, invite that coastal State to be involved in an appropriate manner in the activities of multilateral joint bodies established by Parties riparian to such transboundary waters” (Art. 9(3); see also ECE, 2013, p.17-18). This provision of the Water Convention recognises that **coastal States that are not part of a transboundary basin** or sub-basin, and therefore not members of a joint body or mechanism for that basin or sub-basin, **may still be affected by activities taking place in the basin** through, for example, land-based marine pollution. In such instances, coastal States might therefore be invited to participate in the work of a joint body or mechanism. However, **this question only applies to non-riparian coastal States and should therefore not be ticked if the coastal State also has territory within the basin or sub-basin itself (see the Danube-Black Sea example below for further details).**

[BOX] Hungary’s cooperation with Black Sea countries via the ICPDR