

Session 4 – Guidance provided in the preliminary sections of the Guide to reporting

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

**Reporting on basin and aquifers agreements and
arrangements: Section II, questions 1 and 2 of the reporting
template**

Mr. Alistair Rieu-Clarke, University of Northumbria, UNECE

Guide, section 4. Guidance on template for reporting under the Water Convention and SDG indicator 6.5.2 (Sections II to IV)

SECTION II [1]

Does your country have transboundary agreements or arrangements for the protection and/or management of transboundary waters (i.e., rivers, lakes or groundwater), whether bilateral or multilateral? [2]

Yes /No

If yes, list the bilateral and multilateral agreements or arrangements (listing for each of the countries concerned): [fill in] [3]

Notes included in the Draft Guide on Section II

[1] For guidance on completing section I, see *revised step-by-step methodology* (REF).

[2] What is a ‘transboundary agreement or arrangement for the protection and/or management of transboundary waters’?

[3] *Note on how to list bilateral and multilateral agreements or arrangements*

Comments related to note [2]

- **Guatemala:** include, as it is already done under section iii regarding national legislation, whether these agreements provide for some of the general principles of water international law such as
 - participation in an equitable and reasonable utilisation of water
 - obligation not to cause significant harm
 - joint responsibility on water protection, restoration and conservation
 - others
- it is also recommended to include a general question on
- which are the greatest benefits obtained by your country from cooperation in transboundary water management and governance? and which are the main challenges of transboundary water management for your country?
- **Implementation Committee - Dinara Ziganshina:** Providing example of those might be useful

Comments related to note [2]

- **Guatemala:** the Central American region's countries, within the context of the Central American integration system, subscribed a regional agreement on risk management, including the hydroclimatological risk; a set of measures for the prevention, management and reconstruction are promoted and adopted through a regional mechanism and national instances, as lay out by a multilateral convention which is in force since 2007. would this fit here?

II. Questions for each transboundary basin, sub-basin, part of a basin, or group of basins (river, lake or aquifer)

Please complete this second section for each transboundary basin (river or lake basin, or aquifer), sub-basin, part of a basin or a group of basins covered by the same agreement or arrangement where conditions are similar¹. In some instances, you may provide information on both a basin and one or more of its sub-basins or parts thereof, for example, where you have agreements² or arrangements on both the basin and its sub-basin. You may coordinate your responses with other States with which your country shares transboundary waters, or even prepare a joint report. General information on transboundary water management at the national level should be provided in section III and not repeated here.

Please reproduce this whole section with its questions for each transboundary basin, sub-basin, part of a basin or group of basins for which you will provide a reply. [4]

Name of the transboundary basin, sub-basin, part of a basin or group of basins: [fill in] [5 6]

List of the riparian States: [fill in]

In the case of an aquifer, what is the nature of the aquifer and its relation with the river or lake basin: [7]

Unconfined aquifer connected to the river or lake

Unconfined aquifer with no or limited relation with surface water

Deep confined aquifer

Other

Please describe: [fill in]

No information

Percentage of your country's territory within the basin, sub-basin, part of a basin or group of basins: [fill in] [8]

¹ In principle, section II should be submitted for every transboundary basin (river, lake or aquifer) in the country, but States may decide to group basins in which their share is small or leave out basins in which their share is very minor, e.g., below 1 per cent.

² In section II, "agreement" covers all kinds of treaties, conventions and agreements ensuring cooperation in the field of transboundary waters. Section II can also be completed for other types of arrangements, such as memorandums of understanding.

Comments

- **Chad:** Emphasize the classification level of the river or sub-basin according to the classification of SHUM

Doesn't "deep confined aquifer" refer to "confined groundwater"?

Specify: for countries whose territory is smaller than the basin or sub-basin and for countries whose territory is larger than the basin or sub-basin.

- **Netherlands**, *In reference to footnote 2,*

Also refer to [2] above

Another possibility is to make a kind of an index of defining explanations, like

Agreement – [2]

Arrangement – [2]

In force – [10]

Scenarios for structuring Section II

Comments

- **Finland:** difficulties to follow the graph
- **Germany:** The graph above is colourful, but from my point of view confusing and not well to read or to understand. I think it would be better to just describe the different scenarios in writing or to find a better way how to visualize the different scenarios. Would a table be more useful? And I got lost with regard to the differences among all those scenarios. I understand that you would like to cover the different approaches in the first reporting exercise or different possibilities to fill in the template, but this is rather sophisticated. And will it help the Secretariat when evaluating the reporting? You will have a lot of diversity in answers anyhow.
- **Mexico:** The table Scenarios for structuring Section II (page 15) is a little confusing to explain the cycle of scenarios. It is suggested to design a new, clearer scheme that allows the association of options.
- **ESCWA, on figure above:** This is very confusing and difficult to follow, perhaps consider revising with stepped flow diagram that guides from simplest to most complicated cases in steps based on yes/no questions.
- **Implementation Committee - Dinara Ziganshina:**
 - 1/ The figure is beautiful! But not very easy to follow, unfortunately. I started reading it from the top but it seems it should be read from the bottom. This is unclear. Probable the figure should be accompanied by text too.
 - 2/ Similarly, should be try to put into a figure or figures different options to complete the template?
 - 3/ Did Finland use scenario E or H?
 - 4/ Probably provide one more example of using different scenario?

- **Scenario C:** complete section II for the basin arrangement (questions 1 & 2); any basin-wide joint body or mechanism established thereunder (question 3), and progress towards the agreement's implementation (questions 4-13); then complete section II again for any arrangement(s) covering a sub-basin or sub-basins, and/or part(s) of the basin. *Where two or more arrangements exist on the same sub-basin, e.g. a country has entered into separate bilateral arrangements with two other countries that share a sub-basin, then questions 1, 2 & 3 should be answered for each sub-basin arrangement, then questions 4-13 should be answered only once, ie., for the sub-basin as a whole.*

Germany: But questions 4-13 can have different responses with regard to the different arrangements. If you answer for the sub-basin as a whole, you will not get a consistent picture of each arrangement, at least that would be the case if Germany would use this scenario, which I will not.

Notes included in the draft Guide on section II

[6] What is a “basin”, “sub-basin” or “part of a basin”?

Comments

- **Implementation Committee -Dinara Ziganshina:**

1/ I would suggest to start with these definitions. Then figures and scenarios could be understood better.

2/ All these terms deal with land areas too, right? What to do with agreements dealing with “water resources” only?

Notes included in the draft Guide on section II

[7]

- A “**deep confined aquifer**” can be described as an aquifer that has impermeable layers both above and below it, which confine it from the earth’s surface or other rocks ([USGS](#), 2019). Where such an aquifer intersects a sovereign border it can be considered transboundary (Eckstein & Eckstein, 2005).

Comments

ESCWA: Is this referring to a non-renewable “fossil” aquifer or a renewable aquifer that is unconfined in part and confined in other?

1. Is there one or more transboundary (bilateral or multilateral) agreement(s) or arrangement(s) [9] on this basin, sub-basin, part of a basin or group of basins?

One or more agreements or arrangements exist and are in force [10]

Agreement or arrangement **developed but not in force** [11]

Agreement or arrangement developed, but not in force for all riparians [12]

Please insert the name of the agreement(s) or arrangement(s) [fill in] [13]

Agreement or arrangement is under development [14]

No agreement or arrangement

If there is no agreement or arrangement or it is not in force, please explain briefly why not and provide information on any plans to address the situation: [fill in]

If there is no agreement or arrangement and no joint body or mechanism for the transboundary basin, sub-basin, part of a basin or group of basins then jump to question 4; if there is no agreement or arrangement, but a joint body or mechanism then go to question 3. [15]

Notes included in the draft Guide on question 1

[9] For guidance on what constitutes an “agreement” or “arrangement” see note [2] above.

[10] **How to determine if an agreement or arrangement is “in force”?** (...)

[BOX] Making the distinction between Ratification, Acceptance and Approval, Accession, and Signature

[11] **An agreement or arrangement developed but not in force** might be one that six out of eight riparian countries have negotiated and adopted, but all countries must ratify it before it enters into force.

Notes included in the draft Guide on question 1

[12] **An agreement or arrangement developed, but not in force for all riparians** might be an agreement that requires four out of six riparian countries to ratify it before it enters into force. If only four countries have so far ratified such an agreement, it would not be in force for *all* Riparian States.

[13] **For guidance on how to list agreements and arrangement see note [2] above.**

[14] **An agreement or arrangement under development** might include one that is being negotiated and has not been **adopted** by the relevant Parties.
Explanation on what is “adoption”.

[15] **In what situation might no agreement or arrangement exist, but a joint body or mechanism is in place?**

Comments related to notes on question 1

- **Chad:** Could "in force" be translated by "operational"?
- **Moldova:** Perhaps, the word “developed” can be replaced with a word "signed". For example, an Agreement between the Government of the Republic of Moldova and the Cabinet of Ministers of Ukraine on Cooperation in the field of protection and sustainable development of the Dniester river basin, was signed in Rome on 29 November 2012, but the Agreement had entered into force only after Ukraine ratified it in July 28, 2017 (Moldova ratified it in January 22, 2013)

Questions 2 and 3 to be completed for each bilateral or multilateral agreement or arrangement in force in the transboundary basin, sub-basin, part of a basin or group of basins.

2. (a) Does this agreement or arrangement specify the area subject to cooperation? [16]

Yes /No

If yes, does it cover the entire basin or group of basins and all riparian States? [17 18 19]

Yes /No

Additional explanations? [fill in] [20]

Or, if the agreement or arrangement relates to a sub-basin, does it cover the entire sub-basin? [21]

Yes /No

Additional explanations? [fill in]

Which States (including your own) are bound by the agreement or arrangement? (*Please list*): [fill in]

Notes included in the draft Guide on question 2

[16] How to determine the area subject to cooperation within an agreement or arrangement.

[17] How to determine if an agreement or arrangement covers “the entire basin or group of basins and all riparian States”? *Rhine Convention*

[18] Note on *What if different provisions of an agreement or arrangement cover different parts of the basin?*

[19] Note on *when not all Riparian states are party to the agreement*

[20] Note on *when the scope of the agreement is not explicitly stated*

[21] Note that it may be necessary to interpret whether or not an agreement or arrangement covers the entire sub-basin.

Comments related to notes on question 2 a-b

- **Luxembourg:** In the case of a sub-basin, should only this question be answered or also the previous one?
- **Slovenia,** on paragraph [16]:

We suggest to include also:

Convention on the Protection of the Danube River(<https://www.icpdr.org/main/icpdr/danube-river-protection-convention>)

Framework Agreement on the Sava River Basin

(http://www.savacommission.org/dms/docs/dokumenti/documents_publications/basic_documents/fasrb.pdf)

Both are considered and proved as best practices in terms of regional and sub-regional conventions and agreements, especially with later implementations (ICPDR, ISRBC) and shall be used as examples in the Guide.

- **Germany:** The Rhine Convention covers mainly the main stream, the basin only with regard to certain aspects as described in the text above. The whole Rhine basin is covered by an additional body, the so called Coordination Committee, which has been established after the entry into force of the Water Framework Directive which is basin related. See also [36]This committee is based on a decision of a ministerial meeting. The Rhine Convention itself has not been adapted accordingly.

Thus another river basin like the Danube might be a better example.

- **Implementation Committee – Dinara Ziganshina:** Would not it be better to refer to basin agreements here

Comments on notes related to question 2 a-b

- **Implementation Committee – Dinara Ziganshina**: Does this agreement or arrangement specify the area subject to cooperation?

In para 16 you interpret “area” as geographical scope. Here in para 18 which is about coverage you refer to functional scope (the overall purpose). This is a bit confusing

(b) If the agreement or arrangement relates to a river or lake basin or sub-basin, does it also cover aquifers? [22]

Yes 0/No 0

If yes, please list the aquifers covered by the agreement or arrangement: [fill in] [23]

(c) What is the sectoral scope of the agreement or arrangement? [24]

All water uses

A single water use or sector

Several water uses or sectors

If one or several water uses or sectors, please list (check as appropriate):

Water uses or sectors

Industry

Agriculture

Transport (e.g., navigation)

Households

Energy: hydropower and other energy types

Fisheries

Tourism

Nature protection

Other (*please list*): [fill in]

Comments related to notes on questions 2 c

- **Luxembourg:** If we understand correctly, the question is referring exclusively to the provisions of the agreement and not to the practical work which is being done in the framework of the agreement.
- It could be the case that aquifers are not explicitly mentioned in the agreement but that in praxis they are however covered. For example when international river basin commissions elaborate their river basin management plans they also cover groundwater bodies even if groundwater isn't explicitly mentioned in their agreement. Could you confirm that in such a case the answer to the question should be no?

(d) **What topics or subjects of cooperation are included in the agreement or arrangement?**

Procedural and institutional issues

Dispute and conflict prevention and resolution

Institutional cooperation (joint bodies)

Consultation on planned measures

Mutual assistance

[25] *Note on Monitoring*

[26] For example, does the agreement or arrangement account for gender considerations.

Comments

- **Luxembourg, on “consultation on planned measures”:** Is this referring to measures planned at the national level that might have an impact on neighbouring countries or to measures planned on transboundary watercourses? Or both?
- **Netherlands:** As gender is an increasingly important issue, should this not be a pre-printed item?
- **Guatemala:** it is also considered relevant to ask if the agreements account for indigenous people considerations; and whether they are signatories to the United Nations Convention 169

(e) What are the main difficulties and challenges that your country faces with the agreement or arrangement and its implementation, if any?

Aligning implementation of agreement or arrangement with national laws, policies and programmes

Aligning implementation of agreement or arrangement with regional laws, policies and programmes

Lack of financial resources

Insufficient human capacity

Insufficient technical capacity

Tense diplomatic relations

Non-participation of certain riparian countries in the agreement

No significant difficulties

Other (*please describe*): [fill in]

(f) What are the main achievements in implementing the agreement or arrangement and what were the keys to achieving such success? [fill in] [27]

(g) Please attach a copy of the agreement or arrangement or provide the web address of the document (*please attach document or insert web address, if applicable*): [fill in]

Comments

- **Moldova:** Perhaps, another statement like "political instability" can be added. In some countries, where society is divided by different geopolitical interests, politics often directly or indirectly affect the implementation (deceleration or acceleration) of different agreements/arrangements with neighboring countries.

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

Yes /No

If no, why not? (please explain): [fill in]

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]

Other (*please describe*): [fill in]

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

[28] *Explanation on ‘joint body or mechanism’*

[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.

[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.

(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]

(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]

[36] *Note on observer countries in joint bodies*

[37] *Note on the functions of a “secretariat”*

[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 – Dinara Ziganshina:** To expand examples from UNECE region I suggest to include example of subsidiary bodies of ICWC in Central Asian too.

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

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

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

Comments

- **Implementation Committee – Dinara Ziganshina:** Because it is a very new area it might be necessary to include several examples.

(g) What are the tasks and activities of this joint body or mechanism?³ [41]

Identification of pollution sources
Data collection and exchange
Joint monitoring [42]
Maintenance of joint pollution inventories
Setting emission limits
Elaboration of joint water quality objectives
Management and prevention of flood or drought risks
Preparedness for extreme events, e.g., common early warning and alarm procedures
Surveillance and early warning of water related disease
Water allocation and/or flow regulation
Policy development
Control of implementation
Exchange of experience between riparian States
Exchange of information on existing and planned uses of water and related installations
Settling of differences and conflicts
Consultations on planned measures
Exchange of information on best available technology
Participation in transboundary EIA
Development of river, lake or aquifer basin management or action plans
Management of shared infrastructure
Addressing hydromorphological alterations
Climate change adaptation
Joint communication strategy
Basin-wide or joint public participation and consultation of, for example, basin management plans
Joint resources to support transboundary cooperation
Capacity-building
Any other tasks (please list): [fill in]

Notes included in the draft guide on question 2(g)

[41] *Note on tasks and activities of a joint body or mechanism*

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

(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]

Please describe, if any: [fill in]

Unexpected planning delays

Please describe, if any: [fill in]

Lack of resources

Please describe, if true: [fill in]

Lack of mechanism for implementing measures

Please describe, if true: [fill in]

Lack of effective measures

Please describe, if true: [fill in]

Unexpected extreme events

Please describe, if any: [fill in]

Lack of information and reliable forecasts

Please describe, if any: [fill in]

Others (*please list and describe, as appropriate*): [fill in]

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

Yes /No

If yes, how frequently does it meet?

More than once per year

Once per year

Less than once per year

(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]

Yes /No

If yes, please give details. If no, why not, e.g. are the relevant coastal States also riparian States and therefore already members of the joint body or mechanism? [fill in]

Notes included in the draft Guide on question 2, h-k

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

[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] *Explanation on inviting a coastal state*

[BOX] Hungary’s cooperation with Black Sea countries via the International Commission for the Protection of the Danube River Basin (ICPDR)

Comments

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