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Economic and Social Commission for Western Asia (ESCWA)

Committee on Water Resources
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Integrated water resources management in the Arab region

Regional cooperation for shared water resources management

Summary

The majority of Arab countries rely on shared surface and groundwater resources for most of their fresh water. Member States of the Economic and Social Commission for Western Asia (ESCWA) are therefore weighing up legal means at the global, regional, basin and bilateral levels to improve shared water resources management and ensure equitable access to international watercourses and transboundary aquifers.

The status of legal frameworks for shared water resources management has changed in recent years. The United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses came into force in 2014; States outside Europe are being encouraged to sign the United Nations Economic Commission for Europe Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention); a draft framework convention for shared water resources in the Arab region is being reviewed by the Arab Ministerial Water Council (AMWC); and discussion on the draft articles of the Law of Transboundary Aquifers continues under the auspices of the General Assembly.

ESCWA has facilitated basin-level dialogues on the Jordan River and Euphrates River, drawing upon information in the Inventory of Shared Water Resources in Western Asia, which was released in 2013 by ESCWA and the Bundesanstalt für Geowissenschaften und Rohstoffe (BGR, Federal Institute for Geosciences and Natural Resources, Germany). It also supports efforts by AMWC and the Center of Water Studies and Arab Water Security at the League of Arab States to address the issues of water resources management and capacity-building.

ESCWA is also seeking to mainstream shared water resources management in sustainable development policymaking by introducing basin-level analysis in upcoming publications related to the water-energy-food security nexus, climate change and sustainable development. Members of the Committee on Water Resources are invited to provide suggestions on further areas of work that they would like the secretariat to pursue.
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Introduction

1. The majority of Arab countries rely on shared surface and groundwater resources for most of their fresh water. Nine of 22 member States of the League of Arab States rely on water from rivers that originate outside the Arab region. There are shared groundwater resources and aquifer systems in all Gulf States and in most Arab countries in North Africa. Some of these aquifers are directly connected to surface-water hydrological systems and should be managed within the context of combined hydrological units or basins. The shared aquifers in the Gulf area contain fossil groundwater reserves requiring specialized legal and policy frameworks that take into account their non-renewable character.

2. The declining availability of freshwater due to increased consumption, development demands, inefficient use of water and climate change has prompted member States of the Economic and Social Commission for Western Asia (ESCWA) to look into global, regional, basin and bilateral legal frameworks to improve shared water resources management and ensure equitable access to international watercourses and transboundary aquifers. A summary of progress in this area since the tenth session of the Committee on Water Resources is presented below.

I. LEGAL FRAMEWORKS FOR SHARED WATER RESOURCES MANAGEMENT

A. CONVENTION ON THE LAW OF THE NON-NAVIGATIONAL USES OF INTERNATIONAL WATERCOURSES


4. The Convention encourages the pursuit of watercourse agreements between two or more States, while safeguarding the rights or obligations of watercourse States that are not party to the Convention in article 3. Under article 4, every watercourse State has the right to participate in negotiations or consultations related to an agreement applying to the entire international watercourse, and to become a party to the agreement. The Convention does not, however, require a basin-level approach to managing an international watercourse.

5. The entry into force of the Convention is an important milestone in efforts to promote cooperation on international watercourse management and strengthens the codification of several principles already referred to in existing bilateral and basin-level water-related agreements. However, the Convention does not cover non-renewable groundwater resources and no mention is made in it of water scarcity or water security. A great deal of the groundwater resources shared between Arab countries and Arab and non-Arab countries are non-renewable, particularly in North Africa and among the Gulf States.

6. Differences in legal opinions remain regarding the rule of customary international law, even when codified in conventions, particularly in the absence of enforcement mechanisms. The Convention includes no provisions for a secretariat or governance mechanism to follow up on its implementation. Some of the contracting parties have begun considering options in that regard.

B. DRAFT ARTICLES ON THE LAW OF TRANSBOUNDARY AQUIFERS

7. On 11 December 2008, during its sixty-third session, the General Assembly adopted non-binding resolution 63/124 on the draft articles on the Law of Transboundary Aquifers. The draft articles were again
considered at its sixty-sixth session in 2011. Under resolution 66/104, the General Assembly called on States to make appropriate bilateral or regional arrangements for the proper management of their transboundary aquifers, taking into account the provisions of the draft articles. In resolution 68/118, adopted in December 2013 at its sixty-eighth session, the General Assembly commended the draft articles as guidance for the preparation of bilateral or regional agreements and arrangements for the proper management of transboundary aquifers. It is due to take up the matter again at its seventy-first session in September 2016.

C. ECONOMIC COMMISSION FOR EUROPE CONVENTION ON THE PROTECTION AND USE OF TRANSBOUNDARY WATERCOURSES AND INTERNATIONAL LAKES

8. The Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Economic Commission for Europe Water Convention) was adopted in Helsinki on 17 March 1992 by member States of the Economic Commission for Europe (ECE) and regional economic integration organizations constituted by such States. The Convention entered into force on 6 October 1996. Currently, 40 countries are parties to the Convention, in addition to the European Union.

9. Articles 25 and 26 of the Convention were amended on 28 November 2003 by decision III/1, allowing all United Nations Member States to accede to the Convention. The amendment entered into force on 6 February 2013. Decision VI/3, adopted on 30 November 2012 by a Meeting of the Parties, clarified that accession requests by non-members of ECE require approval from member States that were already parties to the Convention as of 28 November 2003. Members of ESCWA and other United Nations regional commissions may request accession to the Convention.

10. The Convention addresses many aspects of water management, but focuses on water quality, pollution control and environmental protection. It incorporates the precautionary and polluter-pays principles, which were advanced in the 1992 Rio Declaration on Environment and Development, but does not cover issues relevant to Arab countries, such as water availability and security or access to scarce water resources. The Convention does, however, provide an opportunity to address water quality concerns in river basins and marine environments as part of integrated water resources management. It specifically aims to promote cooperation between riparian parties “on the basis of equality and reciprocity, in particular through bilateral and multilateral agreements, in order to develop harmonized policies, programmes and strategies covering the relevant catchment areas, or parts thereof” (article 2, para. 6). Article 9 sets forth provisions requiring the entry into bilateral or multilateral agreements between riparian parties to the Convention and the establishment of joint bodies. The obligation to establish joint legal agreements and institutional arrangements to support shared water resources management is thus more pronounced than in the United Nations Watercourses Convention.

11. The ECE Water Convention has a Protocol on Water and Health, which entered into force in 2005 and addresses the protection of water ecosystems and the control of water-related diseases. The Protocol is managed in conjunction with the World Health Organization/Regional Office for Europe. A Protocol on Civil Liability, adopted in 2003, has not yet entered into force. It sets forth measures for legal claims and the prompt compensation for industrial accidents affecting an international watercourse. The Convention is supported by a governance system that includes a secretariat, bureau, working groups, a task force, an ad hoc expert group, an international water assessment centre, and an implementation committee that meets twice a year to monitor and promote the implementation of, and compliance with, the Convention.

D. DRAFT FRAMEWORK CONVENTION ON SHARED WATER RESOURCES IN THE ARAB REGION

12. The Arab Strategy for Water Security in the Arab Region to Meet the Challenges and Future Needs for Sustainable Development 2010-2030 was prepared subsequent to a resolution issued by Heads of State at the first Arab Economic and Social Development Summit, held in Kuwait in January 2009. The Arab
Ministerial Water Council (AMWC) adopted the strategy in June 2011 and a subsequent action plan in May 2013. The strategy and action plan call for the pursuit of legal agreements and arrangements that support shared water resources management between Arab States.

13. In that regard, the Council adopted a resolution in July 2010 requesting the League of Arab States Center for Water Studies and Arab Water Security, ESCWA and the German Bundesanstalt für Geowissenschaften und Rohstoffe (BGR, Federal Institute for Geosciences and Natural Resources) to assist in the preparation of a draft legal framework on shared water resources in the Arab region. The first draft was reviewed at an intergovernmental consultative meeting in May 2011 convened by the three mandated institutions. Revised versions of the legal text, which became known as a draft framework convention, were discussed during subsequent intergovernmental consultative meetings. The draft convention is under review and due to be discussed at a fifth intergovernmental consultative meeting in 2015.

II. INITIATIVES IN SUPPORT OF SHARED WATER RESOURCES MANAGEMENT IN THE ARAB REGION

A. LAUNCHING OF THE INVENTORY OF SHARED WATER RESOURCES IN WESTERN ASIA

14. The Inventory of Shared Water Resources in Western Asia was launched internationally at World Water Week in Stockholm on 3 September 2013 and regionally in Beirut on 25 October 2013, following reviews and consultations at the regional and bilateral levels with ESCWA member States and international experts. The publication was the fruit of a long-standing cooperation between ESCWA and BGR, which formally ended in 2013. A corrigendum was issued on 30 September 2014 as an ESCWA document (E/ESCWA/SDPD/2013/Inventory/Corr.1) to account for editorial errors and provide clarification on issues raised by member States. The Inventory and its corrigendum were printed in hard copy and as a brochure with an enclosed CD-ROM. They are also available for download from www.waterinventory.org.

B. ORGANIZATION OF JORDAN RIVER DIALOGUE

15. The Palestinian Water Authority requested ESCWA to organize a dialogue with other Arab States sharing the Jordan River on key issues regarding the basin. Discussion was based on the Jordan River Basin chapter in the Inventory of Shared Water Resources in Western Asia and involved senior representatives from Jordan, Lebanon and Palestine. The meeting, hosted by the Government of Jordan and organized by ESCWA in Amman on 6 and 7 April 2014, contributed to greater mutual understanding between the participating countries and fostered an exchange of ideas for improved cooperation. In January 2015, Palestine informally requested the organization of a follow-up consultation, which is currently under discussion.

C. HIGH-LEVEL WORKSHOP ON THE EUPHRATES RIVER

16. In conjunction with Chatham House (Royal Institute of International Affairs) and the Prince’s Charities International Sustainability Unit, ESCWA organized a high-level workshop on The Euphrates under Stress: Towards Tripartite Cooperation for Sound River Management in London, on 9 and 10 June 2014. The workshop heightened understanding of the challenges affecting management of the Euphrates River. Issues examined included development projects by Turkey at the river headwaters and the impact of the crises in Iraq and the Syrian Arab Republic on the security and management of the river and associated water installations, including dams, water supply and sanitation facilities.

D. SUPPORT FOR THE ARAB MINISTERIAL WATER COUNCIL ON THE DRAFT FRAMEWORK CONVENTION

17. A draft framework convention on the management of shared water resources in Arab countries is under review. ESCWA has been involved in its preparation from the outset. Further information is provided
18. The Fourth Intergovernmental Consultative Meeting on the Draft Legal Framework for Shared Water Resources in the Arab Region was held in Cairo on 28 and 29 April 2014. Comments were received from Egypt, Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Saudi Arabia and Tunisia. Representatives from Egypt, Jordan, Kuwait, Libya, Mauritania, Oman, the Sudan, the United Arab Emirates and Yemen contributed to the meeting proceedings, along with legal and water resource experts from the League of Arab States, ESCWA and the Center for Environment and Development for the Arab Region and Europe (CEDARE). It was agreed that the draft framework convention should cover surface and groundwater resources. Discussions also focused on the degree to which the no significant harm principle and the principle of prior notification should be reflected in the framework convention. The revised text was submitted to AMWC for consideration in May 2014. The Council invited member States to review the draft in accordance with their national legislative procedures.

19. In January 2015, the AMWC Executive Bureau adopted a resolution inviting comments from Arab States on the latest version of the draft framework convention with a view to discussing it at a fifth intergovernmental consultative meeting that would be organized by the Center for Water Studies and Arab Water Security of the League of Arab States and ESCWA. The finalized text of the draft framework convention would then be reviewed at a subsequent session of the AMWC.

III. PROSPECTS AND FUTURE ACTION

A. MAINSTREAMING SHARED WATER RESOURCES MANAGEMENT IN SUSTAINABLE DEVELOPMENT

20. ESCWA is seeking to enhance the visibility of shared water resources management as a cornerstone of sustainable development policy-making in the Arab region by providing analysis and assessment on shared water resources from different perspectives through the preparation of the following reports:

(a) The ESCWA Water Development Report 6 on Water, Energy and Food Security in the Arab Region, with a chapter on the water-energy-food nexus as it relates to some of the region’s shared surface and groundwater resources;

(b) The Arab Climate Change Assessment Report, which will be produced in the framework of the Regional Initiative for the Assessment of the Impact of Climate Change on Water Resources and Socio-Economic Vulnerability in the Arab Region (RICCAR), will include a chapter on climate change projections and analysis of extreme events and their potential impact on the region’s major shared surface-water basins. This analysis was requested at the ninth session of the AMWC Technical Scientific Advisory Committee (Doha, May 2014) and presented as part of the report’s outline to the Committee during its tenth session (Cairo, January 2015);

(c) Horizon 2030 Report on Shared Water Resources, which is planned as part of a series of Horizon 2030 outlook reports in the ESCWA work programme for the 2016-2017 biennium;

(d) The Arab Sustainable Development Report, which is being used for preparations and negotiations on the post-2015 development agenda in the region. Targets proposed by the Open Working Group on the Sustainable Development Goals (SDGs), which are being used as a basis for negotiations by the General Assembly, include a proposal to “implement integrated water resources management at all levels, including through transboundary cooperation as appropriate” by 2030.
B. PROPOSALS FOR FUTURE WORK

21. ESCWA invites the eleventh session of the Committee on Water Resources to advise on further areas of work that it would like the secretariat to pursue on shared water resources management in the light of the recent developments in this field. Specifically, the Committee is invited to advise on how it would like the secretariat to pursue work related to the United Nations Watercourses Convention, the ECE Water Convention, the draft framework convention on shared water resources in the Arab region, and bilateral or basin-level technical assistance or capacity-building support on shared water resources management for ESCWA member States.