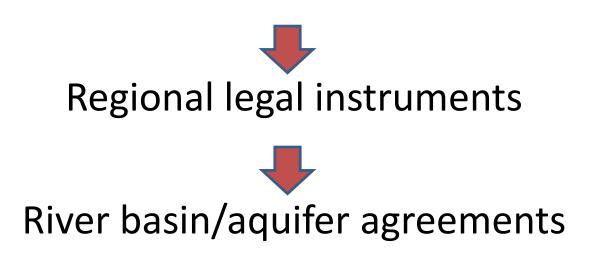
Overview : how can national law support international water law implementation?



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Implementation of international law

Global Conventions



National legal frameworks (harmonized)

National Institutions

National legal framework

- Constitution => fundamental law
- Laws
- Subsidiary legislation
- Norms, standards, etc.

Legal framework for specific subjects often informed by national policy

EVOLUTION OF THE LAW WITHIN NATIONAL CONTEXTS

• Europe

- Fragmented provisions
- Consolidation
- Common principles : Water Framework Directive (2000) & 'daughter' directives transposed into domestic legislation
- Africa
 - Influences
 - Customary law
 - Islamic law
 - Civil law
 - Common law
 - Mixed systems
 - Fragmentation
 - Consolidation
- Present: IWRM
 - Legal & institutional frameworks: national, basin/aquifer/regional

What will the drafter of domestic legislation include in the relevant texts to facilitate the implementation of international water law?



- Equitable and reasonable utilisation
 - -Determined based on a non-exhaustive list of factors
- Duty not to cause significant harm
- General obligation to cooperate —Procedural rules

PROVISIONS IN SUPPORT OF THE REGULATION OF WATER USE & DEVELOPMENT

- May need to intervene on the legal status of water: shift from 'private ownership' to regulation
- Right of authorities to regulate water use => only water use rights
- Thus, permit system (authorisations, concessions, permits, licences), except for specified de minimis uses

 also covers relate activities with possible adverse effects
- Need to consider situation of existing water use rights (incl. customary)
- Registration of water use rights (declarations, permits, existing rights) => knowledge of existing water uses
 - Facilitates planning
 - Facilitates protection of water right holders

PROVISIONS IN SUPPORT OF WATER QUALITY CONTROL & PROTECTION

- Wastewater discharge permits (permit system)
 - Conditions: among other, treatment of effluents
- -Water quality objectives, criteria & standards
- Application of BAT, if possible
- Reuse of wastewater
 - Subject to permit
- Protection of wells & water supply sources
- Identification of substances to be prohibited, limited, controlled, etc.

THE PERMIT SYSTEM

- Characteristics of permits
 - Personal
 - Limited duration, but renewable
 - Subject to conditions
 - May be suspended, modified or revoked
 - Subject to the payment of charges
- Procedures for the issuance of permits (detailed in regulations)
 - Application
 - EIA for specified activities
 - (Inspection)
 - Publication of the application
 - Oppositions (within specified deadline)
 - Advice by other concerned agencies
 - Evaluation of application
 - Approval or rejection
 - Possibility to appeal

PROVISIONS IN SUPPORT OF THE ENHANCEMENT OF THE KNOWLEDGE BASE

- Knowledge of water uses, wastewater discharges & activities subject to permit may be derived from register of permits
- Knowledge of WR
 - <u>Programmes</u> for WR monitoring & assessment
 - By basin/aquifer
 - Coordinated
 - Data bases (basin or aquifer)
 - Data custodianship: exchange & sharing

PROVISIONS IN SUPPORT OF WATER RESOURCES PLANNING

- Types of plans (development/management)
- Basin or sub/basin plans
- Aquifer plans
- National planning
 - Among other, for inter-basin water transfers
- Stakeholder participation : mechanisms
 - Entails access to information

CONTENT OF BASIN PLANS

- Among other:
 - Inventory of water resources, water bodies and existing uses
 - Measures to meet water demands (& relevant criteria)
 - Order of priorities
 - among utilisations
 - among zones (for the implementation of measures)
 - Water quality control & measures for protection against pollution
 - Protected areas, incl. GW recharge areas
 - Measures for protection against floods
 - Monitoring networks
 - Water reserve (minimum flow requirements)
 - Institutional arrangements for plan implementation
 - Allocation of financial resources

INSTITUTIONAL ASPECTS

- Present situation (in general):
 - Fragmentation (even in the presence of a water agency)
 - Water resources institutions are often at the same time water users
- Trends:
 - Designation of an agency responsible for WR
 - National level
 - Basin level
 - (recent trend): aquifer level
 - Decentralisation to the level closer to users
 - Participation of stakeholders in WR management : River Basin Councils, Committees, WUAs, etc.
 - Coordination mechanisms