

The Draft Articles on the Law of Transboundary Aquifers

Expert Group Meeting on Pursuing Improved Shared Water
Resources Management within the Framework of Global
and Regional Agreements
Cairo, Egypt, 29-30 November 2017

Outline

I. Background

II. The process

III. The provisions of the DA

IV. Conclusion

I. Background

1994: ILC adopts DA on the law of non-navigational uses of international watercourses

➔ 1997 Convention (vote of the UN GA)

Prepared for international watercourses, late introduction of groundwater
➔ limited coverage



I. Background

Definition of a watercourse: *A system of surface waters and groundwaters constituting by virtue of their physical relationship a unitary whole and normally flowing into a common terminus (article 2 a)*



I. Background

ILC acknowledged limited coverage:

➤ Resolution on « confined » transboundary groundwater (1994)

➤ Introduction in 2002 in its agenda the topic of « Shared Natural resources »

➔ *Confined tb GW*

➔ *Oil & gas*



II. The process

- Between 2003 & 2008 : Four reports submitted
- 2008 : the ILC adopts the draft articles on the law of TB aquifes at second reading
- *Deferred to the UN GA with the following recommendation*
 - a. Adoption of Resolution, with draft articles in annex*
 - b. To recommend to States concerned to make appropriate bilateral or regional arrangements for the proper management of their transboundary aquifers on the basis of the principles enunciated in these articles;*
 - c. At a later stage elaboration of a convention*

III. The provisions of the DA

Structure of the DA

I Introduction

II General principles

III Protection, preservation and management

IV Miscellaneous provisions

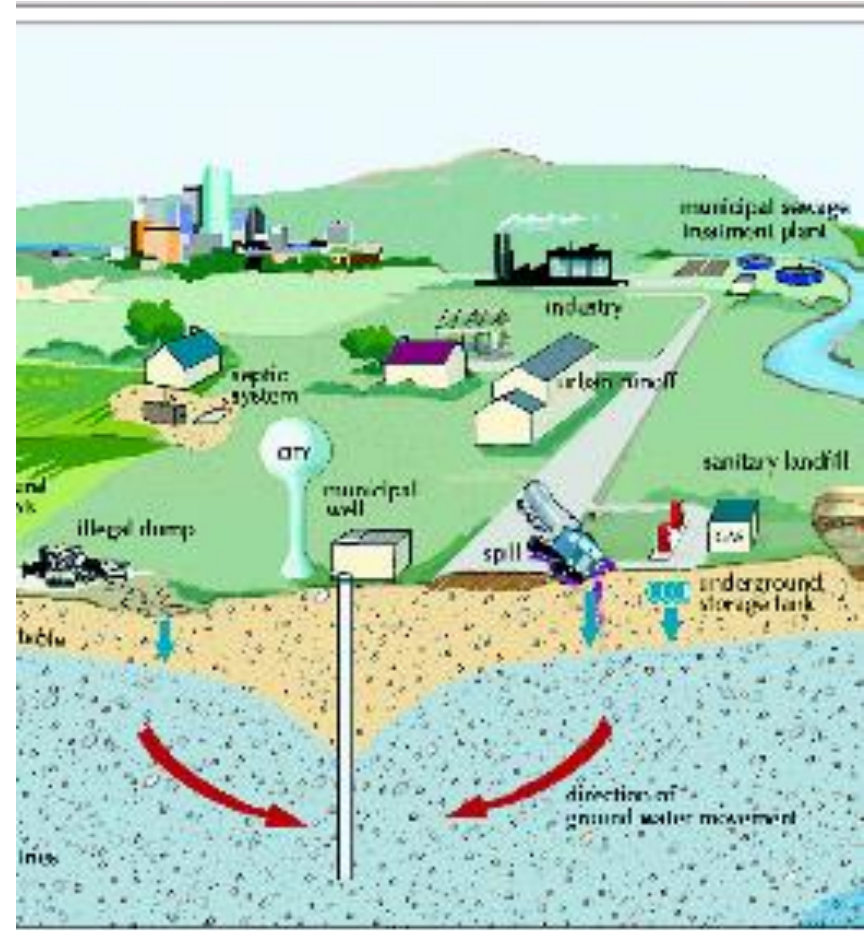


III. The provisions of the DA

Part I. Introduction

➤ Scope:

- the utilization of the TBA & the measures for their protection, preservation and management
- Other activities that have or are likely to have an impact upon such aquifers or aquifer systems



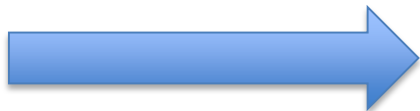
III. The provisions of the DA

Part II. General principles

➤ Sovereignty

➔ over the portion of a transboundary aquifer located within its territory.

➔ in accordance with international law and the present articles



Limited sovereignty

III. The provisions of the DA

- Equitable and reasonable utilisation (article 4)
- Obligation not to cause significant harm (article 6)
- General obligation to cooperate (article 7)
- Regular exchange of data and information (article 8)



III. The provisions of the DA

Part III. Protection, preservation and management

- Protection and preservation of ecosystems
- Recharge and discharge zones
- Prevention, reduction and control of pollution
- Monitoring
- Management
- Planned activities



III. The provisions of the DA

Part IV. Miscellaneous provisions

- Technical cooperation with developing States
- Emergency situations
- Protection in time of armed conflict
- Data and information vital to national defence or security

IV. Conclusion

- 4 UN GA resolutions on the topic (2008,2011, 2013, & 2016)
- Annexed to 2 UN GA resolutions (2008 & 2013)
- Resolutions 63/124 (2008) & 66/104 (2011) :
“ *Encourages* the States concerned to make appropriate bilateral or regional arrangements for the proper management of their transboundary aquifers, taking into account the provisions of these draft articles”

IV. Conclusion

- Resolutions 68/118 (2013) & 71/150 (2016) :
“*Commends* to the attention of Governments the draft articles ... as guidance for bilateral or regional agreements and arrangements for the proper management of transboundary aquifers ”

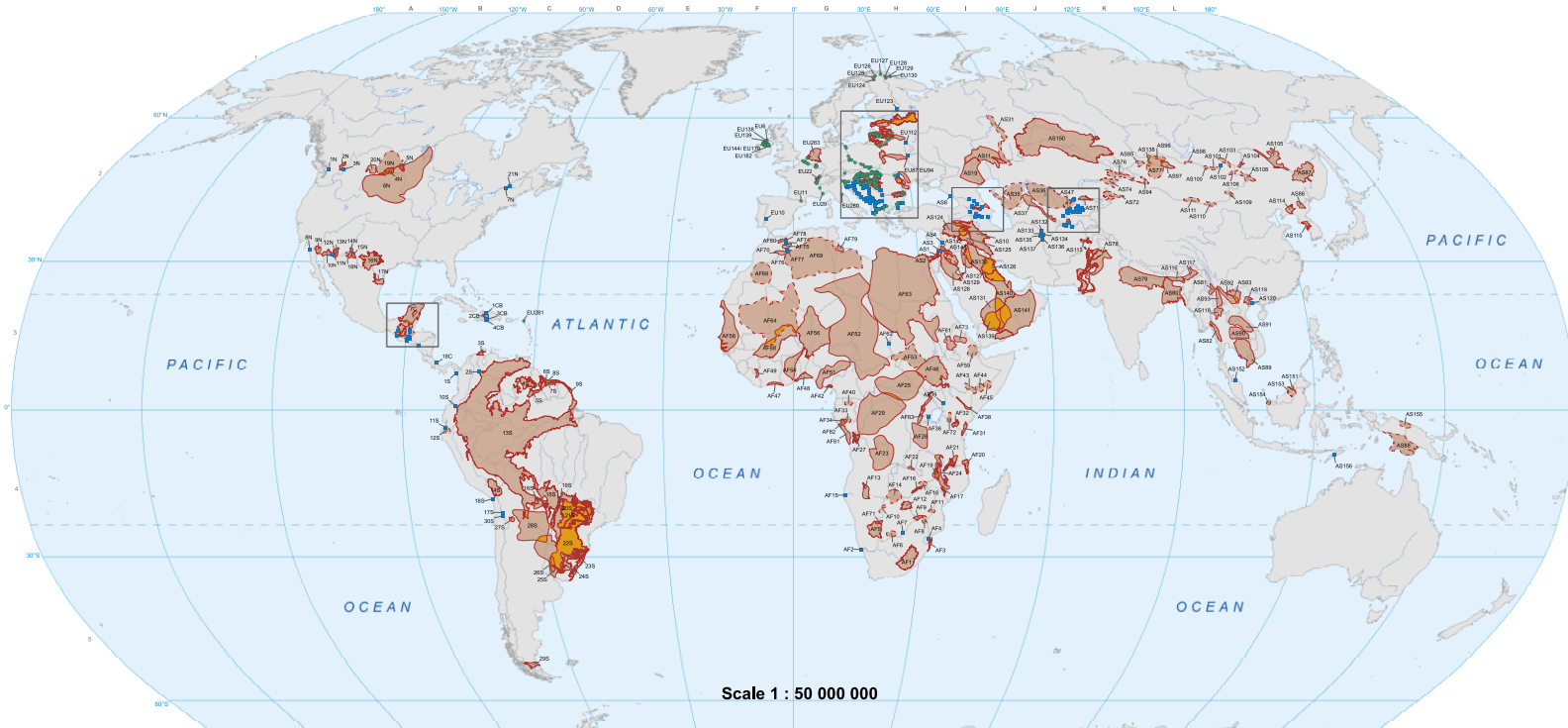


IV. Conclusion

GW: 97% of the available freshwater → 366 TBA + 226 TB GW bodies (EU)



Transboundary Aquifers of the World Special Edition for the 7th World Water Forum 2015



Legend

Occurrence and extent

- aquifer
- groundwater body
- overlapping area
- small aquifer
- small groundwater body

TBAs type of delineation

- confirmed boundary
- approximate boundary

AS102: aquifer/groundwater body label

Geographic elements

- country boundary
- detailed maps provided on back
- rivers
- lakes

Prepared by IGRAC

Base maps
Country borders: ESRI World Country Generalized Bayer (April, 2014)
Rivers and lakes: ESRI (2009)

Map projection
Robinson projection, geographic coordinates, spheroid WGS84, longitude of central meridian 0°.

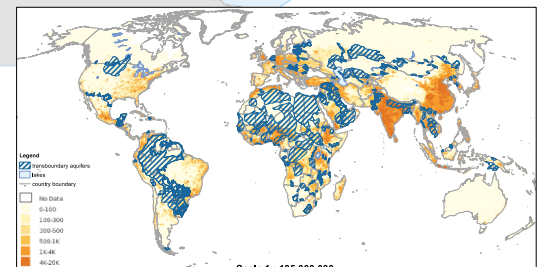
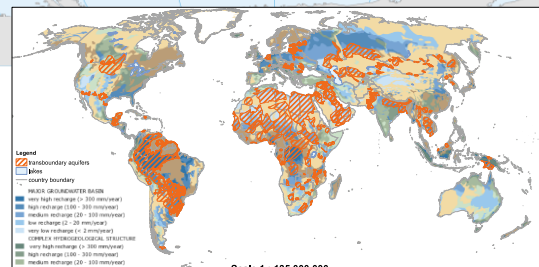
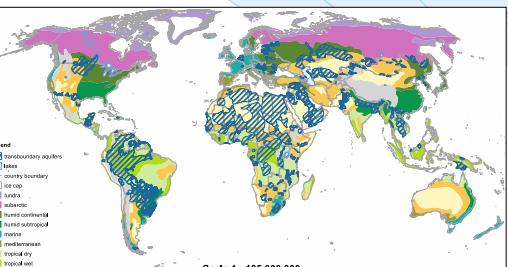
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ABOUT THIS MAP
This map is about transboundary aquifers of the world. It shows the state of information presently available on the occurrence and extent of TBAs worldwide. The map provides a global overview of these important transboundary water resources and intends to encourage further research and assessment thereof. The map is based on the most recent inventory results of many active working groups around the world; details on the procedures for preparing this map are available in the section 'Map compilation and labelling'. Inventories and assessments of transboundary aquifers across the world and information exchange between states overlying them are requisite for informed transboundary aquifer governance. This map aims to contribute to raising awareness on the importance of the governance of transboundary aquifers and to building a much needed global knowledge base.

Since its establishment in 2003, IGRAC has been involved in the identification and assessment of transboundary aquifers within the frameworks of the UNECE Transboundary waters assessment, GEF International Waters (IW) Focal Area and the International Shared Aquifer Resources Management (ISARM) initiative led by UNESCO-IHP and IAH.

DISCLAIMER
Any designation employed and the presentation of material throughout this publication do not imply the expression of any opinion whatsoever on the part of IGRAC, UNESCO, WMO or the Government of the Netherlands concerning the legal status of any country, territory, city or area, nor of its authorities and sovereignty on its territory and natural resources, and delineation of its frontiers or boundaries. Furthermore, the location and boundaries of several transboundary aquifers have not yet been confirmed by representatives of all countries involved. In such cases, an effort was made to indicate on the map the corresponding provisional status.

COLLOPHON
The mission of the International Groundwater Resources Assessment Centre (IGRAC) is to facilitate and promote global sharing of information and knowledge required for sustainable groundwater resources development and management. As an independent and nonprofit centre, IGRAC operates under auspices of United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Meteorological Organisation (WMO). IGRAC is an in-house partner of UNESCO-IHP and IAH.



IV. Conclusion

→ DA have brought TBA on the global agenda



→ Flexible non-binding instrument available for States

IV. Conclusion

Basis for the Model Provisions on transboundary groundwater (UNECE (2012))

لجنة الأمم المتحدة الاقتصادية لأوروبا

الأحكام النموذجية

بشأن المياه الجوفية العابرة للحدود

UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE



Model Provisions on Transboundary Groundwaters



Thank you for your attention