

**Economic and Social Commission for Western Asia (ESCWA)**

Committee on Water Resources
Twelfth session
Amman, 22-24 March 2017

Item 5 of the provisional agenda

Arab cooperation on shared water resources**Summary**

Shared water resources represent two-thirds of fresh water resources in the Arab region, and are defined as water resources that cross one or more country border. High dependency on shared water resources complicates efforts to achieve water security in many Arab countries, and also hinders the achievement of the Sustainable Development Goals (SDGs). At the regional level, negotiations on a draft framework convention on shared water resources have been going on since 2011. At the global level, the 2030 Agenda for Sustainable Development, adopted in September 2015, includes a specific target (SDG 6.5) on transboundary water resources within the context of implementing integrated water resources management.

The present paper overviews the progress achieved in drafting the framework convention on shared water resources in the Arab region, and considers SDG 6 on ensuring availability and sustainable management of water and sanitation for all, and its associated target 6.5 on implementing integrated water resources management at all levels, including through transboundary cooperation. It also sets out activities that support shared water resources management in the region.

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Introduction

1. Shared water resources represent two-thirds of fresh water resources in the Arab region and are defined as resources that cross one or more country border. More specifically, 14 of 22 Arab countries are riparian States with a shared waterbody, with 27 shared surface water basins and over 270 dams of various capacities and uses situated within these shared surface water basins. All Arab countries, with the exception of the Comoros, share one or more of the 40 plus aquifers that cover 58 per cent of the surface area of the Arab region. As the management of shared water resources in one country may significantly affect water resources in another country, it is essential for riparian States to cooperate at the bilateral and basin levels, as well as at the regional and global levels to support shared water resources management.
2. The high dependency on shared water resources in the Arab region complicates efforts to achieve water security and also hinders the attainment of the Sustainable Development Goals (SDGs) set out in the 2030 Agenda for Sustainable Development. The situation is further complicated in water basins that are shared between Arab and non-Arab countries, such as the Nile River basin; in transboundary river systems whose headwaters are situated outside the Arab region and are subject to armed conflict, such as the Euphrates River; or in shared water basins that are partially under occupation, such as the Jordan River basin. Climate change and climate variability threatens to further complicate shared water resources management, thus highlighting the importance of dialogue and cooperation between riparian countries.
3. At the global level, several legal frameworks are available to support the management of shared water resources. These include the United Nations Convention on the Law of the Non-navigational Uses of International Watercourses, 1997 (United Nations Watercourses Convention), the draft articles on the law of transboundary aquifers, and the United Nations Economic Commission for Europe Convention on the Protection and Use of Transboundary Watercourses and International Lakes, 1992 (UNECE Water Convention). The UNECE Water Convention became global in February 2013. Since 1 March 2016, an amendment to the UNECE Water Convention came into force that allows all States to join the Convention without the approval of the Meeting of the Parties, rendering the accession procedures for non-UNECE member States the same as those for UNECE member States. ESCWA has provided advisory assistance to some member States upon request to inform their discussions on the suitability of joining the Convention.
4. At the regional level, a draft framework convention on shared water resources in the Arab region is being reviewed to support shared water resources management between Arab countries. At the global level, the 2030 Agenda for Sustainable Development includes a specific target (SDG 6.5) on transboundary water resources within the context of implementing integrated water resources management. The present document presents an overview of the progress achieved in reviewing the draft framework convention. It also highlights the goals, targets and indicators related to the management of shared water resources in the 2030 Agenda, and sets out activities that support shared water resources management in the Arab region.

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

5. The Arab Ministerial Water Council (AMWC) adopted a resolution in July 2010 inviting the Center for Water Studies and Arab Water Security of the League of Arab States and the United Nations Economic and Social Commission for Western Asia (ESCWA) to prepare a draft legal framework on shared water resources in the Arab region for consideration by Arab States. ESCWA and its partners supported the preparation of the first draft, which was reviewed at an intergovernmental consultative meeting in May 2011. Revised versions of the draft framework convention were discussed at three other intergovernmental consultative meetings held between 2011 and 2014. Further information is provided in document E/ESCWA/SDPD/2013/IG.1/(Part I) on the draft legal framework and in document E/ESCWA/SDPD/2015/IG.2/4(Part II) on regional cooperation for shared water resources management, submitted to the tenth and the eleventh sessions, respectively, of the Committee on Water Resources.

6. The fifth intergovernmental consultative meeting on the draft legal framework was held in Cairo on 27 and 28 April 2015. Representatives from Egypt, Iraq, Palestine, Saudi Arabia, the Sudan and Tunisia contributed to the meeting proceedings, along with legal and water resources experts from the League of Arab States, ESCWA, the Center for Environment and Development for the Arab Region and Europe (CEDARE) and the Arab Center for the Studies of Arid Zone and Dry Lands (ACSAD). The discussions tackled comments raised by countries on the draft articles, and specifically: a request by Egypt and Saudi Arabia to have the framework only cover groundwater resources, which would reverse the decision taken at the fourth AMWC ministerial session held in 2012 that the framework should cover both shared surface water and groundwater resources; a request by Saudi Arabia that the term ‘shared water’ be replaced with the term ‘transboundary water’; and a request by the Sudan that the current reference to ‘appreciable harm’ be replaced with ‘significant harm’ in line with international terminology, and that the principle of prior notification should not necessitate prior agreement before measures are taken. Given that the number of participating country representatives at the meeting was limited and agreement on major issues could not be reached, it was decided to continue the meeting in May 2015 to allow for further country level consultations and for the participation of additional countries. The fifth intergovernmental consultative meeting was reconvened on 23 May 2015 in Cairo, prior to the twelfth session of the AMWC Technical Scientific Advisory Committee. Discussions focused on the same issues raised in April. It was agreed that these issues should be raised to AMWC to provide guidance for further discussions on the draft.

7. The seventh AMWC ministerial session was held in Cairo on 27 May 2015. It reviewed the report of the fifth intergovernmental consultative meeting, but refrained from taking a decision on the scope of the draft framework convention or on the other issues raised. Instead, the ministers sought further consultation through expert participatory processes, as stated in resolution 108 issued at the seventh AMWC session: “Mandate the technical secretariat of the Arab Ministerial Water Council, the Center for Water Studies and Arab water Security, ESCWA and ACSAD to invite representatives of water ministries and ministries of foreign affairs to continue their work and consultations on the articles of the draft framework and to consult international experts as needed”.

8. On the basis of the above resolution, the AMWC Technical Secretariat convened the sixth intergovernmental consultative meeting on the draft framework convention in Cairo on 16 and 17 December 2015. The meeting was attended by 11 Arab countries, namely Algeria, Bahrain, Egypt, Iraq, Kuwait, Morocco, Saudi Arabia, the Sudan, Tunisia and the United Arab Emirates. Their representatives were from either the ministries of water or the ministries of foreign affairs, or from both. . Water and legal experts from CEDARE, the Arab Water Council (AWC) and the Arab Network for Environment and Development (RAED) also participated. ESCWA was not able to participate because it was given insufficient notice. The sixth meeting examined the same issues raised in the previous meeting and recommended that three legal and technical experts be invited to provide their opinion on the draft framework. Based on the opinion of these experts, a report would be presented to the eighth AMWC ministerial session for further guidance. The participants set the proposed terms of reference for the experts and the selection criteria, and requested financial support from willing countries and international organizations to support this follow-up. The recommendation was adopted by the AMWC Technical Scientific Advisory Committee and Executive Bureau in a resolution at their respective sessions in January 2016.

9. Legal and technical experts from ESCWA and the United Nations Educational, Scientific and Cultural Organization (UNESCO) reviewed the draft framework. They prepared, in cooperation with an expert from CEDARE, substantive legal and technical opinions on the main discussion points.

10. The legal and technical experts presented their respective reports to the seventh intergovernmental consultative meeting on the draft legal framework, held in Cairo on 14 and 15 March 2016. All the experts agreed that the framework should cover both surface and groundwater basins given the integrated nature of both and the difficulty in separating them. With respect to the terms “shared” or “transboundary” waters, two of the three experts did not favour one term over the other, while one technical expert favoured the use of the term “shared” due to the complicated nature of groundwater flow. As to the prior notification principle, one

legal expert suggested that a time limit should be added to the relevant article in the framework, such as six months after notification before proceeding with any works, to provide an opportunity for riparian countries to reach an agreement on a proposed project while also avoiding the risk of a stalemate. Also on prior notification, a second expert opinion called for keeping the requirement of reaching an agreement prior to any works, arguing that prior notification in itself is insufficient to foster cooperation. As to the principle of ‘significant harm’ with respect to the alternative use of the term ‘appreciable harm’, the experts were split in their opinions, with one expert favouring ‘significant harm’ in line with the globally recognized norm under international customary water law, while another expert preferred ‘appreciable harm’ so as to reflect the scarcity of water in the region and the significant responsibility of countries to protect it.

11. The expert opinions did not succeed in moving the participating country representatives any closer to agreement on these contentious articles. The meeting concluded with a recommendation to share the meeting report with AMWC to request political guidance on the remaining articles.

12. The AMWC Technical Scientific Advisory Committee reviewed the report of the seventh intergovernmental consultation in a closed meeting during its fourteenth session (Cairo, 23-25 October 2016) and recommended postponing any decision on the draft framework convention until the proper conditions for its success were assured. The recommendation was approved by the AMWC Executive Bureau and endorsed by the AMWC at its eighth ministerial session, held in Cairo on 26 October 2016. Based on the intervention of the United Arab Emirates, the resolution adopted by the AMWC further recommends that a meeting be convened to develop a common set of principles as guidance for supporting shared water cooperation, based on the work undertaken on the draft legal framework. AMWC interest in continuing its support for work on shared water resources was further articulated in a subsequent resolution that invites ESCWA and UNESCO to assist Arab countries in building their capacity, managing shared water resources, drafting legal frameworks and improving negotiation skills.

II. SDG6 AND TRANSBOUNDARY WATER COOPERATION

13. The 2030 Agenda for Sustainable Development was adopted by the United Nations General Assembly in September 2015. It sets out 17 SDGs, including a dedicated water goal (SDG6) that aims to ensure the availability and sustainable management of water and sanitation for all. SDG6 contains six targets and two means of implementation. Target 6.5 calls for the implementation of integrated water resources management (IWRM) at all levels, including through transboundary cooperation, as appropriate. This reflects global recognition of the importance of transboundary water cooperation for the achievement of sustainable development.

14. The Inter-Agency and Expert Group on Sustainable Development Goal Indicators (IAEG-SDGs) has currently identified two indicators under Target 6.5. Indicator 6.5.1 reflects the degree to which integrated water resources management is implemented at the country-level. Indicator 6.5.2 shows the degree of transboundary cooperation. The custodian agencies for this indicator at the global level are UNESCO and UNECE. These organizations are formulating and recommending indicators and methodologies for the consideration of the IAEG-SDGs, which will then submit their recommendations to the United Nations Statistical Commission for consideration at its annual sessions in March 2017 and March 2018.

15. The methodology currently under consideration for Indicator 6.5.2 which aims to monitor the degree of transboundary water cooperation consists of measuring the percentage change of a transboundary basin area within a country that is subject to an operational agreement or arrangement for water cooperation. The basin area in this indicator is defined as the extent of the catchment for surface water plus the extent of the aquifer for groundwater within a country, and the percentage of that basin area that is subject to an operational arrangement. The arrangement for water cooperation could consist of a bilateral or multilateral treaty, convention, agreement or other formal arrangements between riparian countries, providing a framework for transboundary water cooperation or management. For an agreement to be considered operational under this indicator, it would have to demonstrate a substantive degree of water cooperation based on the following four

pillars: the existence of institutional cooperation mechanisms; regular communication among riparian countries; joint or coordinated management plans or objectives; and the regular exchange of data and information.

16. To report on indicator 6.5.2, countries would have to first calculate the total surface area of each transboundary basin within the country and the total sum of these basins. They would then need to verify which transboundary basins are covered by an operational cooperation arrangement, and lastly calculate the share of transboundary basins covered by operational arrangements with respect to the total sum of transboundary basin areas, and then multiplying this total by 100 to obtain a percentage. The ultimate aim is to achieve an indicator value of 100 per cent, but it is up to each country to set its own progress target when aiming to implement transboundary water cooperation.

17. Indicator 6.5.2 also proposes three main components for reporting on progress: spatial, legal and operational. The spatial component requires information on transboundary waters that determines the extent of surface water basins and aquifers calculated at the country level. Once this total surface area value is determined, limited updating is needed. On the other hand, the extent of transboundary aquifer systems is more difficult to determine and the information available in many countries is generally coarse and may need technical studies to improve delineation or establish the boundaries of existing or additional transboundary aquifers. The legal component of cooperation can be easily reported on; if no legal basis for cooperation exists then its establishment is usually a slow tedious process. As for the operational component of cooperation, this is expected to be more dynamic once the legal basis for cooperation is in place. In ideal conditions, riparian countries can develop operational arrangements to meet the four conditions of operationality over relatively short time frames.

18. In late 2016, a template for data gathering was circulated to countries sharing transboundary waters, with a deadline for submission of 31 March 2017. This would be followed by a discussion on the experience during a reporting exercise conducted within the framework of the UNECE Water Convention Meeting of the Working Group on IWRM, scheduled on 5 and 6 July 2017. It is not clear if requests for revisions on monitoring and reporting of this indicator will be raised during this meeting for consideration by the submitting parties or the IAEG-SDGs. In all cases, reporting on this indicator will be presented to the High Level Political Forum (HLPF) on Sustainable Development as part of the overall report on SDG6 submitted by UN-Water to the HLPF. It should be noted that the fourth meeting of IAEG-SDGs (Geneva, 15-18 November 2016) classified Indicator 6.5.2 as a Tier III indicator, meaning that the indicator methodology for this indicator is still being developed or tested. This classification allows member States to express their concerns or support for the aforementioned methodology being tested and applied by the custodian agencies.

19. Arab countries should consider the challenges and opportunities related to the application of the proposed methodology of Indicator 6.5.2 when determining their follow-up to the 2030 Agenda at the country and regional levels. In other words, the methodology being tested still contains several ambiguous areas. For instance, it is not clear how to effectively measure cooperation when more than two riparian countries share a basin, but cooperation arrangements exist at the bilateral level but not at the basin level. In this case, the indicator based on surface area extent covered by a cooperation arrangement cannot reflect whether a riparian country maintains a cooperation agreement with one or more upstream and/or downstream neighbours. This is particularly relevant in the Arab region where several countries share a common surface or groundwater basins, but only some are engaged in transboundary cooperation. As the indicator is reported as a percentage, it also does not reflect the quality of cooperation or associated constraints, such as when part of a transboundary water basin is under occupation or within an area subject to armed conflict. The indicator methodology also cannot differentiate between which riparian countries truly seek cooperation at the basin level, which ones refuse to do so, and which ones are unable to do so due to existing circumstances.

20. Regarding the operationality component, the indicator and draft methodology fail to reflect the available and relative capacities of countries to meet this objective. The operationality of transboundary water cooperation requires human, technical and financial resources that remain limited in several Arab countries.

The indicator thus fails to differentiate between a lack of resources and a lack of intent or political will to operationalize the cooperation. Since the methodology does not allow reporting on the partial fulfilment of one of the components or on implementation constraints, low percentage rates are likely to be reported in several Arab countries even when legal agreements exist. Changes in country-level capacities and the effectiveness of external assistance to support implementation may also prove difficult to monitor over short periods. Nevertheless, this indicator methodology allows countries to decompose and catalogue their efforts in support of transboundary water cooperation, even if the percentage rate used for reporting purposes remains highly aggregated.

III. ACTIVITIES SUPPORTING SHARED WATER RESOURCES MANAGEMENT IN THE ARAB REGION

A. SUPPORT TO THE ARAB MINISTERIAL WATER COUNCIL

21. The League of Arab States and ESCWA organized the fifth intergovernmental consultative meeting on the draft framework convention on the management of shared water resources in Arab countries in April 2015. Countries were invited to comment on the revised version of the draft legal framework. ESCWA then revised the draft based on the inputs received at the continuation meeting held in May 2015. The amended text was submitted by the Center for Water Studies and Arab Water Security to AMWC for consideration at its seventh ministerial session.¹

22. On the basis of recommendations by the sixth intergovernmental consultation on the draft framework convention and the resolution adopted by the AMWC Executive Bureau in January 2016, ESCWA recruited a legal expert on shared water resources management to prepare a written opinion on the draft and to deliver her report to the seventh intergovernmental consultation held in March 2016.

23. ESCWA also supported the Arab Ministerial Water Council, the League of Arab States and the Palestinian Water Authority in organizing the International Conference on Arab Water under Occupation, held in Cairo from 26 to 28 October 2016. ESCWA delivered an opening statement at the Conference, moderated two sessions, and served as rapporteur and a member of the committee established to draft the meeting recommendations.

B. PARTICIPATION IN INTERNATIONAL AND REGIONAL MEETINGS

24. ESCWA participated in the Water and Development Congress organized by the International Water Association (Dead Sea, Jordan, 18-22 October 2015), and delivered a presentation on groundwater policy and management covering the management of shared water resources in the region.

25. ESCWA participated in the national workshop for Iraq on the UNECE Water Convention, convened by UNECE and the Ministry of Water Resources of Iraq in Amman from 13 to 14 January 2016. The meeting discussed key aspects and opportunities for Iraq with respect to the Convention.

26. ESCWA participated in a UNECE workshop on the use of the International Watercourses Convention and the UNECE Water Convention (Geneva, 20-21 October 2016), and gave a presentation on the Model Provisions on Transboundary Groundwaters, which were developed within the framework of the UNECE Water Convention.

¹ The Center for Water Studies and Arab Water Security was formally closed as an organ of the League of Arab States in June 2015.

C. STUDIES AND REPORTS

27. The *ESCWA Water Development Report 6: Water, Energy and Food Security in the Arab Region* (E/ESCWA/SDPD/2015/2) was published in 2015 and considers shared water resources management within a nexus conceptual framework. The challenges presented by dependency on shared water resources in the Arab region were examined within the context of the water-energy-food security nexus, with case studies on how a nexus approach could inform conflict resolution efforts and promote Arab cooperation on shared water resources.

28. Under 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), an Arab climate change assessment report is under preparation for publication in May 2017. The assessment report includes climate change projections and analysis of extreme events on several shared water basins in the Arab region. The incorporation of shared water basins in the analysis was based on a request at the ninth session of the AMWC Technical Scientific Advisory Committee (Doha, May 2014).

IV. RECOMMENDATIONS

29. ESCWA invites the Committee on Water Resources to advise on further areas of work that it would like the secretariat to pursue on shared water resources. Specifically, the Committee is invited to advise on how it would like the secretariat to pursue work related to global and regional legal frameworks for transboundary water cooperation, including the United Nations Watercourses Convention, the UNECE Water Convention and the draft framework convention on shared water resources in the Arab region; and to the development of common guiding principles for shared water management in the Arab region.

30. It also kindly requests the Committee to advise on the regional, bilateral or basin-level technical assistance or capacity-building support it requires in the area of shared water resources management and negotiations for Arab countries.
