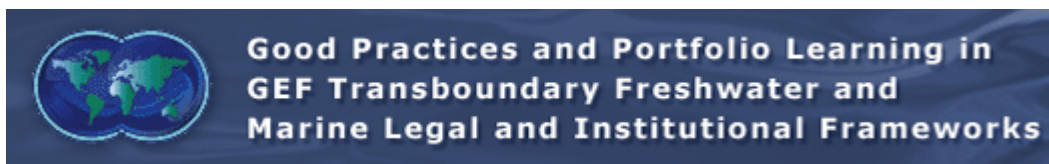


International Waters: Review of Legal and Institutional Frameworks

UNDP-GEF International Waters Project



WHITE & CASE



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I. Introduction

This report discusses the legal and institutional frameworks that apply to twenty-eight (28) international water bodies that were identified as part of the United Nations Development Programme-Global Environment Facility (“UNDP-GEF”) *Good Practices and Portfolio Learning in GEF Transboundary Freshwater and Marine Legal and Institutional Frameworks* project.

This three-year multi donor GEF sponsored project is dedicated to facilitating good governance and more effective decision making in international waters through the identification, collection, adaptation and replication of beneficial practices and lessons learned from international experiences.

The project also facilitates dialogue among individuals and organizations engaged in governance within and between freshwater, groundwater and marine international waters with particular emphasis on “South-South” cooperation and learning.

The key measurable benefit of this project is in ensuring that various lessons learned from multi-country experiences, including identification of areas where problems and delays are commonly experienced, are assimilated by various target audiences in a meaningful way. These target audiences include local water managers, governments, and civil society groups, primarily the portfolio of GEF projects.

The project also encourages local participation in the sharing of best practices by diverse stakeholders with a focus on women and youth.

Climate change adaptation knowledge is also incorporated into the learning tools emanating from this project.

The analysis in this report is organized by a common set of eighteen (18) criteria and is intended to provide information that can be used to support further research and analysis, with the ultimate goal of identifying a set of common elements of good governance for transboundary freshwater and marine water bodies as well as groundwater systems.

This report is based on primary materials that establish legal and institutional frameworks, such as international agreements (including treaties and conventions where applicable), protocols or action plans. Where relevant secondary materials were available (primarily for water bodies with more extensive legal frameworks), those secondary materials are identified and referenced as appropriate. The report is based on information available as of June 2010.

Part II of this report identifies and explains the eighteen criteria that are used to describe the legal and institutional frameworks of each of the water bodies discussed in this report.

Part III of this report provides a detailed discussion of the legal and institutional frameworks for each water body identified, organized by global region.

While we have endeavored to provide comprehensive information regarding legal and institutional frameworks, this report is not an exhaustive presentation of all of the available information for each of the water bodies addressed.

As the described frameworks continue to evolve, there may be future revisions of this report, for which supplemental information would be welcome.

This report should also be read in conjunction with a companion report of a lesser number of more detailed case studies which takes a more in depth look at “how” various international waters agreements were negotiated together with how “successful” the implementation of those agreements appears to have been. The detailed cases studies reviewed involve an assessment of the negotiation process involved in developing the agreements, as well as some assessment of how the agreements are being implemented. These case studies were chosen to represent the variety of situations that were reviewed under the UNDP-GEF *Good Practices and Portfolio Learning in GEF Transboundary Freshwater and Marine Legal and Institutional Frameworks* project, emphasize different aspects of collaboration around shared resources, and highlight several projects that had been funded by the GEF. The analysis has been conducted in conjunction with experts knowledgeable in the specific case study through interviews and collaborative development of the case studies.

The authors of this report would be most grateful if readers would bring to their attention any and all errors of commission and/or omission in both reports by directing their comments to Richard Kyle Paisley, Director, Global Transboundary International Waters Governance Initiative at paisley@law.ubc.ca, or to Jennifer Maul at White & Case LLP, at jmaul@whitecase.com. To review the full report online and other details of this project (including the detailed case studies), please go to <http://governance-iwlearn.org/>.

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II. Evaluation Criteria Overview

The following eighteen (18) criteria, identified in coordination with the Board of Advisors and Steering Committee of the IW Project, were used to standardize the review and reporting on the legal and institutional frameworks of the water bodies studied:

1. **Legal Basis** (i.e. is it based on a Treaty, Memorandum of Understanding etc.);
2. **Member States** (what states are parties to the agreement, are there observer states or groups);
3. **Geographical Scope** (what is covered within the framework);
4. **Legal Personality** (what is the body that implements the framework);
5. **Functions** (what does the framework seek to do);
6. **Organizational Structure** (what are the institutional designs and how do they interact);
7. **Relationships** (i.e. with multilateral, domestic and non-water sectors);
8. **Decision Making** (how are decisions within the institution made);
9. **Dispute Resolution** (is there a specified method for preventing and dealing with disputes among members);
10. **Data Information Sharing, Exchange, and Harmonization** (how do the countries share and exchange data with respect to the shared waters);
11. **Notifications** (how are members notified of changes to the framework);
12. **Funding and Financing** (how are operational costs paid for in both the long and short term);
13. **Benefit Sharing** (how are the benefits of the framework distributed among members);
14. **Compliance and Monitoring** (how do members ensure they are applying the agreement properly, and are there any reporting or evaluation mechanisms);
15. **Participation and the Role of Multiple Stakeholders** (how are civil society, youth and private sector groups engaged);
16. **Dissolution and Termination** (how is the agreement terminated);
17. **Additional Remarks** (any pertinent information that falls outside any of the identified criteria); and
18. **Websites and References** (helpful websites and citations to supporting information).

III. Selected Frameworks

A. Americas

Amazon Basin

1. Legal Basis

The Amazon Basin is governed by two multilateral conventions:

- The Amazon Cooperation Treaty, which was adopted in Brasilia, Brazil on 3 July 1978 and entered into force on 2 August 1980;¹ and
- The Amendment Protocol to the Amazon Cooperation Treaty, which was entered into on 14 December 1998. This amendment created the Amazon Cooperation Treaty Organization (“ACTO”).²

ACTO has also entered into the following bilateral agreements:

- Memorandum of Understanding between ACTO and the Coordinating Body for the Indigenous Organizations of the Amazon Basin (“COICA”), 25 Oct. 2004, *available at* <http://www.otca.org.br/en/programs-projects/index.php?id=1076>.
- Memorandum of Understanding between ACTO and the Andean Community, 29 Sept. 2004, *available at* <http://www.otca.org.br/en/programs-projects/index.php?id=1057>.
- Letter of Understanding Between the Coordinator Intergovernmental Committee of the Countries of the Basin of the Plata and the Amazonian Cooperation Treaty Organization, 30 Aug. 2004, *available at* <http://www.otca.org.br/en/programs-projects/index.php?id=49>.
- Standard Agreement between the ACTO and the Pan American Health Organization/World Health Organization, *available at* <http://www.otca.org.br/en/programs-projects/index.php?id=1154>.
- Agreement between ACTO and the Inter-American Development Bank — Strengthening the Joint Regional Capacity for the Sustainable Use of Amazonian Biodiversity, *available at* <http://www.otca.org.br/en/proyectos-programas/index.php?id=1204> (Spanish only).

预览已结束，完整报告链接和二维码如下：

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