



**Training for Trainers
Integrated Flood Management for Sustainable
Development**

5 – 8 April 2011, Hanoi, Vietnam



Transboundary Aspects of IFM

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Objectives

1. Definition of transboundary river basin
2. IFM as a basin-based approach
3. Constraints of transboundary river basins
4. Importance of law and institutional arrangements
5. Elements and basic principles of transboundary laws



What are transboundary rivers and river basins?

- Divided by two or more States or administrations
- Within the same country (national) or between States / Nations (international)
- Rivers often form boundaries along them.

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Transboundary and non-transboundary floods

Is there any difference?

No difference, except:

The cause in one State could affect different State(s).

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IFM is a “basin approach” management

IFM key-words:

- Integrates land and water resources development in a river basin
- Must result in net benefits from the flood plains
- Minimize loss of lives by floods

IFM emphasizes a basin-wide consideration
beyond State boundaries.

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What are constraints of transboundary IFM?

- i. Different jurisdiction (territory)
- ii. Different administration (government)

Other differences are:

- Politics, culture and traditions
- Development policies and strategies
- Socio-economic conditions
- Flood policies

A State cannot directly intervene in the decisions and actions of other States.
State's sovereignty must be respected.

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Legal and Institutional Arrangements

Law is very important to facilitate IFM in transboundary basin.

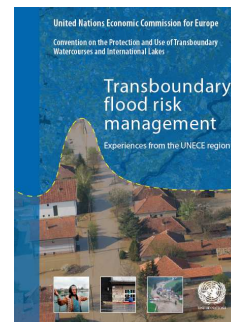
- Laws ensure orderly change and establish procedures respected by States agreed upon it.
- There are existing international laws applicable and directly and indirectly related to floods.
- Laws define the rights and obligations of States in transboundary flood management.

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Regulation of bi-/multi-lateral cooperation in shared basins

- Required for
 - Improved planning and response
 - Loss reduction
 - Conflict prevention
- Based on relevant international legal principles
 - Law of International Water Courses (UN 1997 and UNECE 1992)
 - Model provisions (UNECE 2006)
 - Related international (environmental) law
 - Soft law (Helsinki Rules, ILA and ILC work)
 - Treaty practice and Case law



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Elements of transboundary law

(1) Scope of the law

(2) Substantive Rules

Define rights and obligations of a State

Basic principles:

- Equitable and reasonable use
- No significant harm
- Protection of ecosystem
- Precautionary approach

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Basic principles of transboundary law

United Nations Watercourses Convention (1997)

- **Equitable and reasonable use** (Article 5):

“An international watercourse shall be used and developed by watercourse States with a view to attaining **optimal and sustainable utilization** thereof and benefits therefrom, taking into account the interests of the watercourse States concerned”

- **No significant harm** (Article 7)

“Watercourse States shall, in utilizing an international watercourse in their territories, take all appropriate measures to **prevent the causing of significant harm** to other watercourse States”

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Basic principles of transboundary law

- **Protection of ecosystem** (Articles 20)

“States shall, individually and, where appropriate, jointly, **protect and preserve the ecosystems** of international watercourses.”

Berlin Rules on Water Resources (2004)

- **Precautionary approach** (Principle 15)

“States shall take all appropriate measures to prevent, eliminate, reduce, or control harm to the aquatic environment **when there is a serious risk** of significant adverse effect or to the sustainable use of waters **even without conclusive proof** of a causal relation”

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Elements of transboundary law

(3) **Exchange of data and information**

- Share and exchange information
- Provide hazard warnings

(4) **Institutional mechanism**

- Formally recognised system for operational procedures and processes
- Establishment of joint management mechanism
e.g. Formation of committees, river basin organizations

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Elements of transboundary law

- (5) **Public participation**
Recognise the rights and needs for public involvement and cooperation between stakeholders

- (6) **Dispute settlement mechanism**
Arrangement for resolving disputes through agreed mechanism including third party intervention
e.g. Arbitration

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MRC Agreement

Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin (1995)

- Protection of the environment (article 3)
- Reasonable and equitable utilization (article 5)
- Prevention and cessation of harmful effects (article 7)
- Timely providing information by a riparian (chapter 2)
- Institutional framework (chapter 4)
MRC, Council, Joint Committee, Secretariat
- Resolution by MRC, Governments (article 34, 35)

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Thank you

