

Financial Mechanisms and Joint Water Infrastructure

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Tashkent, 24 November 2017



Outline

1. Financial mechanisms and water
2. Joint infrastructure in water treaties



Operational policies of multilateral financial institutions



General policies

Environmental & social impacts



- EBRD
- IDB
- IFC-> Private Sector

Specific policies on water



- IBRD
- IDA

A. General policies on the integration of environmental & social considerations in projects funded by multilateral development banks:

“For projects subject to environmental and social impact assessments that have the potential to have significant environmental impacts **across international boundaries**, the Bank will encourage the approach of the **UNECE Convention on Environmental Impact Assessment in a Transboundary Context**, regardless of geographical location of a project or its potential impacts”

European Bank for Reconstruction and Development (EBRD), Environmental and Social Policy, 2014, para.34

“The environmental assessment process for operations with potentially significant transboundary environmental and...social impacts, such as operations affecting another country’s use of waterways, watersheds....and aquifers, will address the following issues: (i) **notification to the affected country...**; (ii) **implementation of an appropriate framework for consultation of affected parties**; and (iii) **appropriate environmental mitigation and/or monitoring measures**”

Inter-American Development Bank, Environment and Safeguards Compliance Policy, 2006, para.4.22

“IFC is committed to **notifying countries** potentially affected by the **transboundary effects** of proposed business activities, so they can determine whether the proposed business activity has the potential for causing adverse effects through air pollution **or deprivation of water from, or pollution of international waterways**”

International Finance Corporation, Policy on Environmental and Social Sustainability, 2012, para.18

B. Specific policies on waterways

Only the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA) have a **specific policy on waterways: OP 7.50** (firstly issued in 1984 revised in 2004 and 2012)

“Projects on international waterways may affect relations between the Bank and its borrowers and between states...The Bank recognizes that the **cooperation and goodwill of riparians is essential for the efficient use and protection of the waterway**. Therefore, it attaches great importance to riparians' making appropriate agreements... The Bank stands ready to assist riparians in achieving this end. In cases where differences remain unresolved between the state proposing the project (beneficiary state) and the other riparians, **prior to financing the project the Bank normally urges the beneficiary state to offer to negotiate in good faith with the other riparians to reach appropriate agreements or arrangements**”

OP 7.50, para.3



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✓ No specific rules on joint water infrastructure in the operational policies of international financial institutions

✓ Does international water law provide for rules on joint infrastructure?

Joint infrastructure in water treaties



Source: Organisation pour la mise en valeur du fleuve Sénégal (OMVS), available at:
<http://www.portail-omvs.org/infrastructure-regionale/barrages/barrage-diama>

The Manantali and Diama dams in the Senegal River Basin

- The two dams are « common and indivisible property » of the riparian States (Guinea, Mali, Mauritania and Senegal).
- A State must not create any obstacle for other States with a co-ownership interest to exercise their use and enjoyment of the water infrastructure.
- Autonomous agencies for the management of the 2 dams.
- **Cost-sharing schedule** based on projected benefits and tailored to the needs of riparian countries.

See: 1978 Convention Concerning the Legal Status of Common Works; 1982 Convention Regarding Financing Arrangements for Common Works; 1997 Convention Creating the Diama Management and Operation Agency; 1997 Convention Creating the Manantali Management and Operation Agency.

The Cost-Sharing Key

(OMVS Council of Ministers, 1985)

| | Mauritania's share | Senegal's share | Mali's share |
|---|--------------------|-----------------|--------------|
| Cost allocation across sectors (energy, irrigation, navigation) | 22.6% | 42,1% | 35,3% |
| Allocation of benefits | | | |
| Energy | 15% | 33% | 52% |
| Irrigated agriculture | 31% | 58% | 11% |
| Navigation (access to Atlantic Ocean) | 12% | 6% | 82% |

Source: Susanne Schmeier, *Governing International Watercourses. River Basin Organizations and the Sustainable Governance of Internationally Shared Rivers and Lakes*, Routledge, 2013, p.255

Yacyretá dam between Paraguay and Argentina (1973)

- “The installations of the hydroelectric scheme and their auxiliary works, together with the installations for the improvement of navigability on the River Parana (...) shall constitute a **condominium**, with equal shares, of both the High Contracting Parties (...)”. (Treaty of Yacyretá, Art. 5.1).
- “2. The condominium established over the installations and works in question **shall not confer** upon either of the High Contracting Parties **the right of ownership or jurisdiction over any part of the other's territory**”. (Treaty of Yacyretá, Art. 5.1)
- Creation of a **binational entity** responsible of the planning, construction and operation of the installation. (Treaty of Yacyretá, Art. 23)

Final Remarks



International financial institutions do rarely have specific policies on transboundary water resources



Joint ownership of water infrastructure (ex. Diama and Manantali dams on the Senegal River)



Bilateral treaties regulating water installations (ex. 1973 Treaty of Yacyretá)

Thanks!

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