

HOW TO PREPARE BANKABLE PROJECTS FOR FINANCING CLIMATE CHANGE ADAPTATION IN TRANSBOUNDARY BASINS

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International Context

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Session agenda

- General transboundary challenges
- L/RBO challenges
- Role of International Law and transboundary projects
 - International
 - Regional
 - National
 - Principles at play (International Law)
- Responding to the Challenges and Opportunities

Institutional challenges

- Transboundary cooperation is hard!
- TWRM is a complex process requiring an extensive, comprehensive and multi-layered stakeholder consultation and participation
- Requires more time and effort than many other projects due to extensive stakeholder engagement
- Lack of overall coordination between regional, national, and local adaptation activities, This is particularly acute in large basins with many countries and uncertain diplomatic relationships. L/RBO can play a key coordination role
- Globally, uneven effectiveness has been experienced in transboundary projects
- Why – many reasons but one of the most important is the underlying point that all Basin structures draw their authority from participating national governments and often their resources as well

Sovereignty challenges

- Specific issues with coordination and integration of basin-scale planning with national planning, both in planning and implementation, including in climate change responses
- Often a lack of the necessary functional water agreements between States and their neighboring countries negatively affects regional cooperation – often evident in Africa
- This issue remains even as development funding changes, e.g the GCF, that still support sovereign actions as opposed to regional actions, and incentivise single state approach
- Single-country model is often simpler in terms of disbursement, procurement, monitoring and evaluation of projects
- Responses to this, such as NDC's, are still concerned with within-state options as opposed to transboundary projects
- But Unilateral actions/responses to climate may be less effective than when working together, but unilateral actions can be highly negative on other options

General biophysical challenges

- Transboundary watersheds are a major feature in Africa and Europe, with 80% of freshwater resources in Africa
- Include Groundwater Aquifers and Surface Waters
- Major problem is sheer scale of catchment and lack of awareness of catchment interactions/reactions
- At basin-scale, increased uncertainty about the scope and nature of impacts (whether biophysical or human intervention), and these uncertainties are being exacerbated by climate change
- Climate Variability and differing rainfall over different parts of the catchment
- Can result in unforeseen consequences of human interventions

Transboundary resourcing challenges

- Minimal support (direct/indirect) in institutional planning documents, whether national, regional, global or – e.g. transboundary elements are more limited when it comes to elaboration in Country Strategy Papers or Regional Strategy papers or in NDC's
- Ongoing lack of resources available to transboundary organisations – the AWF experiences in this have noted a large turnover and thus a regular loss of institutional memory, long-term relationships and capacity to implement
- Gaps between planning activities and implementation – regular development of planning activities that are not able to leverage funding options downstream
- Difficulty of allocating funds to and through a multi-country body; this is especially relevant to the implementation of bankable projects

L/RBO structures

- IRCs are formal interstate institutional governing bodies, which, as a basic task, recommend to the policy makers of the participating countries, of appropriate decisions regarding plans, projects and policies consistent with IWRM
- What kind of governance structures are available, and their proposed powers?
- Basin Committees – often have limited legal strength legally – activities are mainly coordination or advisory function
- Commissions – with some legal powers in given sectors – more effective in developing and implementing projects. Powers transferred for restricted specified task.
- Authorities – assigned a wider mandate for action including the potential hosting of investment projects. Designated powers impact on the type of projects that L/RBO can carry out or the appetite for supporting bankable projects, and must be taken into account when preparing proposals. This will impact on the type of projects that donors are prepared to support

L/RBOs resource challenges (cont'd)

- L/RBOs suffer from lack of revenue stream to qualify as potential borrower (in case of loan) for more substantive infrastructure
- As noted previously, many existing funds and financing streams—those that have been historically used for development finance as well as newer instruments and funds created solely for climate finance – are structured for single-country financing
- Risk that RBO-generated projects may be seen as 'competition' by National Institutions. Concerns that supporting a transboundary project may impact on the possible uptake of an alternative national project
- Options for funding are limited when compared with sovereign states, with climate funds such as the Green Climate Fund (GCF) only available to those projects agreed to by National Designated Authorities (NDAs). Some, like the Adaptation Fund, do have specific funding for transboundary projects

Specific AWF TWRM Issues noted

- High rates of staff turnover
- Excessive bureaucracy
- Poor sharing of information represent significant threats on project delivery
- Sensitive to political changes
- Need to ensure MoU is capable of meeting the needs of the project!
- Stakeholder ownership of and commitment to TWRM projects is a key ingredient of project effectiveness
- Inadequate attention to institutional structure, rules, and capacity is likely to result in poor delivery of projects

Examples from AFDB PIDA Report

Basin	Organization	Mandate for implementing large hydraulic infrastructure	REC
Congo River	CICOS	only project examination	ECCAS
Gambia-Geba-Koliba Rivers	OMVG	yes	ECOWAS
Lake Chad	LCBC	only knowledge and information exchange	ECCAS
Niger River	NBA	yes	ECOWAS
Nile River	NBI	no	EAC
Okavango River	OKACOM	Only investigations	SADC
Orange-Senqu River	ORASECOM	only investigations and studies	SADC
Senegal River	OMVS	yes	ECOWAS
Volta River	VBA	yes	ECOWAS
Zambezi River	ZAMCOM	no	SADC
Nubian Sandstone Aquifer System	CEDARE	n/a	UAM
North West Sahara Aquifer System	OSS	n/a	UAM
Iullemeden Aquifer	OSS	n/a	UAM

International Law - Guiding Principles

- International law is important to our operations, especially transboundary projects
- Guiding principles recognised through international conventions, treaties and resolutions:
- Principle of equitable and reasonable utilisation
- Unilateral declaration not to cause significant harm
- Principles of cooperation
- Information exchange
- Notification and consultation
- Peaceful settlement of disputes.

UN Watercourses

- Adopting agreements that implement or adjust the convention to their specific circumstances and needs
- Participating actively and equitably in the development and protection of international watercourses
- Taking appropriate steps to minimize or avoid causing significant harm to shared watercourse states and to the water environment by preventing, reducing and controlling pollution
- Following a procedure of consultation, negotiation, and data exchange before the drawing and implementation of plans relating to IWRM on shared waters
- Seeking the peaceful settlement of disputes, following the Convention's procedures in the absence of applicable agreements

Underlying International Conventions

- A web of conventions, treaties and bilateral agreements govern the use and management of transboundary waters.
- These can differ within different regions, and may be specific to water
- **1966 Helsinki Rules on the Uses of the Waters of International Rivers**
- **1997 UN Convention on Non-Navigational Uses of International Watercourses**
- **Charter of the United Nations**
- **Convention on the Settlement of Investment Disputes**
- **Convention on the Law of Treaties**

Other International Conventions

- **UNECE Water Convention(including 1st Amendment)**
- **Ramsar Convention**
- **World Heritage Convention**
- **Convention on the Conservation of Migratory Species**
- **Espoo Convention**
- **Aarhus Convention**
- **Bilateral agreements such as those with EU and surrounding states (stabilization agreements etc)**

Taking Conventions into Account - Guidance

- Sovereignty remains important. Waters on a states territory, regardless of its eventual downstream path and importance, are subject of no lesser sovereignty than the territory itself
- Global conventions deal with general principles of transboundary water management, regional conventions address individual (sub)river basins while bilateral (or limited multilateral) agreements may address anything from an individual issue to a complete set of water management procedures among the parties
- Principles in an agreement between two or more countries offer common ground to foster coordinated and sustainable water resources development and management
- Equitable water sharing between all stakeholders must always be the ultimate goal of IWRM
- From an individual state's point of view, the principles of international law may or may not be applicable to an individual issue at stake
- Generally, for a riparian to be able to demand a co-riparian's compliance with the treaties that apply to him and treat its interests equally along the lines of the same set of treaties increases security and legal certainty in both States

International Practice – Other

- Requirements emerge through a raft of International and Regional Conventions, Treaties and Directives, that differ between global regions as well as the institutions involved in the process
- In Europe, activities such as Strategic Environmental Assessment (SEA), EIA (linked with the WFD by the assessment of river basin) and other Conventions such as Landfill Waste, Conservation of Wild Birds, Habitats, Industrial Emission etc
- Regional Agreements, Strategies, Policies e.g. WFD
- REC's in Africa E.g. ECOWAS Water Policy

Other International Agreements/Approaches

- Paris Agreement
- Agenda for Sustainable Development 2030 (SDG's)
- These are critical inputs into L/RBO's climate change proposals to secure future funding as international organisations increase incorporation these within their own planning and implementation procedues, include screening
- For example AfDB is intending to support African States meet their NDC's and this is being folded into our processes – notwithstanding earlier points about NDC's

Opportunities from the Purpose of L/RBO's

- Coordination of measures at the river, lake-basin or aquifer level and allow for strategic use of funding over similar geographic and thematic areas.
- Can help avoid negative impacts of unilateral adaptation measures on other riparian countries
- Development of relationships and cooperation between countries advancing regional integration and avoiding conflict and social strife
- Climate change is a platform for discussion as it affects different parts of a transboundary Basin
- Need to identify development strategies whereby all riparian countries eventually gain from an equitable allocation of investments and benefits.
- In assessing the river basins from the regional point of view, there is clearly scope to improve the legal basis for cooperation, to clarify the roles and responsibilities of basin institutions and to develop their capacities.
- Need to be able to articulate this!

Key Investment Sectors for L/RBO's

- Project types
- Potential for parties involved in the IWRM to join forces and use infrastructure, which they hold in common
- Surface and ground water quantity/quality
- Navigation
- Balancing conflicting interests to ensure ecosystem/biodiversity conservation
- Management of flood risk.
- Sedimentation
- Addressing differing objectives with the same infrastructure - storage basins could be planned for flood protection and at the same time raising the water level for hydropower use in a joint effort, and sharing financing possibilities.
- Energy (???) – esp cobenefit (mitigation)

Examples of TWRM projects supported by AWF

- The preparation of a draft convention for the Volta Basin Authority (VBA)
- The preparation of the Lake Chad Charter
- The strengthening and capacity building of the African Network of Basin Organisations (ANBO);
- The establishment of a TWRM database within the IGAD region
- The elaboration of a strategic plan for sustainable management of the Congo Basin water resources
- The preparation of a draft strategic framework, infrastructure development implementation plans and sector policies
- Cooperative framework for the integrated management of Saharan Aquifers (presently under ratification)
- Feasibility studies, designs and investment plans for the Songwe River Basin and creation of the River Basin Commission
- The characterisation of the potentialities and risk assessment of the Saharan Aquifers, as part of GICRESAIT's results

Bankable?

- What is Bankable?
- Bankability means different things to different organizations, dependent upon their underlying functions
- Project Cycle
- AWF

Entering the (AWF) pipeline

- Different paths – either demand driven or through specific calls (Climate Resilience, Sanitation)
- Screened for potential (potential impacts, institutional capacity, financial capacity)
- Address bank processes (CSS, ESS etc)
- Aligned with strategies
- Project appraisal developed and approved
- Takes time

AWF TWRM experiences to date

- Generally been easier to finance knowledge-based projects, including investment plans, with L/RBO's than infrastructure projects
- L/RBO's can be perceived as a more neutral facilitator than single state investment plans – could be an advantage
- When undertaking screening as part of climate identification, those projects that better connect the dots between climate changes and outputs/possible outcomes are more likely to
- There is value in displaying awareness of Organizational strategies in proposal (e.g. AfDB's) – e.g. country strategy papers that are prepared between respective states and IFI's. This may also reduce the perception of 'competition for resources'

How to develop bankability

- IFI's and others make investment, and look at the potential for return (not just financial) and means of reducing investment risk
- IFI's are also global citizens and look to address global issues with investments, and so international agreements and approaches such as the Paris Agreement and the Agenda for Sustainable Development 2030, as well as any local agreements are taken into account
- Thus a good proposal needs to be able to connect the dots, between the different outputs/outcomes of the project, and be able to communicate this!
- Especially connect the project to a specific climate change issue
- Reminder - Pay attention to Regional needs e.g. role of African REC's (and their processes/documentation)

How to develop bankability (MoU's)

- Memorandum of Understanding's and other legal agreements are scrutinized to their effectiveness and value, including transboundary states
- This includes both those between participating States and those between participating states and respective L/RBO's over institutional arrangements
- For example, MoU's for projects are referred by NEPAD to legal experts to ensure that the mechanisms in place are sufficient to get the job done!

Thank you