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«Strengthening International Cooperation on Transboundary Water in Central Asia»

1. Present challenges in the water sector of Central Asia

Among the challenges the world is facing **climate change** poses a serious threat to the whole natural and economic system, including water and land resources. Air temperature growth under lowering or slight increase of precipitation makes the climate more arid.

Most of Central Asia is under arid climatic conditions characterized by scanty precipitation, extremely low humidity, highly intensive evaporation, and excessive solar radiation.

Unfavorable predictions are given in context of the global warming processes. Since 1957 till 2000 water reserves in glaciers decreased by more than 25% and keep declining. According to experts, thousands of small glaciers will disappear, the glacial area will shrink by 20%, and glaciers will loose 25% of their mass by 2025. This, in turn, would reduce substantially the river runoff. Thus, by 2050, water flow would decrease by 10-15% in the Amudarya river and by 6-10% in the Syrdarya river.

Among serious challenges is the rapid population growth in the Central Asian countries that surpasses the world rates. Population growth has caused intensive economic development leading to increased pressure on water resources, water stress, and reduced water supply per capita.

Given the permanent volume of water flow (37.14 km³ in the Syrdarya basin and 78.46 km³ in the Amudarya river in normal year), population growth is leading to increased water shortage in the region. The mean unit water supply is decreasing rapidly in Central Asia. Over the last forty years (1970 – 2010), this value decreased from 6.6 thousand m³/year/person to 2.2 thousand m³/year/person and tends to further decline. Given the current rates of CA population growth, the mean water supply will come to a critical value of less than 1.7 thousand m³/year by 2030 (Fig. 1).

In the same period of time, the irrigated agricultural area increased from 6.50 Mha to 8.4 Mha, and the irrigated area per capita fell from 0.27 ha/person to 0.18 ha/person.

The well-being of the Central Asia depends to a large extent on the balance of nature in the watershed areas – the mountain ecosystems of Pamir, Tien Shan and Altai. The mountain systems intercept moisture from the top atmospheric layers, which is transported by air masses mainly from the Atlantic Ocean, and serve as giant accumulators of fresh water. However, the Central Asian mountains face growing degradation processes, such as deforestation and erosion, pollution by wastes and pasture shrinkage. The forest area has decreased 4-5 times in Central Asia since the mid of the last century. Saxaul and floodplain forests (tugai) were exposed to a particularly extreme anthropogenic load.

Destruction of ecosystems has led to substantial loss of biodiversity. The number of disappeared or endangered animal and plant species is growing. In some cases these processes have become irreversible.

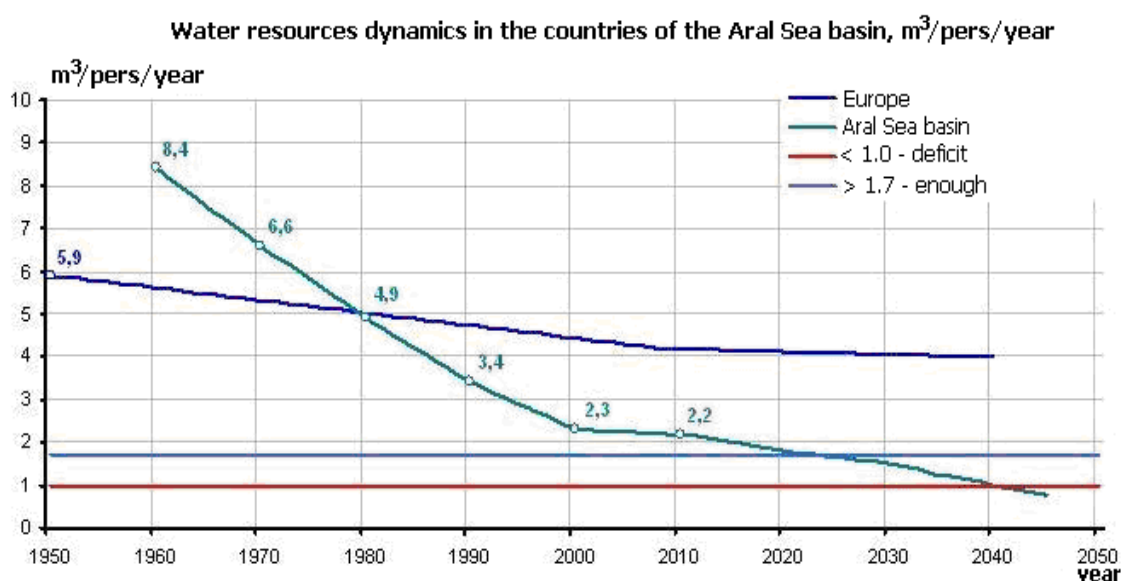


Fig. 1. Water resources supply

2. Existing cooperation framework

2.1 20 years of IFAS – a unique example of international cooperation

The international cooperation on transboundary rivers among the Central Asian countries has passed twenty years. This cooperation was founded by the Ministries of Water Resources of the former Central Asian Republics that in September 12, 1991 signed a Statement in which they declared that joint management of water resources would be carried out in accordance with the principles of equality and mutual benefit. An Interstate Coordination Water Commission (ICWC) was established following the Interstate Agreement of 18 February 1992.

the inexorable course of time has proven a need for and an importance of a regional coordinating body like the International Fund for Saving the Aral Sea (IFAS) to support a dialogue, mutual understanding, solve real-world water-related and environmental issues, develop partnerships among the states and their interaction with donors and international organizations. In this context the important Agreement signed by the Heads of five Central Asian States – Republic of Kazakhstan, Kyrgyz Republic, Republic of Tajikistan, Turkmenistan, and Republic of Uzbekistan – 18 years ago on joint actions to overcome consequences of the Aral Sea disaster should be underlined. Thanks to unanimous efforts of the Heads of the five Central Asian states, for relatively short time IFAS has managed to consolidate efforts at the interstate level in order to protect population from the effects of the drying sea and normalize the socio-economic situation in the region.

IFAS headed by one of Central Asian Presidents contributes to development of new quality interstate relations in the region, to strengthening regional cooperation, no conflict mechanism for resolving complex issues in water use. Suffice it to say that recently the region repeatedly underwent various natural disasters, such as droughts and floods, earthquakes and landslides that affected critically water use and the economic situation in the region.

Considering complexity of the situation, IFAS and its institutions: the Board, Executive Committee, Interstate Commission for Water Coordination (ICWC), Interstate Commission for Sustainable Development (ICSD), take all measures in order to ensure that issues of water distribution, environmental safety, economic development are solved on a priority basis, taking into account interests of each country. This task is of a quite complex character, and it can be solved only on the basis of interstate cooperation.

During the last years IFAS and its structures became a platform for a dialogue among the countries, for development of bilateral and multilateral agreements. A number of agreements on cooperation in area of allocation, joint management, use and protection of regional water resources were signed, two Programs of actions were implemented to provide assistance to the countries in the Aral Sea basin (ASBP), and the third ASBP was developed. In addition, IFAS got the status of observer in the UN General Assembly in December 2008.

2.2 Peculiarities of existing relations among the IFAS state-founders

- Traditional (formed during centuries):
 - Community of history, culture, and traditions.
 - Centuries-old good neighborhood relations.
 - Rich experience of fruitful cooperation.
 - Mutual support and strategic partnership among the countries that meet the basic interests of the people in the region.
- Formed over years of cooperation under aegis of IFAS:
 - Unanimous efforts to contribute to overcoming consequences of the Aral Sea disaster.
 - Strive for mutual aid and support in achieving Millennium Development Goals, for improvement of the socio-economic and ecological situation in the Aral Sea basin.
 - Understanding of an importance of countries' efforts on integrated use and protection of water resources, combating of desertification and land degradation while solving problems of the Aral Sea basin.
 - Mutual support and strategic partnership among the countries that meet the basic interest of the people in the region.
 - Understanding that the development of mutually beneficial cooperation among the Central Asian countries is of great importance for ensuring sustainable development and regional security.

2.3 International conventions and regional agreements as a basis of mutual trust among the countries

The main principles of international law are the criteria of this trust: equitable and reasonable utilization; no-harm rule; obligation to cooperate and notify on planned measures that could have significant impact; information exchange and consultations; and, peaceful dispute settlement.

By present, a well-established though far from being perfect legal base of the international cooperation in transboundary water use and management has been formed in Central Asia. In legal terms, it includes both obligatory instruments and numerous accords and documents of advisory nature, i.e. the so called "soft law" instruments.

In geographic terms, the established system of international legal regulation in transboundary water cooperation is a two-level one, where along with regional agreements of more general character a number of bilateral agreements on concrete watercourses or scope of cooperation is effective.

The main documents regulating water relations on a global scale include:

- the UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Helsinki, 1992);
- the UN Convention on the Law of the Non-Navigational Uses of International Watercourses (New-York, 1997);
- the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 1991).

Only Kazakhstan and Uzbekistan in the region joined two of the above Conventions. Thus, these countries clearly demonstrated their positions regarding compliance with the international water law on the basis of trust and commitment to principles stated in those documents.

2.4 Regional instruments

The system of legal regulation of water cooperation in Central Asia is founded on regional and sub-regional (limited number of parties) agreements. The pentilateral *1992 Agreement about cooperation in the area of joint management, use, and protection of water resources in interstate sources* (all Central Asian states are the Parties) is in the heart of such agreements.

The regional instruments include the *1993 Agreement on joint actions aimed to address the Aral Sea and Prearalie problems, improve environment and ensure socio-economic development in the Aral region* and the inter-governmental *1998 Agreement about use of water and energy resources in the Syrdarya river basin* (four countries – Kazakhstan, Kyrgyz Republic, Tajikistan, and Uzbekistan – are the Parties).

Agreements related to water resources topics, such as the *1998 Environmental Cooperation Agreement* (Kazakhstan, Kyrgyzstan, Uzbekistan) and the *1996 Agreement on the Use of Fuel and Energy Resources and Water Resources, Construction and Operation of Gas Pipelines in Central Asia* (Kazakhstan, Kyrgyzstan, Uzbekistan) can be included, to certain extent, in the group of regional (or, more precisely, sub-regional) instruments as well.

The regulations of institutional nature play a special role among the regional instruments and, in aggregate, create a legal framework and set the legal status, mandate, competence and scope of institutions established for supporting cooperation between the Central Asian countries in area of regional water management and protection. Those include both international treaties, first of all, the inter-governmental pentilateral *1999 Agreement on the status of International Fund for Saving the Aral Sea (IFAS) and its bodies* and other acts other than international agreements but nevertheless considered as legally binding.

The Decisions of the Heads of States on establishment or amendment of institutional mechanisms and cooperation-supporting bodies are important as well. Those include the Decision on establishment of the International Fund for Saving the Aral Sea of January 4, 1993 and the Decision on re-organization of the IFAS structure of February 28, 1997. The latter, which is not an international agreement both in terms of form and content, in fact, has changed provisions of earlier effective agreements.

“Institutional” acts include a number of provisions, such as: *Provision on IFAS, Provision on Executive Committee of IFAS, Provision on the Interstate Coordination Water*

Commission of Central Asia (IFAS), Provision on the Interstate Commission for Sustainable Development (ICSD), Provision on the permanent body (Secretariat) of ICWC, Provision on the Scientific-Information Center for water-related issues under ICWC, Provision on SIC ICWC branches in the Aral Sea Basin countries and other similar acts.

The third group of regional instruments setting the general principles and directions of water cooperation in Central Asia is formed by acts of advisory nature adopted occasionally. This category of the so-called soft law includes the *1995 Nukus Declaration of the Central Asian States and International Organizations on Sustainable Development of the Aral Sea Basin, the 1999 Ashkhabad Declaration, the 2002 Dushanbe Declaration, and the 2009 Joint Statement of the Heads of State-founders of IFAS*. These documents are very important in context of regional water policy. As a rule, such documents are signed by the Presidents of respective Central Asian countries, and thus they reflect the agreements achieved at the highest political level. The above declarations and statements contain either provisions of political and legal nature or state principles to be followed by the Central Asian countries in their water and energy relations (see for example clause 3 of the Tashkent Declaration of December 28, 2001 about the importance of coordinated and agreed actions in area of rational and mutually beneficial use of water bodies, water and energy resources, and hydraulic structures in Central Asia on the basis of universally recognized international law principles and norms).

A separate group of regional instruments is presented by the Decisions of the Heads of Central Asian states that are obligatory for execution. In this context, the decisions on long-term planning of regional water cooperation are of particular relevance.

3. Prospects for strengthening international cooperation

In order to deal with the present challenges it is necessary to improve the institutional structure of regional and basin organizations. Particular attention should be paid to raising awareness and improving understanding among the key stakeholders of the International water law principles and tools as a basis of regional cooperation, as well as to strengthening and further exploration of a role of cooperation instruments.

The Heads of the Central Asian states, by signing a joint Statement on April 28, 2009, have highlighted the important role of IFAS in coordinating and addressing the fundamental aspects of cooperation between the countries in Central Asia and the donor community, including international financial institutions. They also expressed their commitment to change the institutional structure and contractual and legal framework of IFAS to help improve its performance and to increase its ability to cooperate with financial institutions and donors to implement the Aral Sea related projects and programs. They also confirmed a state commitment to the principles of the integrated water resources management (IWRM).

The statement confirmed that the country-founders of IFAS were interested in the development of mutually acceptable mechanism for the multi-purpose use of water resources and protection of the environment in Central Asia, taking into account the interests of all the states in the region.

It was also decided that EC IFAS jointly with ICWC, ICSD and with the involvement of national experts and donors has to develop the **Program of Actions for 2011-2015 to provide assistance to the countries in the Aral Sea basin (ASBP-3)**. The program of concrete measures is a powerful instrument of international cooperation on transboundary watercourses, taking into account the interests of all states in the region.

The ultimate objective of ASBP-3 is to improve the living conditions of the people in the region. In other words: It is to improve the socio-economic and environmental situation by

applying the principles of integrated water resources management, to develop a mutually acceptable mechanism for a multi-purpose use of water resources and to protect the environment in Central Asia taking into account the interests of all the states in the region.

It is supposed that an important place in the international legal regulation of activities related to water protection and use should be taken by the *2006 Framework Convention on Environmental Protection for Sustainable Development in Central Asia*, main provisions and principles of which refer to water resources. By present, the Convention was signed by the three states as Kyrgyzstan, Tajikistan, and Turkmenistan and has not entered in force yet.

Given that the issues of transboundary water sharing and management due to their specific character require long and considerate rapprochement of parties at political level, in area of water resources it is advisable to adopt by the states – founders of IFAS the following legal documents issuing from the Plan of measures for implementation of provisions stipulated in the 2009 Statement of the Heads of IFAS State-Founders:

- Draft Agreement between the Governments of Republic of Kazakhstan, Kyrgyz Republic, Republic of Tajikistan, Turkmenistan, and Republic of Uzbekistan on Safety of Hydraulic Structures should be fine tuned.
- the Sub-regional Sustainable Development Strategy (SSDS) in CA should be agreed upon by the countries.
- Draft Agreement between the Governments of Republic of Kazakhstan, Kyrgyz Republic, Republic of Tajikistan, and Republic of Uzbekistan on the Use of Water and Energy Resources in the Syrdarya River Basin should be fine tuned and signed.

In continuing international cooperation aimed to improve the ecological and socio-economic situation in the Aral Sea basin, it is important also to establish a single unified Information base (meteorological, hydrological, ecological, etc.) acknowledged by all states in the region, raise awareness of population and interest in water and environmental issues, develop a network of educational and training centers for farmers-water users, etc.

For strengthening of cooperation through the establishment of a single unified information system and improvement of weather, climate, and hydrological services in Central Asia, the World Bank together with the Executive Committee of IFAS, Regional Hydrological Center, and National Hydromets of Central Asia has started developing the **Project on modernization of hydrometeorological services delivery in Central Asia for 2011 – 2016**. The main objective of the project is to improve the interaction between national hydrometeorological services (Hydromets) of the Central Asian states in exchange of data, information and knowledge by restoring their infrastructures and building their capacities. The project is aimed to reduce the risk of natural disasters, mitigate climate change effects and promote economic development of agriculture, water sector, energy, and transport throughout the region by providing timely and quality hydrometeorological products.

At the regional level, the planned measures will include: technical and institutional strengthening of information collection and exchange between national Hydromets; improving the regional system of education and training in meteorology, hydrology, and climate; and, improving services through better weather forecasts, storm warning, and climate change assessment.

The important objective of the general strategy for strengthening of international cooperation in transboundary waters of Central Asia is to develop jointly measures for balancing the needs of economic sectors in the region's countries in terms of quality and quantity of water supply for and the ecosystems' demand to ensure essential conditions for them to adapt to climate change. These ideas should close up with those existing beyond the

“water issues” and which are discussed at the top political level. The very general nature of the water sector makes it the critical resource for other interests

It is essential that the strengthening of international water cooperation contributes to the regional food and energy security, as well as to environmental and socio-economic improvement in the region.