



# **Guidebook for Policy and Legislative Development on Conservation and Sustainable Use of Freshwater Resources**

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# Message

The centrality of water in our lives—social, economic, political and spiritual—cannot be overestimated. Nearly every decision we make is directly linked to the use and availability of water. Water quality reveals everything, right or wrong, that we do. Its abundance is an indicator of social development. Its lack is an indicator of poverty. The new UNEP water policy and strategy—which has taken the organization away from sectoral approaches—recognizes this need. At its core lie three components: assessment, management and co-ordination of actions. All three components stress the cross-sectoral nature of water issues. UNEP has long been involved in the field of fresh and marine water and has developed a number of programmes and instruments, including legal, over the years.

Over the last quarter-century, we have become increasingly aware that the resources on which we rely are not boundless. The world's dependence on fossil fuels has focused the minds of many on the finite nature of our resource base. However, something much greater than the energy crisis faces us: the depletion and pollution of the planet's limited supply of fresh water. Its depletion in quantity and quality has profound social, economic and ecological effects. Water is a particularly vital resource. Without water, ecosystems are destroyed. Economic activities halt. People die.

Addressing water problems requires an inter-sectoral approach that recognizes the interlinkages—for example, between land and water, agriculture and water, technology and water, health and water—that affect water management. No single mechanism or approach will be enough. Policy packages using a mutually reinforcing mix of institutional and policy reform, and legal, economic and management instruments will be needed. One of the goals of the new UNEP water policy and strategy is to identify and promote the tools that will address the critical water issues facing humanity.

The water problems confronting us at the start of the 21st century can be solved. But we must have the will to deal with long-term environmental problems. We must be willing to invest in our future. This publication, designed to facilitate the work of policy makers and legal drafters in regard to conservation and sustainable use of freshwater resources is timely in view of the goals set in the Millennium Declaration and the targets embodied in the outcomes of the World Summit on Sustainable Development.

*Klaus Toepfer  
Executive Director  
United Nations Environment Programme*



## Foreword

One of the major challenges of our time is how to manage our water resources in a sustainable way to cope with natural phenomena like climate change, droughts and floods as well as with human phenomena like the growing and competing demands on a limited supply of water resources. Concern about this challenge and strategies for addressing it have been expressed in a number of international events. In 1992 they were expressed through the Dublin Principles and the Rio Declaration on Environment and Development, as expressed in Chapter 18 of Agenda 21. These form the foundation of integrated water resources management (IWRM). At the turn of the new millennium the concern was expressed in a different manner.

In September 2000 189 world leaders adopted the Millennium Declaration through which they committed their nations to the Millennium Development Goals (MDGs). These goals seek to address extreme poverty by improving health and promoting peace, human rights, gender equality and environmental sustainability. It has become apparent that sustainable management and development of water resources is central to the attainment of the key goals of poverty eradication inherent in the MDGs.

These developments and the growing awareness of the significance of IWRM were carried further in 2002 at the World Summit on Sustainable Development (WSSD) that took place in Johannesburg. In paragraph 26 of the Plan of Implementation of this Summit, there is a call for the development of integrated water resources management and water efficiency plans by 2005; and this was to be done with support to developing countries, through a series of actions at all levels. One of these actions calls for the adoption of an integrated water basin approach together with the use of "the full range of policy instruments, including regulation, monitoring, voluntary measures, market and information-based tools, land-use management and cost recovery of water services, without cost recovery objectives becoming a barrier to access to safe water by poor people, and adopt". This call focuses on action within the scope of the first of the "three pillars" of IWRM which are: an *enabling environment of appropriate policies, strategies and legislation* for sustainable water resources development and management; the *institutional framework* through which the policies, strategies, and legislation can be implemented; and the *management instruments* that are required by these institutions to do their job.

The Plan of Implementation of the Summit Proceedings calls for support to the developing countries toward the 2005 goal. In response to this call, a number of donors and international institutions are rising up to the challenge of providing such help. For example, the Global Water Partnership (GWP) has initiated a series of publications on how to implement this WSSD recommendation. This **Guidebook for Policy and Legislative Development on Conservation and Sustainable Use of Freshwater Resources** is thus a timely addition by UNEP to this series of publications. It deals with an aspect of water resources management and development that is foundational. It provides guidelines on how build the IWRM pillar concerned with an *enabling environment of appropriate policies, strategies and legislation* for sustainable water resources development and management. It deals with the core and pressing issue of how to meet the WSSD recommendation on IWRM and water efficiency plans by 2005.

Meeting the deadline for this recommendation poses a massive challenge to professionals in developing countries as well as developed countries. In those countries that are without any water legislation, it calls for identifying the issues that must be included in water legislation, what fundamental principles should be reflected in new legislation, what to avoid and what to include in order to avoid pitfalls and be able to adapt examples of best practice to local situations. Countries with water legislation that follow a fragmented approach face different problems. They need to make a transition to the integrated approach. To this end, they need to know how to evaluate the adequacy of existing legislation to reflect the principles of IWRM and sustainable development to support the MDGs.

From where do professionals in such countries start? Where do they go for help? Ideally, what would have been most helpful to professionals in both types of countries would have been the availability of a "one-stop shop" where they could gain access to reference material that provides them with information on the principles to be followed as well as examples of how such principles have been applied in legislation under different circumstances in different countries.

It is just this type of help that is provided in this Guidebook. It provides the reader with a thorough analytical framework for the different policies and legislative instruments needed for sustainable management and development of national and international water resources. It is very rich in examples of actual legislation. It has about 130 examples drawn from over 20 countries from developing as well as the developed countries – from Africa, Europe, Asia, the United States of America, Russia, Latin America and others.

This Guidebook provides information not only on national legislation, but also on a number of international agreements and conventions that have been produced in recent years. Its scope is not limited to legal issues. It addresses such issues as the precautionary principle, adaptive management, and the importance of data collection and monitoring as instruments for sustainable development. It deals with the benefits of integrating all water resources statutes under a single law, and with the merits of bringing all aspects of water use and protection under a single piece of legislation. It also addresses issues of sustainable development of multiple natural resources embracing water resources, forest resources, land use, biological communities and mineral resources.

The language in the Guidebook is simple and straightforward. This makes it readable and useful to a wide range of audience such as legal draftsmen, water and natural resources sector professionals, university professors and students, as well as policy and decision makers. It is a very timely and useful resource to those interested in sustainable development and in the creation of an enabling environment for IWRM.

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## Introduction

Integrated water resource management (IWRM) incorporating an ecosystem approach is a key building block for achieving the water, sanitation and human settlement targets of the Millennium Development Goals. It is evident that there are inseparable and indisputable links between the protection and sustainable use of the natural environment, especially water resources, and the provision of environmentally sound sanitation services, the improvement of human settlements, public health and poverty reduction. This brings into focus the need for conservation and efficient use of available freshwater resources and making available best practice for widespread adoption and adaptation throughout the global community.

Because experience has shown that environmental issues need to be treated as an integral part of development, the Division of Policy Development and Law (DPDL) seeks to improve the policy delivery system by facilitating the change in the way policy is treated. Through technical and policy support it helps decision-makers improve the way policies work. Through partnerships, interactions between the environment and other development issues are cemented and through support for improved governance, better application of sound policy is promoted. In addition, through upgraded legal frameworks, it ensures consistency and equity in support of environment policies.

The UNEP Water Policy and Strategy focuses on the environmental aspects of freshwater, comprising rain-, surface- and ground waters, and coastal and marine waters. The importance of environmental aspects stems from the major roles of water in supporting ecosystem integrity and functioning, and in being a renewable resource vital for human economic and social well being. The vulnerability of ecosystems and communities to extreme events, such as floods and droughts and the impacts of water management measures –such as water infrastructure- on the environment are important environmental aspects to be considered.

These environmental aspects are interrelated and closely linked to the management of other natural resources, especially land, and are embedded in the technological, economic, social and institutional contexts of water resources management. Ecosystem functioning and productivity, and human health and wellbeing benefit

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