



UNIVERSITY of STRATHCLYDE
CENTRE FOR
ENVIRONMENTAL LAW
AND GOVERNANCE



15 October 2020

**Permanent Forum on Binational Waters
US Mexico Transboundary Transboundary Groundwater
Conference**

1

Francesco Sindico

Co-Director, Strathclyde Centre for Environmental Law and Governance, University of Strathclyde Law School

Hot spots TBA areas

- **The unit of management in a transboundary context**
- ✓ Often, TBA countries can identify hot spot areas that need urgent and specific attention
- ✓ More often than not, these hot spot areas will be along the border
- ✓ Context



Hot spots TBA areas: Example

- **The Guarani Project (2003-2009) pilot projects**
 - ✓ Salto – Concordia [Uruguay / Argentina]
 - ✓ Santana do Livramento – Rivera [Brazil / Uruguay]





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Open and transparent institutional framework

- **TBA institutional framework**
- ✓ Open/inclusive [effective participation of a wide range of TBA stakeholders]
- ✓ Transparent [institutional framework needs to operate in a way that is accessible to the wide range of stakeholders]
- Scale [to be effective it has to be local – link to hot spot areas – but there also needs to be a link with central government – ministries of environment, foreign affairs, etc...]
- Competence [see question 3]



Open and transparent institutional framework - example

○ The Ocotopetque Citala Statement of Understanding and its TBA Binational Management Committee

- ✓ Participation of municipalities
- ✓ Presence of water users
- ✓ Indigenous people considered
- ✓ Ministries also included
- ✓ Private sector – should it have a role?
- ✓ List of membership opened

See [SCELG Policy Brief](#) on the Ocotopetque Citala





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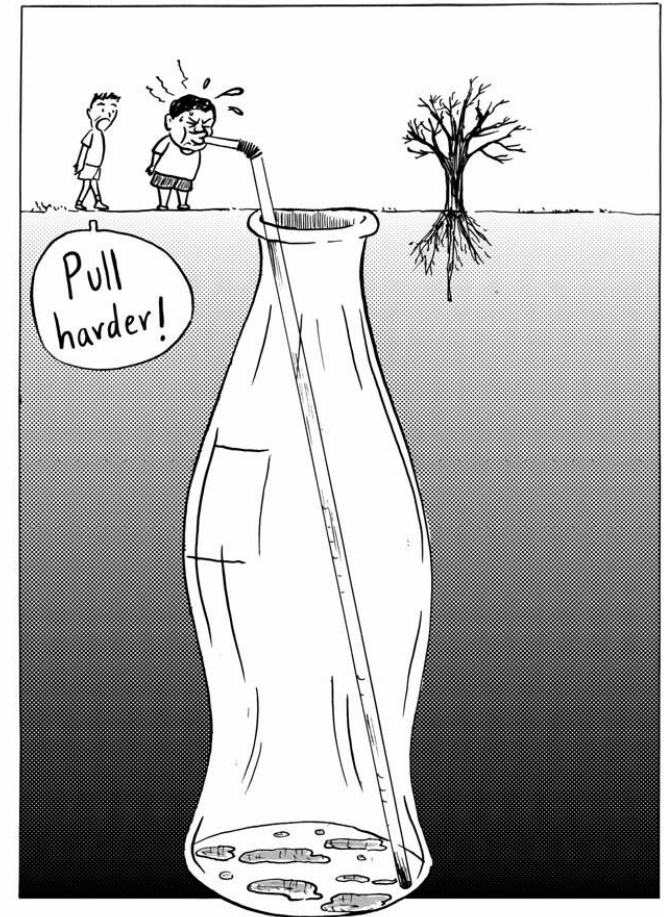
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Transboundary impact assessment

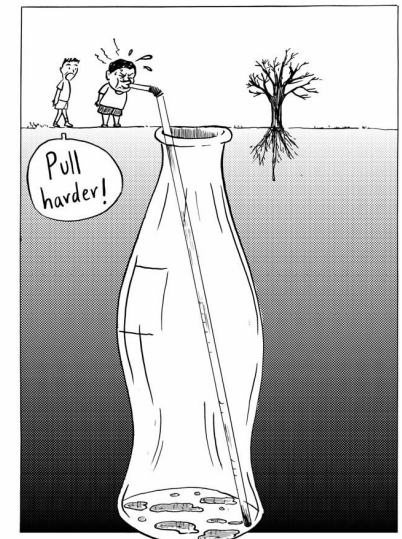
○ Regulatory mechanism

- ✓ Both countries should be allowed to trigger a transboundary impact assessment
- ✓ Ideally, the institution in charge of the management of a TBA should also be given the powers to trigger an impact assessment
- ✓ Ideally, the TBA institution will have human and financial capacity to manage the impact assessment process



Transboundary impact assessment

- **International water law has also other rules/regulations applicable to the management of TBAs**
 - ✓ Prior notification
 - ✓ Exchange of information
- **What are the (secondary) rules if a country is unhappy with the outcome of a transboundary impact assessment?**
 - ✓ TBA agreement/arrangement and ad-hoc dispute settlement
 - ✓ Space for general international law dispute settlement?





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Guarani Aquifer System

- **Challenge for cooperation**
- ✓ Lack of scientific baseline
- ✓ Dilution of confidence and professional networks
- ✓ Lack of basic understanding of aquifer science on behalf of policymakers
- ✓ Interruption of funding
- ✓ Institutional and normative fragmentation



Guarani Aquifer System

- **Opportunities for cooperation**
- ✓ Scientific baseline improved through national and international projects
- ✓ Professional networks consolidated through international projects that filter into domestic politics
- ✓ Ongoing conversations on aquifer science between policymakers and experts
- ✓ National and international funded projects [new Guarani project]
- ✓ Clarification on the role of regional (mainly surface water) bodies and competence and role of ad-hoc TBA bodies [Guarani Aquifer Agreement, art. 15]

