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Finland's cooperation in managing transboundary waters and the UNECE Principles for Effective Joint Bodies: Value for water diplomacy?

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ABSTRACT

Water diplomacy may be understood broadly as the measures that may be taken to prevent or peacefully resolve conflicts over water resources concerning their availability, allocation or use between and within states. The concept is preventive in nature as well as offering an approach for conflict resolution. Instruments of international water law, among them notably conventions and soft law developed on that basis – which promote equitable and reasonable use of transboundary waters and prevention of transboundary impact – can serve as tools for water diplomacy. The obligation to establish agreements on shared waters and joint bodies to govern them has contributed to gathering important experience, and some of this has been synthesized into the Principles for Effective Joint Bodies which were adopted by the Meeting of the Parties to the UNECE Water Convention in 2015. The Principles are intended as a resource to increase the effectiveness of joint bodies in transboundary water cooperation.

This paper analyses Finland's cooperation arrangements in the light of the Principles and assesses the extent to which Finland's transboundary water commissions reflect the good practices specified in the Principles. Taking a wider perspective, the paper also examines the elements of the principles and their practical realisation with a view to understanding better their promotion of water diplomacy. Relevant features include, inter alia, the competency and representation of the joint institution, its accountability and the extent to which public participation is permitted, and the cooperative mechanisms in place. Naturally the underlying transboundary water agreements specify the framework for cooperation between the riparian states to a great extent, but the established joint bodies often play a significant role, specifically in the equitable use and management of the shared water resources, but even beyond, in the prevention and settling of conflicts, and in the general promotion of cooperation and security at a regional level.

1. Introduction

1.1. Water diplomacy and institutional frameworks

Definitions of water diplomacy vary but good water governance as well as agreements and institutions invariably play a key role (e.g. Molnar et al., 2017 can be referred to for a discussion about the definitions). Given the inherent complexity of water problems and water networks, institutionalised cooperation on the part of riparian states, supported by the participation of all water users, is indispensable for the effective joint management of water resources and for the prevention and management of conflicts (see e.g. Schmeier, 2013; Priscoli and Wolf, 2009). In transboundary basins, joint bodies such as river basin commissions (or bilateral commissions) can have a role in water

diplomacy in various areas, including through serving as a venue/hub to support decision-making, the sharing of information, monitoring compliance, notification and consultation, dispute resolution and basin planning (Schmeier and Shubber, 2018 [this Special Issue]). While existence of joint bodies overall stabilises cooperation (Schmeier, 2013), they do not in all cases provide for an equitable cooperation. Zeitoun and Mirumachi (2008) describe different nuances of transboundary water interaction, essentially with a combined reading of conflict and cooperation. The relationship of States may, in particular, be affected by a presence of strong power asymmetries evident in structural inequalities, lack of control over decisions or an inequitable allocation of the resource or its benefits (Zeitoun and Warner, 2006).

Identification and communication of the benefits of transboundary water cooperation are key drivers of the political decisions on

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cooperation. These benefits need to be understood as going beyond economic benefits to include benefits relating to peace and stability (Sadoff and Grey, 2002; UNECE, 2015a). These should be stressed as they are often crucial elements in the creation of value in water cooperation at a regional level. Equally, it needs to be recognised that not all water cooperation is inherently “good”: power dynamics between the countries sometimes influence the cooperative frameworks and their implementation to the extent that the term hydro-hegemony¹ finds application (see e.g. Zeitoun and Warner, 2006; Warner et al., 2017).

Water diplomacy is often viewed as a tool to be deployed when conflicts over water use or the development of a basin surface, potentially impacting the relations of the countries concerned beyond water management. At the same time, water diplomacy could, perhaps, to a greater degree take inspiration and seek solutions from established practices and frameworks where functional cooperation has been established and major differences avoided over the management of shared waters. This should be held with the understanding that cooperation practices have developed in particular local contexts. The key features of cooperation arrangements that have brought about sustained cooperation, dialogue and the resolution of various issues, and which have also been adapted to deal with emerging challenges, merit attention.

1.2. The water convention and the role of joint bodies

Already early general codification referred to and/or highlighted the importance of specific agreements and joint institutions for transboundary water cooperation. Concerning non-navigational uses of international rivers and lakes, the Helsinki Rules on the Uses of the Waters of International Rivers, issued by the International Law Commission (ILA) in 1966, marked the first general codification of the law of international watercourses (Salman, 2007). These rules were later revised by the ILA and issued as ‘The Berlin Rules on Water Resources’ in 2004.² The Convention on the Law of the Non-navigational Uses of International Watercourses was adopted in 1997, following a negotiation by the UN Member States in the framework of the UN General Assembly on the basis of a text developed by the International Law Commission (UN Watercourses Convention). The UN Watercourses Convention, which entered into force in 2014, recommends Parties entering into, or harmonising existing, watercourse agreements and joint arrangements.

The Convention on the Protection and Use of Transboundary Watercourses and International Lakes (hereinafter the ‘Water Convention’), negotiated through an intergovernmental process under the auspices of the United Nations Economic Commission for Europe (UNECE), signed in Helsinki in 1992 and entered into force in 1996. It is a framework convention promoting transboundary cooperation in the management of shared water resources, including both surface waters and groundwaters. For more than 20 years, the Water Convention has influenced and provided a basis for the development of specific agreements on transboundary waters. In fact, Article 9 of the Water Convention obliges the parties to conclude and/or revise bilateral or multilateral agreements and to establish joint bodies (institutions for transboundary cooperation). It has been recognised that permanent cooperation through such mechanisms allows for early identification of potential sources of disagreement and offers a means to prevent their escalation (UNECE, 2013), thus enhancing peace and security. In

¹ Denoting strong power asymmetries between the countries, evident in structural inequalities, lack of control over decisions and an inequitable allocation of the resource or its benefits (Zeitoun and Warner 2006).

² The Berlin Rules include Art. 64 on Establishing Basin Wide or Other Joint Management Arrangements and Art. 65 on Minimal Requirements for Joint Management Arrangements.

essence, joint bodies have the positive capacity to ‘lock’ parties into cooperation, thereby promoting shared understanding and responsibility and preventing conflicts.

The Water Convention defines a ‘joint body’ as any bilateral or multilateral commission or other appropriate institutional arrangements for cooperation between the riparian parties. The existing commissions and other joint bodies for transboundary water cooperation differ from one another in terms of, for example, scope of work, competence, functions, powers and organisational structure. In general, the institutional arrangements are in the form of multilateral river basin commissions (essentially on the main transboundary rivers) as well as various bilateral arrangements involving responsibility for all or specific transboundary watercourses or basins shared by two countries. Article 9 of the Water Convention specifies the basic tasks to be entrusted to the joint bodies to perform, including the collection and exchange of information, the elaboration of joint monitoring programmes, and proposing measures and evaluating their effectiveness.

Due to the obligations under the Water Convention for Riparian Parties to establish joint bodies for transboundary cooperation, specifying basic tasks for them, and the more than 20 years of practical experience that has accumulated about and by joint bodies, this paper focuses on the latest related soft law guidance that has been developed and adopted in the framework of the Water Convention, preceded by an intergovernmental review process. As far as the authors are aware, the Principles represent the only guidance developed in an intergovernmental framework of this scale and coverage.

1.3. The Principles for Effective Joint Bodies: emerging international recognition of the importance of institutional arrangements for transboundary water cooperation

The Sustainable Development Goals, adopted by the United Nations General Assembly in 2015 (UNGA Res, 70/1), include Goal 6 on water and sanitation which defines with various targets the global community’s ambition in this area until 2030. Among its targets is the improvement of Integrated Water Resources Management (IWRM), including ‘transboundary cooperation, as appropriate’ (target 6.5). The indicator for monitoring progress globally is the ‘proportion of transboundary basin area with an operational arrangement for water cooperation’ (Inter-agency Expert Group on Sustainable Indicators, 2016). The inclusion of an explicit mention of transboundary cooperation in water management in the 2030 Agenda demonstrates the political recognition of the importance of the issue. Furthermore, the indicator 6.5.2 underlines the key role of specific agreements or other arrangements concluded between co-riparian countries as a fundamental precondition to ensure long-term, sustainable cooperation in freshwater management. The indicator 6.5.2, which is also part of reporting progress to the High-Level Political Forum on Sustainable Development and for which UNECE and UNESCO are co-custodian agencies, also highlights that joint bodies that meet and exchange information regularly are a crucial element in making such cooperation operational (UN Water, 2016, UNECE, 2017).

Despite the diversity of arrangements, and different histories and contexts of establishment, joint bodies and the development of international law on the management of transboundary water resources allow for the identification of certain principles of organisation and activities that generally increase the efficiency of the joint bodies and contribute to reaching a mature level of cooperation between the riparian states (UNECE, 2015a). A set of such principles was developed under the Water Convention in 2014, drawing upon earlier work under the Convention (see e.g. UNECE, 2009) as well as upon a review of case studies and experience from joint bodies and country representatives, resulting from workshops on that topic. The Principles for Effective Joint Bodies went through an intergovernmental review within the framework of the Working Group on Integrated Water Resources Management which discussed the principles in its ninth and tenth

meeting in 2014 and 2015 (see [UNECE, 2015b](#)), respectively, and were adopted by the seventh session of the Meeting of the Parties to the Water Convention in November 2015. The principles are a legally non-binding soft law document; nevertheless, they represent an important and potentially influential instrument that synthesises valuable lessons from the collective experience of the joint bodies, parties to the Water Convention and other states, as well as other stakeholders ([UNECE, 2018](#)).

1.4. About the paper

The scope of the Principles of Effective Joint Bodies covers the following: (1) the establishment, structure and functions of joint bodies; (2) their operation; and (3) financial and human resources. The Principles can be considered as a kind of checklist of features linked to more sustained, mature cooperation among riparian states. This paper focuses on features related to the first category. Factors such as competency and representation, organisational structure, procedural mechanisms, accountability, cooperation and public participation are fixed to a marked degree and less prone to dynamic change, and are consequently easier to verify. At the same time, these factors provide the necessary framework for the functioning of a joint body. They set the framework for the governance work of a joint body within a basin and include basic elements that can be adopted by different bodies in different locations and circumstances. Analysis of these factors is of direct relevance to the global discussion on the role and capacity of joint bodies in reconciling different interests and finding solutions among riparian states and, possibly, supporting developing cooperation beyond water or reinforcing good neighbourly relations.

This paper assesses how Finland's cooperation arrangements with Norway, Russia and Sweden stand in relation to the salient features highlighted by the UNECE Principles, and how the Principles – both generally and in the specific contexts examined in the paper – can support water diplomacy, and even water security, in the co-management of shared freshwater resources. However, it is to be noted that, on one hand, not all aspects of Finland's transboundary water cooperation are included under the UNECE Principles, and, on the other hand, not all UNECE principles are relevant or have been applied in the Finnish context. An example of the former is communication and reconciliation in permit matters under the Finnish-Swedish Agreement; and ensuring the consideration of groundwater issues serves as an example of the latter case.

Having been established decades ago, the legal and institutional bases of these cooperation arrangements have reasonably long time spans and they have been robust in the face of change. This suggests that situations where cooperation has prevented or effectively addressed potential conflicts may offer valuable lessons for water diplomacy. Implementation of the Water Convention has been shaping Finland's cooperation and as an active Party, Finland has contributed experience into this framework for water cooperation.

This paper is structured as follows. Following the introductory section, part two reviews the way in which the Principles for Effective Joint Bodies are reflected in Finland's transboundary water cooperation arrangement, focusing on aspects related to the establishment, structure and functions of the joint bodies. Part three analyses the findings of the preceding part and examines how they relate to the enhancement of water diplomacy at the specific regional level. Part four offers a conclusion that draws together the paper's main findings.

2. How the Principles inform Finland's cooperation arrangements for transboundary waters

2.1. Introduction

Finland is located in Northern Europe, between Scandinavia and Russia. The northern part of the country, Lapland, is bordered by

Sweden in the west, Norway in the north and Russia in the east. In fact, Finland shares the whole of its eastern border with Russia. The length of each border that crosses water is 617 km for the border with Sweden, 715 km for the border with Norway, and 370 km for the border with Russia (Finland's environmental administration, 2016). Finland's borders with Sweden and Norway are partly constituted by rivers.

To manage these large areas of shared freshwater, Finland has signed bilateral transboundary waters agreements with its neighbour countries, under which the established joint bodies promote coordination and cooperation in the management of the shared water resources. The cooperation takes into account the special characteristics of each transboundary watercourse area.

Finland shares the River Muonionjoki and part of the River Torne (Tornionjoki) with Sweden. The current agreement concerning transboundary rivers between the countries has been in force since 2010 (its predecessor was signed in 1971). The institution that manages the transboundary river cooperation is the Finnish-Swedish Transboundary River Commission, which was established by the agreement. Overall, cooperation on transboundary waters between Finland and Sweden has been conducted in a good spirit, thanks to the long traditions of cross-border interaction in the area and to the fact that the environmental legislations of the two countries are largely harmonised.

The largest river basins that Finland shares with Norway are the catchment areas of the Teno/Tana, Näättämö/Neiden and Paatsjoki/Pasvik rivers, all located in Lapland. Finland and Norway concluded an Agreement on the Frontier Water Commission in 1980. For the purpose of formally fulfilling the requirements laid down in Directive 2000/60/EC of the European Parliament and of the Council (hereinafter the 'Water Framework Directive' or 'WFD'),³ Finland and Norway concluded an Agreement on the Finnish-Norwegian River Basin District in 2014. Overall, the transboundary water agreements and other cooperative arrangements between Finland and Norway have enhanced cooperation between the Norwegian and Finnish border municipalities and have improved water quality in the border rivers ([Luokkanen and Ränkä, 2007](#)).

Finland and the Russian Federation share a land border of approximately 1300 km. The border region contains 20 watersheds and 800 water bodies, but none of the major rivers runs along the Finnish-Russian borderline. The largest transboundary watercourses are those of the Vuoksi and Paatsjoki/Pasvik rivers ([Kaatra, 2012](#)).

The Agreement Concerning Frontier Watercourses was signed by Finland and the Soviet Union in 1964 and entered into force a year later. It was adopted by the Russian Federation after the dissolution of the Soviet Union in early 1990s. The Agreement established the Joint Finnish-Russian Commission on the utilisation of frontier waters. Generally, cooperation between Finland and Russia can be regarded as one of the success stories of international water law (see e.g. [Belinskij, 2015](#)).

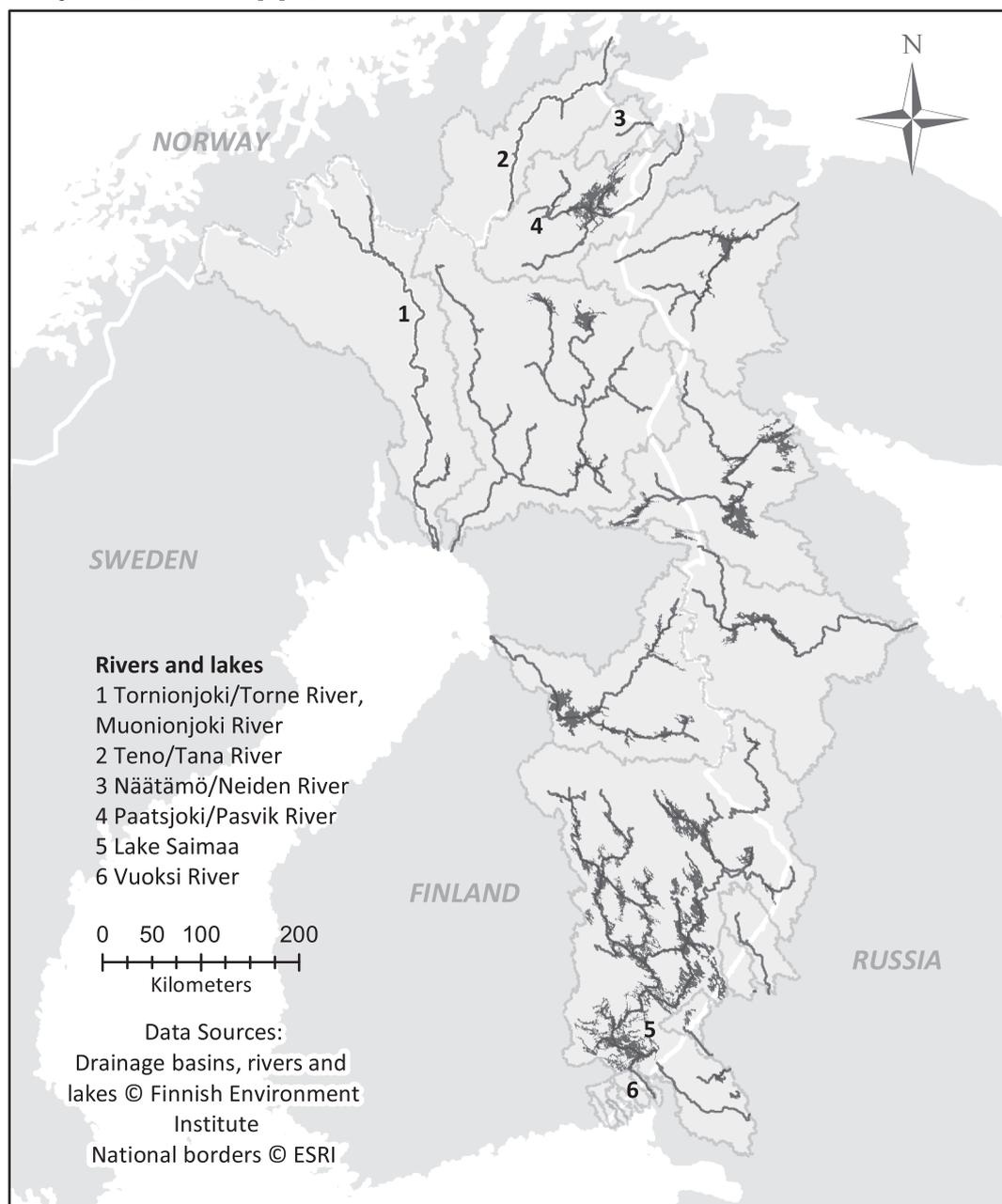
Even though the institutionalisation of the transboundary cooperation between Finland and its neighbours predates the Water Convention, it has been shaped by the implementation of the Convention obligations. The fact that it was not considered necessary to adapt the bilateral frontier river agreements due to the implementation of the Convention when Finland was involved in the process of ratifying it ([UNECE, 2013](#)) stands as evidence about consistency with the Convention's principles and provisions. In addition to Finland and its co-riparian countries being parties to the Water Convention, the four countries have also adopted other international legal instruments (e.g. the 1991 Espoo Convention on Environmental Impact Assessment in a Transboundary Context), thus further demonstrating commitment to principles of transboundary cooperation. Furthermore, ratification of

³ Even though Norway is not a member of the European Union (but of the European Economic Area (EEA)), it implements the Water Framework Directive with a delayed schedule.

the 1998 Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Russia not a party) adds a certain consistency to the legal basis in terms of principles and obligations. In addition, the EU WFD has naturally shaped Finland’s arrangements for transboundary water management (see later this paper).

a party provide for a clear definition of the waters subject to cooperation and have adopted a basin approach. The riparians are equal participants in the joint bodies.

Principle 1.1



The transboundary rivers shared by Finland and their basin areas.

2.2. Competency

Principle 1.2

Clear definition of the waters subject to cooperation, in accordance with the basin approach, and participation of all basin countries in a joint body.

Broad competence of a joint body, which allows for addressing in a complex way, on the basis of IWRM, the entire spectrum of issues related to the sustainable development, management, use (including infrastructure) and protection of transboundary waters.

Different sectoral interests in water use and the development of a basin may cause friction in relation to transboundary basins. The broad competence of a joint body can be of assistance in reconciling diverging

All three transboundary freshwater agreements to which Finland is

interests of parties and stakeholders.

The competence of the Finnish-Swedish Commission, similarly to the scope of the underlying Agreement, covers both water and fishing issues. The relevant water issues include equitable use, joint/coordinated management instruments (programmes and plans) and environmental objectives, prevention of flood damage, monitoring of flow conditions, and the management of transboundary impacts. The fishing regulations contained in the Agreement are mainly addressed to national authorities.

The competence of the Finnish-Norwegian Commission covers ‘matters related to transboundary waters’ (Article 1). More specifically, these matters pertain to the management of the transboundary waters, monitoring the condition and quality of the waters, fishing conditions, the prevention of pollution of the waters, construction work in the watercourse and the general regulation of the waters.

The Finnish-Russian Agreement is concerned with a great number and variety of issues: water flow and structural measures; flood control and water scarcity; timber floating and water traffic; fisheries and fish migration; pollution and water quality; and public health and economy. Indeed, cooperation under the Agreement has arguably adopted a multi-objective approach (Kaatra, 2012). The competence of the joint Finnish-Russian Commission follows the lines of the underlying Agreement (Articles 6 and 8). As its name suggests, the Commission’s work has focused on the utilisation of waters. However, in recent years the Commission has increasingly engaged with environmental protection issues.

Overall, the competencies of all three transboundary water commissions are relatively broad as recommended by the UNECE Principles. Sustainable and equitable use and management of the transboundary waters is perceived as important in all three regions, and the commissions have actively enabled and promoted a wide range of different uses in respect of the waters.

Principle 1.3

Clearly defined tasks and powers for the joint body, which are sufficient for effective activities related to the management, development, use and protection of transboundary waters.

Principle 1.6

Certain flexibility of the agreement establishing the joint body, allowing to progressively develop cooperation, in terms of scope, mandate and riparian States involved.

Principle 1.10

A mandate to identify and assess accurately the potential benefits of transboundary water cooperation taking into account the economic, social, environmental and geopolitical aspects.

The powers and tasks of the Finnish-Swedish Commission are clearly defined in the underlying Agreement (Articles 10 and 11 on the functions and competence of the Commission). The Commission may give statements, appeal certain decisions and bring claims to rectify violations in certain cases. It also has tasks related to monitoring, developing and promoting cooperation and to developing programmes and plans concerning the water management area.

The Finnish-Norwegian Transboundary Water Commission has first

and foremost an advisory role. Its main tasks include submitting proposals and motions and issuing statements on matters related to the management of the transboundary waters. In addition, the Commission monitors the status and quality of the transboundary waters and prevents their deterioration (Article 1).

The tasks and powers of the joint Finnish-Russian Commission have been formulated very clearly. The Commission examines, on the instruction of the parties or on its own initiative, matters relating to the utilisation of frontier watercourses as included in the Frontier Watercourses Agreement. Such matters may be resolved by making a decision or issuing an opinion. In addition, the Commission oversees, in general, that the Agreement is complied with and monitors the state of the transboundary waters (Article 8). The Commission has certain regulatory powers related to timber floating in the frontier watercourses (Article 13).

Regarding Principle 1.6 on a certain flexibility of the agreement establishing the joint body, Finland’s transboundary water agreements remain at a relatively modest level. On the other hand, the agreements were broad in their sectoral scope to begin with. The principle is perhaps more relevant for states that have agreements with a more limited scope (e.g. on a specific water use), which flexibility could help broaden, or states sharing basins where major new development – such as construction of dams or major expansion of irrigation systems – is expected to take place. Flexibility that provides for adjustment to changes in conditions in the long term is valuable, especially due to climate change (see e.g. Honkonen, 2017). As agreements on transboundary waters commonly remain in force and provide the basis for cooperation for a long time, robustness is also a valuable quality, to balance flexibility. The Agreement with Sweden gives the joint commission the power to draw the parties’ attention to any need to amend the Agreement (Article 10). Furthermore, the parties convene as necessary to ensure the application of the Agreement (Article 31). The Agreement with Norway entitles the joint commission to put forward proposals and submit initiatives regarding the amendment of the Agreement on the Commission or of other agreements between the parties (Article 9). The Agreement with Russia does not include specific flexibility clauses. However, the fact that the Finnish-Russian Commission was made responsible for overseeing the implementation of the Discharge Rule for Lake Saimaa and the Vuoksi River, which was negotiated within the Commission and concluded in 1989, demonstrates that it has a certain flexibility as a cooperation framework.

None of the transboundary water commissions to which Finland is a party is expected to involve additional riparian states: there are in practice none that need be involved in the case of the Finnish-Swedish Commission; the Finnish-Norwegian Commission has had representatives from Russia participating as observers of its work for a long time; and the Finnish-Russian Commission is concerned merely with Finland and Russia, with the possibility to invite the chairpersons of the Finnish-Norwegian Commission as observers to the meetings (K. Kinnunen (personal communication, 13 October 2016)).

The mandates of the three joint bodies examined here do not specifically empower the bodies to assess the potential benefits of the cooperation. Nevertheless, the commissions regularly report on their activities to the state parties and thereby also assess the realised and potential benefits of the cooperation. The benefits and significance of the cooperation involving the commissions have not been put under question by any party. Capacity to address emerging issues to prevent those from causing friction is potentially valuable from a hydro-diplomatic perspective.

2.3. Representation and organisational structure

Principle 1.5

A sufficiently broad and complete representation of national authorities in the joint body, implying participation beyond the water management authorities to include representatives from environment, fishery, agriculture, transport, health, energy, hydrometeorology authorities, economy and finance ministries, as appropriate.

Principle 1.7

Availability of technical, informational, scientific and other support to joint body's activities through appropriate design of organisational structure.

Representation within a joint body affects its expertise, legitimacy and its ability to resolve disagreements.

Of the three members from each country in the Finnish-Swedish Transboundary River Commission, one has to be from the government authority responsible for water issues and one from the municipality in the area of application of the Agreement. Countries are free to choose the third member. The members should, as a minimum, have expertise in water management and the local conditions. The Commission uses experts to assist it in its work, and each party may appoint up to three permanent experts. The Commission may also use other experts. Currently, the Commission has two permanent expert members (appointed by each party) who are professionals specialising in water policy.

Within the Finnish-Norwegian Frontier Water Commission, there are three members from each country, representing environmental administration and municipalities. Of the members, one has to have experience in water management while another has to be particularly familiar with the circumstances of the border area (Article 40). The members are to have expertise in water management and local conditions. The Commission may hear experts during its meetings and assign to them responsibility for the preparation of studies and reports (Article 5).

In both Nordic commissions, the third members are freely chosen by the parties to represent other interests that are considered important. In the Finnish-Swedish Commission the current third members are local entrepreneurs, while in the Finnish-Norwegian Commission the third members are from municipalities (one representing the indigenous Sami people). Overall, this kind of discretion in the membership of the commissions is a significant element of flexibility also in the sense that the interests represented within the commissions may change due to changes in the membership.

The Joint Finnish-Russian Commission comprises three members from each contracting state and three alternates (Article 6). The Agreement remains silent as to the expertise that is required of the Commission members, which may be regarded as a sign of operational flexibility. National authorities that currently participate in the activities of the Commission include, on the Finnish side, the Ministry of Agriculture and Forestry; the Ministry for Foreign Affairs; the Centre for Economic Development, Transport and the Environment of South-eastern Finland; and the Finnish Environment Institute. On the Russian side, the main participating authorities are different units of regional water administration and other regional authorities. Representatives from the federal Ministries of Foreign Affairs and Energy participate occasionally as observers.

The Finnish-Russian Commission has the experts it requires at its disposal. The practical work of the Commission is mainly carried out by its permanent working groups: the Integrated Water Management Group, the Expert Group on Fisheries, the Water Protection Group, and the Frontier Guards Group.

The Finnish-Russian Commission routinely involves energy companies and research institutions in its work. The two energy companies that participate in the work of the Commission have assisted the Commission in finding equitable solutions in respect of many issues relating to energy and water utilisation in transboundary waters. Energy companies have also participated in the creation, adjustment and implementation of the Lake Saimaa and River Vuoksi Discharge Rule under which the parties manage discharge volumes to control flood and drought risks in the joint waters.

2.4. Procedural aspects and mechanisms

Principle 1.4

An organisational structure that allows for developing and adopting decisions as well as implementing them.

Neither of the Nordic commissions has competence to make decisions that are legally binding on the parties. The Finnish-Swedish Commission may issue statements and propose motions in certain matters (Article 11). The Finnish-Norwegian Commission may submit proposals, propose motions and issue statements on matters related to the management of the transboundary waters.

The governments of Finland or Russia may submit a matter to the Finnish-Russian Commission for it to make a legally binding (unanimous) decision or issue an opinion. The authorities in both countries are obliged to give the Commission all the information and assistance that it needs (Article 12). In making its decisions, the Commission must take into account the applicable legislation of both countries (Article 10). When a certain measure may have significant effects in the territory of one of the parties, or where the Commission fails to reach a decision on a matter submitted to it, the Commission must refer the matter to the governments of the parties for consideration (Article 10). The Commission usually deals with matters relating to transboundary watercourses on its own initiative (Kotkasaari, 2008).

Principle 1.8

Regularity in the work of a joint body.

The Agreement between Finland and Sweden does not set any requirements for regularity in the work of the joint body. The Commission has adopted an active role: for example, it held seven meetings in 2017. The Finnish-Norwegian Commission meets as needed and at least once a year (Article 4); in recent years, the Commission has indeed met annually. The Finnish-Russian Commission, as well as its permanent working groups, meet annually. Throughout the year, the parties may exchange new information for the purposes of providing statements or comments or to assist in preparatory work. Bearing in mind the wide range and large number of issues under consideration by the Finnish-Russian Commission, the possibility for communication outside the context of the annual meetings is very useful.

2.5. Implementation of decisions

Principle 2.2

Effective mechanisms for cooperation of a joint body with national authorities, and the availability of mechanisms to support the implementation of decisions.

One of the set objectives of the Finnish-Swedish Transboundary River Commission is to promote cooperation between the authorities of the parties. The 2010 Agreement established the Finnish-Swedish water management area according to the requirements of the WFD. Concrete measures to realise cooperation in the area are joint programmes and plans that authorities in Finland and Sweden are required to prepare (Article 4). The Commission shall adopt or reject proposals for programmes or plans concerning the water management area (Article 10).

In producing a joint international river basin management plan (RBMP) for the Finnish-Norwegian river basin district, the Transboundary Water Commission must present its views, in a co-ordinated manner, on the preparation of the national river basin management plans (Article 5). In addition, the involvement of the Commission should be ensured in the exchange of information between competent national authorities (MoU (2013)).

The Teno/Tana, Näättämö/Neiden and Paatsjoki/Pasvik international river basin district extends to a limited extent across the border into Russian territory (UNECE, 2011). It is worth noting that the Finnish-Norwegian Commission and authorities in both countries have sought cooperation with the Russian authorities on matters concerning water management in the joint river basins. In matters related to the River Paatsjoki/Pasvik, the Murmansk regional environment authorities (from Russia) work in cooperation with the Finnish-Norwegian Commission. Russia has participated in the work of the Commission in the role of an observer and expert since 1991.⁴ This is a prime example of effective cooperation between national authorities facilitated by a joint water commission in the region.

National authorities in both countries are active participants in the work of the Finnish-Russian Commission. The underlying Agreement does not establish specific mechanisms for the involvement of national authorities but they cooperate with each other and with the Commission, exchanging information, discussing regulatory measures etc. In addition, the Commission's practice is to provide opinions to national authorities, usually to those responsible for granting permits, when they are dealing with cases that may have transboundary impacts (Kaatra, 2012). In contrast to opinions, the decisions of the Commission are binding on both countries (Article 11).

Principle 2.6

Coordination of activities with other joint bodies in the same catchment area, as well as with relevant joint bodies established for preservation of the marine environment.

There has been discussion of the prospect of including Norway in the cooperation relating to the management plan of the international water district in the Torne river basin since a small part of the basin lies on the Norwegian territory. The Water Framework Directive, which lays down the obligation for Member States to establish river basin districts, prescribes that where a river basin extends outside the EU, the relevant Member State(s) must endeavour to establish appropriate cooperation with the relevant non-Member State (Article 3). However, this requirement has not yet been operationalised under the Finnish-Swedish management regime. From a practical viewpoint, appropriate cooperation in the field is already being carried out under the Finnish-

⁴ For instance, the Russian authorities have partnered in the preparation of a multiple-use plan for the River Paatsjoki/Pasvik (Christiansen 2011). In addition, an environmental status and a common monitoring and assessment programme for the Paatsjoki/Pasvik area, initiated by the Commission, has been compiled by Russian, Finnish and Norwegian environmental authorities and researchers. Supported by the Murmansk regional environment authorities, the Pasvik Programme is responsible for monitoring in a coordinated manner the state of the environment in the cross-border area of Finland, Norway and Russia.

Norwegian regime. Moreover, the area in question is so small that its practical significance is negligible within this context (K. Kinnunen (personal communication, 13 October 2016)).

The Finnish-Norwegian Commission has been active in establishing cooperation and coordinating activities with the Russian side of the basin. However, the cooperation has been between the Commission and local authorities in Russia, not with a joint body in the same catchment area. Finland, Sweden and Norway have been engaged in the unofficial 'Trilateral working group for the harmonisation of the Water Framework Directive in the North Calotte region'. The goal of the project was to strengthen and coordinate cooperation between the three countries in working to implement the WFD in the North Calotte Region. The three meetings that took place from 2011 to 2013 enabled the participants responsible for implementing the WFD in a transboundary context – i.e. local authorities and the Finnish-Swedish Transboundary River Commission – to share their experiences concerning implementation of the WFD as well as to determine common areas of cooperation (Report of the Trilateral working group, 2013).

There is no formal coordination between the Finnish-Russian Commission and the Baltic Marine Environment Protection Commission (HELCOM) (S. Rekolainen (personal communication, 13 October 2016)). The work of the Finnish-Russian Commission concentrates on transboundary lakes, rivers and streams.

2.6. Accountability, transparency and public participation

Principle 2.1

Effective accountability mechanisms for the joint bodies to ensure the implementation of their activities and obligations.

The Finnish-Swedish and Finnish-Norwegian Commissions do not use specific accountability⁵ or compliance mechanisms. The former joint body 'shall monitor the application of [the] Agreement and the permit practices' (Article 10) and it has the right to 'bring a claim for rectifying a violation of a permit decision or rules or regulations issued by law or under it to a public authority for consideration in accordance with the national legislation' (Article 11). The Commission may also give statements in respect of relevant matters. The Finnish-Norwegian Commission has general monitoring and supervision duties (Article 1) but they are not directly linked to compliance with the provisions of the Agreement. The Finnish-Russian Commission does not use any specific accountability mechanism to ensure the implementation of the Agreement.

The lack of specific compliance mechanisms in Finland's transboundary water agreements reflects the fact that effective and established cooperation is in place, and it is not to be considered as a sign of ignorance of compliance problems under the regimes. In the Finnish setting, a small number of parties are involved and they are in regular contact, as a result of which any problems that arise can be addressed with ease.

Principle 2.4

⁵ Dombrowsky (2007) has discussed options for maintaining accountability in the context of international organisations for water management when competencies are transferred from accountable governments. The first viable option involves an accountability mechanism based on the representation of the states in the decision-making arrangement. This is expected to ensure that decisions taken by the joint body are acceptable to the state parties. Alternatively, an accountability mechanism could be developed by establishing a direct link between the organisation (joint body) and the local population. An additional complication is that 'public interest' in a transboundary basin is not easy to define when, for example, upstream and downstream interests may differ considerably.

Mechanisms for public participation and stakeholder involvement in the activities of the joint body are key. Appropriate tools for public participation and stakeholder involvement should be selected according to their purpose – i.e., to identify stakeholders and interested public, to notify, inform or consult the stakeholders and the public, or to take due account of their comments – reflecting also the specific context and the objectives. For a consistent provision of necessary funds to support public participation and stakeholder involvement, it is important to institutionalize the mechanisms for participation of stakeholders and public. Drawing on the ECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, the following criteria should be taken into account for effective public participation and stakeholder involvement: equity and inclusiveness; accountability and transparency; flexibility; effectiveness and responsiveness.

The Finnish-Swedish Commission works in close cooperation with the municipalities, entrepreneurs, authorities and other actors in the River Torne basin. The information held by the Commission is public, with some limitations; the 2010 Agreement contains detailed regulation on access to documents held by the Commission (Article 13).

Interestingly, a voluntary ‘Water Parliament’ was set up for the Torne River in 2007, and it holds annual Finnish-Swedish meetings. The Parliament is a forum for information exchange and cooperation regarding water issues between local authorities, the Frontier River Commission, and interest organisations.

Experts and, when necessary, local residents can be heard at the meetings of the Finnish-Norwegian Commission (Article 5). It is an important and rather unusual feature of both Nordic Commissions that they deal with issues at a regional level and that the people affected by their policy-making are heard or even represented as members or deputy members of the Commissions (K. Kinnunen (personal communication, 13 October 2016)).

The Finnish-Russian Commission receives information from and is party to initiatives to support and guide its work by non-governmental organisations and private citizens (Kotkasaari, 2008). In addition, energy companies have been active in the work of the Commission. The involvement of frontier guards and energy companies in the Commission’s work has been an essential element in the cooperation between the countries in the border region and in matters related to the operation of hydropower plants (Kaatra, 2012).

In general, as parties to the Aarhus Convention, Finland, Sweden and Norway have obligations regarding the organisation of public participation in environmental decision-making. These obligations are also reflected in the regulation of the transboundary water commissions and the work they carry out.

2.7. Dispute resolution

Principle 2.5

Use of neutral facilitators and external expertise in the process of initiating/restarting a dialogue and cooperation.

Both the Finnish-Swedish and Finnish-Norwegian transboundary water agreements state that disputes between parties concerning the application or interpretation of the Agreement are to be settled by negotiation (Articles 6 and 30), ‘or [by] other manner agreed by the

parties’ in the case of the Finnish-Swedish Agreement. Neither agreement specifies whether the negotiations should involve the commissions.

The Finnish-Russian regime lays down a mechanism that goes further than Finland’s agreements with Sweden and Norway and requires that any differences of opinion arising from the interpretation or application of the Agreement that cannot be settled by the Commission must be settled by a joint board comprising two members appointed by the governments of Finland and Russia respectively. If the board fails to reach agreement, the differences at issue are to be settled via the diplomatic channel (Article 19). This mechanism involves external facilitators in the process of solving disputes and illustrates the subtle role of the Commission, which was not designed as a dispute settlement body but rather as a cooperative body.

Upon ratification of the Water Convention, the Parties may specify whether they would use the International Court of Justice or the Water Convention’s dispute settlement mechanism to solve differences with Parties concerning the interpretation or application of the Convention (Article 22). More generally, joint bodies often play a significant role in preventing and resolving conflicts among riparian states. Even in the absence of well-established dispute resolution mechanisms, the commissions usually have a good selection of tools⁶ available to promote cooperation and trust among the parties and thus work towards reducing the likelihood of conflicts emerging and escalating (see e.g. Tir and Stinnett, 2012). Extensive use of, and heavy reliance on, joint river basin organisations to perform the task of dispute prevention or to act as pragmatic conflict resolution facilitators is typical of different transboundary water regimes, regardless of the region involved (Wouters, 2003) This is understandable since these bodies have been established to promote cooperation and coordination among the riparian states, and their members can usually be expected to be experts on issues concerning the regime.

3. Broader institutional perspectives on the transboundary water commissions of Finland and its co-riparians and the implications for water diplomacy

3.1. International experience

Several studies in the past decade have highlighted features relevant to the functioning and effectiveness of joint bodies in transboundary water management, and have concluded that there is significant variation between them (see e.g. Schmeier, 2013; Lautze et al., 2013; UNECE, 2009; Hooper, 2006; Kliot et al., 2001). Based on a global overview focusing on river basin organisations, Schmeier describes the effectiveness of river basin governance as depending on two main categories of factors: (1) exogenous factors including the nature of the collective action problem and the constellation of actors; and (2) endogenous factors, of which she underlines the institutional design as being the one likely to matter the most (Schmeier, 2013).

UNECE has analysed joint bodies in transboundary water governance in terms of their structures and activities (UNECE, 2009). Despite differences in contexts and cultures, among others, there is potential for joint bodies to share their experiences in addressing a wide range of issues. In particular, it would be worth evaluating the value, in terms of water diplomacy, of situations in which major differences that have emerged between parties have been resolved during long cooperation.

3.2. Structure of joint bodies and cooperation with national authorities

Review of joint bodies across Europe has led to the conclusion that

⁶ The tools of dispute prevention including monitoring, dialogue and exchange of information; and the tools of dispute resolution including negotiation, mediation, arbitration and resolution by the joint body.

the achievement of continuity and effective implementation of decisions calls for joint commissions to have executive and working bodies in addition to a decision-making body (UNECE, 2009). Expert or working groups, which have been established most commonly in coordination-oriented river basin organisations, are regarded as an important institutional design feature (Schmeier, 2013). The work carried out by the Finnish-Russian Commission's working groups is set by issue or area of work: e.g. Integrated Water Management and Fisheries.

The work of subsidiary bodies of a bilateral commission is also frequently organised by reference to a river basin. The work of the Finnish-Russian Commission covers a large number of water bodies, but their relative importance in terms of use and need for coordination is very different. The work of the Finnish-Swedish Commission focuses on one major river basin whereas the Finnish-Norwegian Commission covers numerous boundary waters shared by the two countries.

The organisation of the Finnish-Russian Commission differs from the other two transboundary water commissions to which Finland is a party. From a water diplomacy angle, both approaches appear to function well. The issues that the Finnish-Russian Commission mostly deals with often require state-level administrative measures and it is therefore appropriate that state representatives make decisions on them at the annual meetings of the Commission. The broad-based memberships of the other two commissions enhance the legitimacy of their work and underline their expertise in local conditions.

In terms of regularity, Finland's joint commissions compare well with regional practice. In Europe, many joint commissions meet at least annually, even when contacts are also maintained through other means (see e.g. UNECE, 2009). Against that background, the Finnish-Swedish Commission can even be said to meet frequently. Overall, all the commissions have regular meetings and carry out effective communication between the meetings. Holding meetings on a regular basis is important to ensure good working relationships and the exchange of up-to-date information within the commissions. These qualities actively facilitate the practicing of environmental diplomacy in the regions.

In many cases, multilateral river basin commissions in the pan-European region include permanent secretariats, which tend to be small and have rather limited staff when comparing globally (European Commission, 2012b). Smaller secretariats often work better for coordination-oriented (basin) organisations than for implementation-oriented ones (Schmeier, 2013). It is less common for bilateral commissions to have permanent joint secretariats. Since the provision of information is one of its tasks, the office of the Finnish-Swedish Commission is likely to supplement the outreach offered to local stakeholders. Regional organisations provide the secretariats of the Finnish-Norwegian Commission with a consistent regional focus for their work. In the case of the Finnish-Russian Commission, secretariat support is provided, as needed, by each member country (Article 6).

Overall, all three commissions are well supported: they hold regular meetings and have effective secretariat functions, a sound financial basis and easy access to local and scientific expertise. This ensures that their work is effective and balanced and provides tools to deal with, inter alia, different areas of cooperation and uncertainties and different development needs in the joint water management. Furthermore, long-term cooperation institutions provide continuity when political changes occur with changing governments.

3.3. Scope and focus of work

From the perspective of water diplomacy and the prevention of conflicts within shared river basins, it is of the utmost importance that the waters subject to cooperation and joint management are defined clearly. When all basin countries are equal members of the joint management body, the body has a better chance to function effectively, both from environmental or technical and political perspectives. Equal participation works towards enhancing fairness and the perceived ownership of the decisions and actions taken by the joint body. The

impacts of the real-world power relations of the parties cannot perhaps be always totally overcome (in line with the hydro-hegemony thematic), but the involvement of all basin states⁷ and representative participation in the work of the joint body is still very important.

In terms of the scope of work carried out, the three joint commissions of Finland cover a relatively broad range of issues. The scope and focus of cooperation has, however, evolved to some degree over the decades, influenced by legislative changes, the WFD etc. Environmental protection has gradually received more attention, which is logical as the agreements were initially concluded at a time when environmental concerns were less prominent and the related regulation less substantial.

Timber floating, which was previously an important economic activity relevant to the application of the Finnish-Russian Agreement, has lost its importance. Finland's agreements with Sweden and Norway have had to be revised to ensure alignment with the WFD. The original Finnish-Russian Agreement (1964) did not refer to hydropower or energy before the Discharge Rule of Lake Saimaa and the Vuoksi River (1989) was adopted. Hence the legal basis has developed to address the challenge of optimising the flow regulation: the discharges are adjusted, supervised by the Commission, to achieve a balance between the requirements of hydropower production, the mitigation of flood impacts and meeting environmental needs.

Influenced by the coordination obligation laid down in the WFD, river basin planning, including related studies and consultations, has become a prominent part of Finland's institutional transboundary cooperation. Although the measures required by the WFD are promoted by Finland in cooperation with Russia, the work of the two Nordic commissions is much more far-reaching due to the common basis (harmonised legislation, the same planning cycle, classifications etc.) and has increasingly converged towards joint basin planning for the current cycle of planning (2015–2021). Such flexibility or progressive evolution of the cooperation framework seems valuable for effectively addressing emerging issues. On the basis of the RBMPs of 2009–2015, the European Union (EU) recommended that Finland should extend the related international coordination with all its co-riparian countries (European Commission, 2012a). The degree of international coordination and cooperation under the WFD has increased and the coordination arrangements (including joint commissions) have played a key role in the preparation of international RBMPs, coherent with their national counterparts. However, examples of RBMPs coordinated with riparian countries that are not EU Member States remain few in number: The known examples are on the Danube River Basin and the Sava River Basin (UNECE, 2011).

The Nordic commissions' effectiveness and dispute-prevention capacity are not in practice significantly hindered by the fact that they do not issue decisions that are binding upon the parties. There is a strong spirit of cooperation between the countries involved and their environmental legislations and practices are largely harmonised, as a result of which the commissions' planning and management activities do not require legally binding authority. The Finnish-Russian Commission is of older origin, the scope of its work – including e.g. discharge issues that have notable effects on the parties – is larger, and the economic and other interests of the parties and stakeholders in the issues under regulation are often stronger, and this fact underlines the importance of issuing legally binding decisions.

The broad competence of the joint management body is an asset in terms of the conduct of water diplomacy. It allows the body to address a wide variety of issues that are felt by the parties to be important and also to address new and emerging issues that were perhaps not

⁷ Sometimes it is sufficient that all major basin states are involved as parties in the cooperation; a state that shares only a tiny part of the basin can be included as an observer in the treaty arrangement. This is the case, for example, with Norway in the Finnish-Swedish Transboundary Rivers Agreement.

envisaged at the time of adoption of the original agreement. This may help in preventing differences from emerging and addressing them among the member states. Generally, a joint body's ability to deal with uncertainties, incomplete knowledge, or conflicting views among the parties is often critical. In the face of these kinds of challenges, it is invaluable for the joint management body to have broad competence as well as links to national and regional authorities for the implementation of the decisions.

It is worth bearing in mind that, in practice, water diplomacy is not limited to water cooperation but is also relevant to cooperation involving, for instance, energy, trade and environmental issues. A joint water commission that has competence in these areas can be a valuable institution for cooperation among the basin states beyond water. The Finnish-Norwegian Commission has given its opinion on issues related to and impacting on water management, such as construction and planning.

3.4. Work with national authorities, accountability and coordination

The implementation of decisions in transboundary water management is only possible through cooperation with the national authorities of the parties. In this respect, the representation of national authorities in the joint body and the means by which the joint body can draw upon national authorities' capacities and inputs are crucial (UNECE, 2009).

Each joint body has a unique function in its region. The relevant agreements specify the tasks of the joint bodies, which often parallel or complement the functions and competencies of the national authorities of the parties.

Bilateral commissions, like those of Finland with its co-riparians, do not have all the features of a full-fledged basin organisation. In its relations with different actors, the work of the Finnish-Russian Commission is more at the level of central government, although regional administration is also represented. In the Nordic commissions, the emphasis is more on local issues. This is reflected in their communication, which is oriented more towards the regions and the local communities. This approach is also reflected in the composition of the commissions. It is clear that local links are also important in respect of the accountability of joint bodies. The strong local dimension also ensures expertise in local matters relating to the waters subject to cooperation. This is an interesting approach from the water diplomacy perspective. However, it is obviously a well-functioning practice, especially from the viewpoint of settling differences between the parties, which provides tools at an early stage for the parties to prevent potential conflict situations from escalating. Even if not many different national authorities are always directly involved in the work of the commissions, it is crucial that the joint bodies have access to such expertise when it is needed. That is important for information management, participation and the balancing of different interests.

The modality of representation and working with the regional authorities as well as stakeholders developed in the Nordic commissions may merit attention in water diplomacy efforts. It has distinct advantages but then again the issues may have less prominence at the national level. Therefore, assessing the value for another context, it needs to be taken into account how politicised water issues are.

3.5. Public participation and access to information

Various forms and mechanisms for public participation can be used by joint bodies. The purpose of the work being carried out has a significant influence on the selection of the most appropriate tools to identify stakeholders and the interested public, to notify, inform or consult the stakeholders and the public, and to take due account of their comments. The relevant methods that may be used include granting observer status (based on specific criteria) and allowing for the submission of written enquiries. The formulation of the UNECE Principle 2.4 on public participation was informed by the Aarhus Convention

which is referred to for guidance, notably related to the interpretation of public participation and information related provisions of the Water Convention (UNECE, 2013).

In particular, it can be highlighted that regionalisation and participation of the local population are features that stand out in the work of the Nordic commissions. The implementation of the RBMPs and the public consultations required by the processes have influenced the organisation of public participation within the context of Nordic transboundary water cooperation. The Finnish-Norwegian Commission has taken the indigenous Sami population into account by the inclusion of a local member from the Sami group. The Finnish-Russian Commission is more concerned with national level coordination, and extensions to participation are made to utilise specific expertise and include the private sector. The Finnish-Russian Commission does not, in particular, communicate with the local population through a website as is the practice in the Nordic commissions.

From the angle of water diplomacy, effective stakeholder participation is a crucial feature of joint bodies in transboundary water governance. By effective participation, the authors of the present paper understand first and foremost the engagement of all relevant stakeholders in a way that is inclusive, provides a variety of ways and channels of participation and the inputs of which are genuinely considered by the policy-makers. This understanding is in line with the provisions on public participation of the Aarhus Convention. Effective stakeholder participation in transboundary water management promotes transparency, information-sharing, conflict prevention and management, among others. At the same time, it is important to ensure that the work of the commissions is not too heavily or in an unbalanced way influenced by stakeholder interests.

4. Conclusions

This paper has limited its analysis to those Principles for Effective Joint Bodies that principally concern the scope and organisation of the work carried out by such bodies as well as procedural aspects. The Principles which have been developed considering a broad range of joint bodies and decades of experience can be viewed as a kind of check list to accompany setting up or revisiting institutional arrangements to regularise and develop water cooperation. The Principles themselves have been formulated recently and published just before the finalization of the present paper, and consequently not yet widely disseminated to serve as reference for states and actors, in particular to inform initial reflection or shaping of cooperation in early stages.

This paper demonstrates the relevance of the Principles but also reveals diversity in terms of how and to what degree they feature in practice in the framework of the cooperation arrangements analysed. While evolved since then, the legal bases and institutional frameworks for Finland's transboundary cooperation predates the Water Convention and the Principles for Effective Joint Bodies, making a comparison to the synthesis of wide international experience and good practice – which the Principles constitute – interesting. Finland's cooperation in the management of transboundary waters is institutionally light and does not demonstrate all the features of the Principles to a high degree.

In general, the approaches taken in Finland's cooperation arrangements indicate adaptation to local settings and needs. This approach probably appropriate beyond the cooperation arrangements discussed here: a customised cooperative and institutional structure is often the most effective in preventing friction building up and supporting finding mutually agreeable ways forward among the parties. Such an approach is apt to ensure that any differences that may turn into a source of friction are detected early on and that the resolution measures can be tailored to meet the specific circumstances. In addition, building of trust and the fact that the parties and stakeholders know each other well are also important for preventing and resolving conflicts.

Within this setting, it is interesting to note how e.g. the Finnish-Swedish transboundary water cooperation has been able to contribute

to so-called de-bordering processes despite the fact that the River Torne has formed the state border for more than 200 years (Sallisalmi, 2018). The active and participatory work of the Finnish-Swedish Commission has contributed to connecting local people on both sides of the border and encouraged them to act “for the benefit of the border region” in the management of the transboundary watershed. The applied method of “localisation” of the conservation and management of the shared water basin has brought about many benefits to the transboundary cooperation: built-in trust in the relations between and within the Commission and different stakeholders; communication of both opposing and shared interests and goals; development of joint strategies with stakeholders; and the possibility for a more diversified dialogue to emerge on the development paths of the basin area (ibid.). All these aspects are important for the maintenance and improvement of local and regional water security, ensuring an enabling environment for productive activities that depend on water, and they provide important lessons also for other transboundary freshwater regimes.

The scope of cooperation demonstrates a broad competency including different water uses, as recommended by the Principles. Gradual evolution can be observed in the work of the joint commissions, which is still largely being carried out on the basis of agreements that go back decades, demonstrating robustness in the face of societal, political and economic changes.

In the case of the Nordic commissions, the coordination of river basin management planning has intensified and now extends to the preparation of joint river basin management plans for shared basins. Implementation of the WFD imposes a coordination obligation upon Finland and Sweden, also on Norway to some extent. Furthermore, embeddedness in the EU regime and previous adoption of UNECE legal instruments have promoted harmonisation and accompanied the Nordic countries into mature cooperation and joint management of their transboundary waters. The Convention has also provided a forum for sharing the Nordic cooperation experience.

The scale and frequency of interaction with stakeholders is also an area where clear differences can be observed. In some cases, specific arrangements and mechanisms for participation of stakeholders and the public have been developed. The Water Parliament in the River Torne Basin and the active participation of energy companies in the work of the Finnish-Russian Commission can be highlighted as examples. The interests of states and stakeholders are taken into account in the work of all the commissions, and water management issues are inextricably linked with cooperation over energy, the environment etc. The work of the commissions has had influence beyond water management, for example, on building regulations and on municipal planning, as has been the case of the Finnish-Norwegian Commission. The experience from work with stakeholders offers valuable lessons for joint bodies in respect of the effective promotion of water security and diplomacy within shared basins.

The impact dimension of the effectiveness of the joint bodies needs to be assessed in relation to the achievement of the commissions’ objectives (to the extent to which these objectives have been explicitly stated) and in relation to the amelioration of the problems or challenges that they were established to address. Several positive developments in relation to issues within the mandates of the Nordic commissions have been observed: for example, the consistency of monitoring results has improved over time, assisted by intercalibration efforts. Some improvement in water quality has also been observed (UNECE, 2011). The Finnish-Russian Commission oversees an agreed flow regulation arrangement and even discusses related compensation, when appropriate, involving different sectors and important economic interests. These facts demonstrate some degree of advancement in the cooperation. These findings show that institutionally relatively light cooperation in the management of transboundary waters can bring environmental benefits and at the same time support multi-level governance.

From the water diplomacy perspective, Finland’s joint commissions have a strong yet usually implicit emphasis on the prevention of

conflicts; only the Finnish-Russian regime involves a more direct approach that also covers conflict resolution (in terms of agreed procedures). This approach is very much in line with the nature of the regimes which have been designed in particular contexts for specific needs. The commissions in focus have addressed contentious issues of importance to the riparian countries and the regions in particular, including flood risk management, fishing rights and hydropower. This suggests that there are likely transferable lessons about building trust and addressing various issues that are of value to water diplomacy beyond the region.

It seems that, overall, the use of experience from the cooperation discussed in this paper has so far been limited, perhaps happening mainly through individuals. Nevertheless, some sharing of the lessons has taken place through the Water Convention’s platform.⁸ As Russia’s other bilateral agreements on transboundary waters are more recent than the one with Finland (UNECE, 2011), the experience may have informed the development of Russia’s cooperation in other basins (on other borders).

Thorough assessment of the work done by the commissions and its impacts lies outside the scope of this paper. Nonetheless, it is reasonable to infer that the manner in which the cooperation has been established, and the exchange of information and coordination of actions it has facilitated, has contributed to Finland and its co-riparians making significant progress in the management of transboundary waters. While there is always room for improvement, the current state of cooperation bodes well in the light of the UNECE Principles for Effective Joint Bodies.

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⁸ Examples of such experience sharing include “The Water allocation in transboundary basins: a global workshop on the status and good practices” in Geneva, 16–17 October 2017 and the international symposium “Managing Transboundary Waters: From Policy to Practice” in Hanoi, 2–4 October 2016 where also the Finnish experiences were presented and discussed.

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