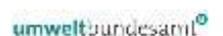




**MINUTES OF MEETING
HIGH LEVEL POLICY DIALOGUE ON
ENFORCEMENT OF WATER LAWS IN SWIM-SM COUNTRIES
SWIM-SM Activity 2.2.12**

Athens, Greece

Oct 14-15, 2014





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1 BACKGROUND

As one of the main constraints discussed during the regional workshop on planning of water resources in Sustainable Water Integrated Management Support Mechanism (SWIM-SM) countries held on 13 and 14 of June, 2012 in Athens Greece, effective water governance, and particularly the rule of law, was found to be often hampered by insufficient policies, inadequate legislative and regulatory frameworks, ill prepared judiciary systems, limited technical and institutional capacities and lack of appropriate modalities and operating systems to ensure compliance and enforcement.

Rule of law in the water and its relevant sectors essentially involves, but is not restricted to, the following main elements: (1) adequacy of water legislations; (2) degree of compliance; (3) capacity to monitor, inspect, audit & report non-compliance; (4) capacity to enforce through accredited monitoring; (4) qualified law enforcement officers, prosecutors and judiciaries; (5) public access to justice, etc.

In order to support SWIM-SM countries in facing these challenges and bridging the gaps as appropriate, the SWIM-SM project devised an integrated series of activities for the years 2013 and 2014. These activities started in 2013 with an assessment of the degree of compliance and the available enforcement capacities in selected SWIM-SM countries. It also included the development of guidelines aiming at improving compliance and enforcement of water legislations. In parallel, a capacity building activity was undertaken through training and exposure through a study tour to best practices in three European countries known for their advancement in this domain.

In 2014, the series of activities included an assessment of the adequacy of water legislations in terms of their compliance and enforcement in addition to an assessment of the institutional and judiciary capacities (prosecutors and judges responsible for water) to handle cases of water quality and quantity violations. Furthermore, as a concluding step in this series of activities, SWIM-SM convened a high-level meeting to debate the subject and draw a roadmap for countries of the region, develop non-binding policy options, agree on measures and tools to adopt to enforce rules of law in the water sector with the view of achieving compliance.

Despite the noticed efforts exerted by several SWIM-SM PCs towards realizing the rule of law and accountability in water resources management, it has been found that extensive effort still needs to be put forth by the range of partners involved to assist the PCs in spreading the rule of law in water and environment sectors, with due consideration to prevailing ethics and integrity norms. On the request of the Participating Countries (PCs) and based on the work already done, SWIM-SM has further prioritized the subject within its work plan.

Within such a framework, SWIM-SM has held a two days regional high-level policy dialogue on enforcement of water and environment related legislations. The aim of the regional event was to agree on policy options and to draw a non-binding road map to improve compliance & enforcement in the field. The ultimate goal of the event was to help SWIM-SM countries reach better water governance through implementing rules of law in the water sector.



2 OBJECTIVES, APPROACH AND RESULTS

2.1 OBJECTIVES

The main objective of the high level 2 days policy dialogue in Athens, was to review the current enforcement and compliance issues in SWIM-SM PCs and identify gaps, deliberate possible policy options, identify measures to improve conformity including capacity needs and suggest guidelines for countries of the region towards better application of rule of law in the water sector with the view of achieving compliance.

2.2 APPROACH TO MEET THE OBJECTIVES OF THE MEETING

In order to achieve the meeting objective, an interactive and participatory approach was adopted, as follows:

- During the first day of the policy dialogue, SWIM-SM provided an account of the main outcomes of the SWIM-SM regional guidelines on measures for improving compliance with water legislations and assessing the available enforcement capacity and mechanisms currently practiced in the SWIM-SM region to enforce water legislation. This was followed by a series of brief presentations on specified enforcement issue to identify all relevant aspects for deliberation. Each brief presentation was followed by a long moderated round table on suitable measures and possible policy options to be considered in the region. Presentation of other regional analysis and programs in the fields could be added in the agenda. The afternoon sessions was devoted for representatives from SWIM-SM countries to provide a brief account on their countries vision, policies and current capacity for the enforcement of water legislations.
- The second day of the meeting was devoted for presenting and discussing additional water compliance and enforcement mechanisms. The second half of the day was devoted to present and discuss draft non-binding policies on enforcement of water legislations for the SWIM-SM countries. This encompassed deliberations on recommended measures to be undertaken to enhance degree of compliance, building capacity and the way forward to implement the adopted policies
- All recommendations and relevant comments emanating for the discussions were reflected in the draft policy brief that was discussed in the last session for potential application in the SWIM-SM PCs without obligations and on a non-binding basis.

2.3 OUTPUTS

- A suggested non-binding policy brief to improve compliance & enforcement of water legislations, including policy options and recommended measures & tools catered for SWIM-SM countries to ensure conformity with water and environment related legislations.
- Major areas where legislative and technical capacities are in need for further development/strengthening was identified.



2.4 MAIN RESULTS AND RECOMMENDATIONS OF THE MEETING:

Main Results:

1. The lack of comprehensive, cohesive, and effective systems for the enforcement¹¹ of the enacted legislation in some SWIM-SM PCs has led, in many cases, to modest degrees of success in achieving compliance with water laws and regulations.
2. Deterrence as a main factor influencing compliance with water regulations is not genuinely practiced in some SWIM-SM PCs. The modality of eliminating economic gains resulting from non-compliance is hardly practiced. In addition, clear methodology for penalty calculation that would incorporate deterrence factors, or minimization of economic gain, is merely non-existing.
3. Inadequate institutional credibility, political power, and adequate resources on the side of the regulating parties, and the insufficient knowledge and technology on the side of the regulated parties, are representing additional barriers to compliance in many countries of the region.
4. The command and control approach is the most favored and prevailing water management modus operandi in most SWIM-SM PCs. This approach, which consists of developing requirements, promoting, and enforcing compliance with the regulations was adopted but partially failed to produce the desired results, especially because most of the effort was allocated to develop the command measures, neglecting the much more costly and demanding control measures.
5. All SWIM-SM PCs have issued water laws giving various degrees of authority to the regulating agencies, and establishing the institutional framework required for enforcement. However, many of these laws were found to be non-consistent, fragmented, overlapping, and sometimes conflicting with already existing laws.
6. Requirements for reporting information through self-monitoring, self-inspection, and self-reporting programs were merely non-existent in many of SWIM-SM PCs. On the other hand, requirements for periodic permits and licenses, which control activities related to water, are widely used as simple, affordable and effective enforcement tools both at the national and local levels.
7. Except in very few cases, remote sensing and over-flight techniques are not used for area monitoring. In most SWIM-SM PCs citizens' complaints are one of the most prevailing sources of information in order after inspections. However, this source of information is often sporadic, non-consistent, and in many cases unreliable.
8. Inspections are a predominating source of information in the region, providing the most relevant and reliable information and constituting the backbone of most water enforcement programs. Yet, field inspection capacity in many countries is still in need for further development.
9. Various types of actions are taken by SWIM-SM PCs in order to respond to water violations ranging from 1- informal and formal administrative actions such as notice of noncompliance and/or warning letters, 2- civil judicial actions such as cases conveyed to court at the request of the regulating agency, 3- to criminal judicial actions when a regulated party has knowingly and willfully or by negligence committed a violation of the water law. Informal and formal administrative actions are the most widely used in many countries of the region. On the other hand, the efficiency of court systems, required for

¹¹ Enforcement systems are compulsory tools to ensure compliance



judicial actions, varies widely among SWIM-SM PCs. In most cases the number of judges, familiar with water laws in the region, was found to be extremely insufficient.

10. The means and criteria that are commonly used to insure the credibility of evidence for noncompliance in SWIM-SM PCs were found to suffer from inadequate Quality Assurance/Quality Control (QA/QC) in sampling and analysis of water. Furthermore, many of the countries are unfamiliar with chain-of-custody that allows (1) the handling of water to be traced at any moment in time and (2) from insufficient documentation of all information about samples from collection to test results.
11. Most countries suffer from the near absence of experts with adequate training who can testify in courts of law.
12. In SWIM-SM PCs the monetary penalty is not based on a clear calculation methodology that reflects the seriousness and gravity of the violation. Furthermore, the water regulations in the region do not provide the maximum statutory penalty to set the basis for estimating the potential maximum penalty liability.

Main Recommendations:

On Compliance:

1. In order to ensure enforceability, SWIM-SM PCs might have to (1) improve the social climate and create a culture for compliance, (2) analyze the ability to comply, (3) involve the regulated community, stakeholders, and the enforcement officials in developing the requirements.
2. The identified management approaches for water resources in SWIM-SM PCs need to be discussed in terms of their feasibility. The command and control approach needs to be addressed as the fundamental management approach widely accepted in all SWIM-SM PCs.
3. The command and control approach needs to be reinforced and supported by the insertion of additional tools and measures that would further catalyze, synergize, encourage and promote compliance. These complementary management tools and measures include voluntary approach, market-based economic incentive approaches, participatory approaches, etc.
4. It is desirable for SWIM-SM PCs to ensure that the issued requirements are economically affordable and technically applicable. Furthermore, the laws need to provide the necessary authorities for enforcement and that those requirements are clear and practical.
5. As a part of their efforts towards improving compliance with water regulations, regulating authorities need to publicize and promote compliance through (1) Education, (2) Information dissemination, (3) Technical assistance, (4) Building public support & partnership, and (5) Publicizing success stories of compliance and failures.
6. When developing their water regulation SWIM-SM PCs need to fulfill the following sequence of provisions that are (1) Clear and understandable, (2) Accurate in defining what water activities are subject to the regulation, (3) Precise in defining the regulations and the conditions for any exceptions or deviation, (4) Clear in defining how compliance is to be achieved by specifying methods and procedures, (5) Clear in stating deadlines for compliance, (6) Flexible enough to be constructively adapted in setting permits or licenses, and based on control and monitoring technologies that are available, affordable and reliable in order to end-up with an enforcement action.
7. The regulated parties often need to simply know what regulations they are subject to, why to abide, how to conform, and when to comply with the imposed regulations. The



regulating authorities need to provide immediate answers to these questions and provide education, technical assistance, and technological solutions. These necessities constitute the central foundation for effective compliance with water obligations before resorting to enforcement.

8. One of the primary roles of the regulating authorities is to change the present human behavior to adhere with water requirements through (1) Motivating the regulated community to comply, (2) Removing obstacles that prevent compliance such as excessive cost, technical difficulties, etc., and (3) Overcoming existing factors that encourage non-compliance such as lack of economic incentives, disincentives, deterring penalties, poor monitoring and inspection, etc.
9. The regulating authorities need to motivate compliance of the regulated community through (1) Imposing penalties to deter violators, (2) Applying consistent economic incentives and disincentives, (3) Ensuring institutional credibility by sending a message that compliance is imperative.
10. In case of its nonexistence, regulating authorities need to design a national compliance strategy that is based on the establishment of (1) A compliance monitoring program, which sets out the priorities and rationale for conducting on-site inspections and other types of monitoring and (2) An enforcement response policy, which details the appropriate level of enforcement actions.

On Enforcement

1. In fostering compliance, SWIM-SM PCs need to ensure that the issued water legislations are enforceable and that requirements are clear and practical.
2. Regulating authorities should consider (concurrent with the development of an inspection legal framework) the establishment of an inspectorate accompanied by a clear program of inspections and investigations that are complemented by spot checks.
3. Regulating authorities in SWIM-SM PCs need to establish a credible monitoring system to verify compliance that stands on the three pillars (1) Self-monitoring, record-keeping, and reporting, (2) Area monitoring using remote sensing to check water conditions on large scale, (3) Promoted mechanisms for citizens' complaints to unveil and expose non-compliances that are not detected by inspection or self-monitoring systems (4) Civil society has a pivotal role to play in monitoring and reporting noncompliance as specified in the legislation.
4. Documentation of violation evidence must be accurate, authenticated and complete. It is therefore important for the regulating authorities to develop systems that can furnish certified credible evidence for the purpose of legal enforcement of regulations.
5. Regulating authorities might need to design a consistent enforcement response system that encounters noncompliance. It was suggested that the system be based on the seriousness and harm of violation, intent of the violator, his history of compliance, his attempt to conceal information and his willingness to cooperate with the regulating authorities.
6. SWIM PCs need to institute three gradually increasing levels of legal actions pursuant to the appropriate statute to enforce water legislations. These would include (1) Formal and informal administrative actions (2) Civil judicial actions, (3) Criminal judicial actions..
7. SWIM-SM PCs need to consider the establishment of a system to assess the appropriate penalties for the settlement of civil and administrative actions. The system can be designed so that violators whose negligence, actions, or inactions, result in a significant economic benefit and/or harm or threaten water resources would pay the highest penalties.



8. Subject to their prevailing legal systems, SWIM-SM PCs might consider the establishment of a system to assess the appropriate penalties for the settlement of civil and administrative actions. The penalties should (1) Be large enough to deter noncompliance, (2) Insure that violators do not obtain an economic advantage over their competitors, (3) Be consistent and predictable across all geographical locations, and (4) Be based on a logical calculation methodology to promote swift resolution of enforcement actions.

3 PROFILE OF PARTICIPANTS

The dialogue was attended by high-ranking water policy makers, high-level representatives of national environmental regulating authority, specialized judiciaries (prosecutors and judges) In addition to two eminent international experts of legal background, a regional NGOs and one relevant NGO from some SWIM PCs.

4 OVERVIEW OF THE WORKSHOP AGENDA

The workshop was held over two days (October 14 & 15, 2014) as per the detailed Agenda in **Section 6** of this report.

The agenda during **Day 1** consisted of:

- Overview of SWIM-SM regional guidelines on measures for improving compliance with water legislations and assessing the available enforcement capacity and mechanisms currently practiced in the SWIM-SM region
 - Current status of compliance and enforcement of water legislations in SWIM Region.
 - Gaps and challenges encountered in enforcing water legislations in SWIM Region
 - Means and measures to gear water regulations to commensurate with the command & control approach
 - feasible mechanisms & tools needed to communicate water requirements to the regulated community to promote compliance

Review national water enforcement policies in SWIM-SM countries namely Algeria, Egypt, Israel, Jordan, Libya, Lebanon, Morocco, Palestine, and Tunisia,

All the above was followed by discussions between the participants and the experts.

Day 2: Included:

- Presentations on
 - Measures to create an enabling environment for compliance including public participation and technical support.
 - Measures to motivate the regulated community to comply using incentives, disincentives, penalties and deterrence.
 - Policies, measures & capacity needed to monitor & verify compliance



- Credibility of the indicting evidences of noncompliance and establishment of credible enforcement response systems to violations.
 - Systems to assess and incorporate proportionate penalties to water violations including a mechanism to assess adequate deterrence.
 - Policies, measures, tools and capacities in need for further development in SWIM-SM countries to ensure conformity with water legislations.
 - Policies, measures, institutions and systems needed to enable the judiciary system (prosecutors and judges) to handle cases of violation of water legislations.
- Discussion of suggested policies options for the enforcement of water and environment related legislations in the SWIM-SM region.
 - The way forward
 - Concluding remarks for the workshop.

5 PRESENTATIONS AND DISCUSSIONS

5.1 PRESENTATIONS AND DISCUSSIONS

Day 1:

Presentation 1: The current status of compliance and enforcement of water legislations in SWIM Region

The main points of the presentation were the following:

- Qualitative assessment of compliance and current status
- Examples of non-compliance
- Methodology to assess level of compliance and means to improve compliance
- The main outcomes of the assessment in different PCs
- A diagram was presented showing the historical evolution of different compliance approach, their use and involved stakeholders

The main points derived from the discussions following the presentation are:

- Political turmoil affects compliance and enforcement in the SWIM PCs.
- Several factors affect compliance such as competition and lack of knowledge
- Fragmentation of legislation through sectorial laws hinders the management of the water resources.
- To reduce problems of fragmentation, there is a need to make sure that different strands of legislation in different institutions are consistent with the main water legislation.
- Improve public participation in formulating laws improves laws and regulations and compliance.

Presentation 2: Gaps and challenges encountered in enforcing water legislations in



SWIM Region

The main points of the presentation were the following:

- Challenges and constraints leading to limited compliance with water and aquatic environment legislation
- The different factors affecting compliance
- Description of the different approaches to enforcement in SWIM PCs

The main points derived from the discussions following the presentation are:

- Independent water authorities reduce political interferences in the enforcement of legislation.
- NGOs might have agendas contradicting the decision of public authorities and the general public. The solution is to expand public participation beyond NGOs.
- Awareness raising is important for the use of participatory approach.
- Risk assessments help prioritize enforcement needs.
- Calculation of sanctions and evaluation of impact and damages is important
- Eliminating existing incentives in the water sector could be used as a sanction instead of adding new sanctions.
- Shutting down non compliant institutions such as large industries is rarely resorted to as a sanction by the authorities even in Europe.
- To reduce political pressure on the water authorities, the inspector and the water authority should immediately transfer reported violations to the court.
- Recording of violations and citations is lacking in North African countries and accordingly trends cannot be measured.
- Legislation should contain text to encourage people to apply laws.
- Monitoring units should be autonomous to avoid political pressures and corruption.

Presentation 3: Means and measures to gear water regulations to commensurate with the command & control approach commonly used in SWIM Countries.

The main points of the presentation were the following:

- How to gear water regulations to commensurate with the command and control approach
- Legal hierarchies in water legislation.
- Description and use of water laws, regulations, and requirements for the command and control approaches
- Description of different forms of requirements such as ambient, performance, technology, and practice standards, reporting information.
- Description of permits and licenses.

The main points derived from the discussions following the presentation are:

- Authorities need to reach out to regulated population to explain regulation and not wait for the regulated population to come to authorities



- Specific standards and limit values need to be set for certain industries because general standards can be constraining. Some of the specific limit values can be problematic because they do not take into consideration the assimilation capacity of the receiving bodies.
- Water authorities need to be technically prepared to defend their allegations in the courts of law.
- Users should be included in the process of developing and enhancing legislation in order to improve applicability.
- Administrations tend to oppose new legislation such as water abstraction authorisations because they do not understand how to enforce it.

Presentation 4: feasible mechanisms & tools needed to communicate water requirements to the regulated community to promote compliance

The main points of the presentation were the following:

- Compliance promotion, definition and tools: education, information dissemination, technical assistance, building public support and partnership, and publicizing success stories.
- Types of, tools and means for information dissemination and technical assistance
- Role of the public to serve as watch dogs to non-compliance.

The main points derived from the discussions following the presentation are:

- Promoting compliance can be through incentive measures and advice.
- It is the role of the regulating authority to help the regulated community in knowing about and understanding how to implement legislation.
- People need to be informed and authorities prepared before they begin complying to legislation
- There is a need to develop a program including required capacities and finances in parallel to developing new or amended legislation.
- Alternatives should be provided when prohibitions are applied

Country presentations

Egypt

- Overview of Egyptian legislation
- Overview of authorities related to water enforcement
- Revisions of sanctions
- Support civil servants with better knowledge and technology
- Increase inspection on WWTP and fresh water treatment stations
- Increase public awareness through government and NGOs

Israel

- Institutional framework for water in Israel
- Move to economic incentives better than judicial solutions



- Monitoring is very high and centralized
- Means of enforcement
 - Criminal law: strong but slow
 - Administrative enforcement: effective
 - Economic incentives: faster and clear
- Review of different cases of infractions of water laws and the adequacy or non of the related legal framework
- The public plays a strong monitoring role
- Needs for improving compliance
 - Including administrative enforcement tools in the Water Law
 - Strengthening investigation capabilities
 - Improving monitoring and inspection capabilities.

Jordan

- Overview of the water sector in Jordan.
- Overview of water strategies and policies in Jordan
- Political support is required for implementation
- Amendments are made to the laws constantly to improve compliance
- Sometimes bylaws are stronger than laws and regulations
- Importing standards is not within the capacity of the country to implement; need local adaptation
- Overview of water related legislation and related challenges to implementation

Comments

- Online monitoring of water consumption using remote sensing connected to a central unit was crucial for implementing economic mechanisms for enforcement water laws in Israel.
- Water quality standards do not change dramatically especially those that are related health but those for environmental protections might change in relation to the absorption capacity of the receiving body.
- Proper evidence for indictment is a requirement for successful prosecution.
- Monitoring of water by the Ministry of Environment is complimentary to the efforts of ministries of water.
- Prosecution deals with the legality of the case and indicts or not accordingly
- People have been convicted and fined based on laws in Egypt.
- The new law in Israel puts more emphasis on administrative enforcement and less on judicial enforcement because of the slowness of the judicial system.
- Expert witness report preparation is an important factor for prosecutions.



- In Egypt 2 reports are received for each violation case; one from the police and one from an expert witness.
- In Palestine the police play a strong role in preparing the case for a violation.
- Comment by Morocco echoing that of Israel that administrative sanctions are faster than judicial systems accordingly administrative sanctions should be relied on increasingly. Monitoring is being improved.

Lebanon

- Overview of water related legislation and status of implementation
- Restructuring the water sector through law 221
- Role of the Ministry of Energy and Water: Issuance, enactment and enforcement of legislations and regulations.
- Water code provisions: creation of water police and restraining measures
- Application of IWRM at the basin level
- Gaps in waster legislation and enforcement
- Inclusion of Environmental Impact Assessment (EIA) for projects is important
- Judges have a course on environment in their curriculum.
- Capacity development is needed in Monitoring
- Incentives for implementation are inexistent
- Inter-ministerial cooperation needs strengthening.

Morocco

- Law 110 most important in Morocco
- Legal framework for water in Morocco, objectives and principles (most relevant: participation, creation of water police, polluter pays principle, creation of basin agencies)
- Circulars and implementation notes serve to explain the application of certain regulations, coordination between basin agencies and clarification and relationships between basin agencies and local communities.
- The role and structure of the water police.
- Sanctions are administrative and judicial.
- Challenges and barriers to the role of the water police
 - Lack of status and job description
 - Sanctions are not dissuasive
 - Lack of training
 - Non-gratifying job
 - Slow treatment of cases of infractions
- Actions are being taken for communication and awareness raising

Palestine



- Vision for the water sector and the 5 strategic objectives
- Control of water resources is problematic in Palestine due to control by Israel
- Presence of laws other than Palestinian (Israeli and Jordanian), complicates enforcement.
- New law splits monitoring from management structurally
- Polluter pays principle applied
- Structure of the water sector.
- Palestinian Water Authority conducts regular monitoring including database
- Level of compliance and enforcement unsatisfactory.
- Needed: effective regulations, education, information dissemination and technical assistance, building public support... and adoption of penalty incentives.

Tunisia

- The right to water is now in the constitution
- First water code in 1975 and a new code in preparation
- Description of the water code
- Development of participatory approach needs to be reflected in the law
- Over abstraction is important in Tunisia
- Main problems in the implementation of the water law
 - Non-implication of local authorities
 - Lack of awareness of users and judges
 - Civil society is not involved
 - Economic and developmental problems overtakes implementation of water laws
 - Judges not aware of water issues and problems
- Needed measures
 - Build the capacity of the local authorities
 - Include users in the preparation of development plans
 - Create local councils for water management
 - General awareness raising on water issues

Comments

- In Morocco, financial penalties from sanctions given by the judicial body go to the public budget and not the water management body. The new law amends this through creating a percentage from sanctions that go to the water budget.

Day 2

Presentation 5: Measures to create an enabling environment for compliance including public participation and technical support.



The main points of the presentation were the following:

- To identify and discuss the measures (6) that a regulating authority can undertake to ensure acceptable levels of compliance with water legislation.
- Creating a climate for compliance: science, options, and cost benefit of regulation
- Analyzing the ability to comply especially at the resources level
- Identifying the size of the regulated authorities
- Involving the regulated communities, stakeholders and enforcement officials
- Verify feasibility and acceptability and regulation

The main points derived from the discussions following the presentation are:

- The size of the regulated community is being neglected in the process of law development and enforcement and the tendency is to down size the community.
- The financial sustainability of the water laws enforcement sector is important and requires a review of cost recovery options for the sector.
- There should be investments in self monitoring to reduce costs on government using possibly online monitoring and indicators.
- Knowledge provision to the public improves compliance and makes the public more supportive of the government.
- There is an important role to be played by NGOs in improving compliance.
- The time dimension in the process of law application is very important in terms of government credibility
- Participation in drafting laws and studies on socioeconomic impacts of laws has become a trend in Morocco.
- Real life situations are different than theory in terms of estimates of costs and resources needed for enforcement and developing laws should not be hampered by assessments of cost and resource requirements.
- Acceptability is a parameter that needs to be carefully used for the viability of legislation.
- Legislators and administrators should move from wild guesses to intelligent guesses in relationship to the size of the regulated communities and required resources for enforcement.
- Acceptability of laws can be improved through dialogue.

Presentation 6: Responding to non-compliance with water legislation

The main points of the presentation were the following:

- Identify and discuss criteria to respond to cases of noncompliance with water legislation, levels of enforcement actions and measures for responding to violations.
- The kind of enforcement depends on:
 - Nature of the violation
 - Effectiveness in achieving the desired result with the violator:
 - Consistency in enforcement



- Levels of legal actions:
 - Administrative actions (formal or informal includes penalty) are economic and fastest to apply when appropriate
 - Civil judicial actions is hampered by lack of trained judges
 - Criminal judicial actions slow and should be least used
- Measures to respond to violations

The main points derived from the discussions following the presentation are:

- The authorities should have the possibility of to take immediate action such as the instant shutting down of a process or a facility in case violations are hazardous. Immediate shutting down of facilities can be done by inspectors in Jordan.
- Countries are different in organization of procedures such as jurisdictions.
- There should be a distinction between simple violations and violations in areas of risk and consequently inspectors should be capable to stop infractions and not wait for tribunals due to slow judicial process. In Morocco inspectors can close facilities in case of high sensitivity.
- There is no-need for internal regulating authorities within water administrations if administrative tribunals exist which do have emergency procedures in cases of high sensitivity violations.
- The role of the inspector should be limited to evidence and differentiated from that of experts and the court.
- There is a need to differentiate between sanctions and create specialized environmental penal procedures.
- Criminal actions can be taken also in cases of negligence.
- New practice in pursuing violators in France based on 2012 law. One unique judge can stop the violation and pronounce the sanction without audience which can be either accepted by the violator or refused with the possibility of higher penalties being applied later.

Presentation 7: Policies, measures & capacity needed to monitor & verify compliance

The main points of the presentation were the following:

- Identify and discuss the policies, measures & capacity needed to monitor & verify compliance.
- Compliance monitoring needs good quality data that is properly analysed and accordingly proper equipment
- National compliance strategies should include compliance monitoring and establishment of enforcement response policy.
- Sources of compliance
 - Inspection by trained officers within a properly equipped inspection infrastructure
 - Self monitoring and reporting relies on integrity and awareness



- Area monitoring (ambient, remote sensing, over-flights)
- Citizen complaints

The main points derived from the discussions following the presentation are:

- Monitoring systems presented are directed to water quality and should be expanded more to water abstraction.
- Water quantity monitoring is easy due to easier recovery after the violation as compared to quality damage.
- There is a need to build the capacity of the self monitoring community to perform required monitoring tasks.
- Proper evaluation of the gravity of the impact of a violation is problematic
- Self monitoring is also resource intensive and requires skills and needs to be supported by different measures such as announced and unannounced visits to make sure it is being carried out properly.

Presentation 8: Credibility of the indicting evidences of noncompliance and establishment of credible enforcement response systems to violations.

The main points of the presentation were the following:

- Identify and discuss the credibility of indicting evidences of noncompliance and establishment of credible enforcement response systems to violations of water and aquatic environment regulation.
- Monitoring compliance is an important element of enforcement and should be based on proper data and information.
- Evidence of non-compliance needs unchallengeable and unquestionable evidence.

The main points derived from the discussions following the presentation are:

- Morocco subcontracts laboratory analysis related to evidence of violations to private labs and not to the water authority.
- The most difficult is linking effect to cause when there is a violation

Presentation 9: Systems to assess and incorporate proportionate penalties to water violations including a mechanism to assess adequate deterrence

The main points of the presentation were the following:

- Necessity of penalty assessment
- Kinds of penalties
- Purpose of penalties
- Factors for determining penalties (reflect gravity of violations)
- Methodology for penalty calculations based on a formula including gravity, significance, impact, recalcitration, etc.

The main points derived from the discussions following the presentation are:

- Calculation of penalties using a formula is not as straightforward as it seems and especially for judges.



- Support by technical experts should be thought for penalty calculation.
- Old but still existing laws do not permit penalty calculation because the penalty is already set in the law and it is relatively low.
- Countries have to apply the existing laws even if it needs updating.
- There is a need for time and training to pass to modern ways to calculate penalties and stick to penalty intervals.

Presentation 10: Policy perspectives and an agenda for actions to improve the enforcement record for water legislation

The main points of the presentation were the following:

- Law enforcement triad: monitoring, reporting and swift prosecution
- Law enforcement enhancement and coordination between law enforcement authorities.
- Enforcement facilitated by:
 - Education and training of law enforcement officers, public prosecutors and judges
 - Consolidation of disparate penalties
 - Simplification of procedures (formal warning)
 - Obligation by offender to undertake training and awareness raising
 - Review of laws
 - Alignment of institutions
 - Improved modus operandi of competent authorities
 - Education and sensitization of government and judiciary

The main points derived from the discussions following the presentation are:

- Technical information provided to judges and law enforcement officers during training are just for raising awareness and not to go into the intricacies of science which should be left to experts.
- Judges do not know water laws and tend to use penal law for judging in Morocco
- The Moroccan experience is to integrate judges in EIAs and law development
- Violators usually violate several laws not just water. There is a need to identify violations under different laws to increase pressure on violators.

Presentation 11: Policies, measures, institutions and systems needed to enable the judiciary system to handle cases of violation of water legislation

The main points of the presentation were the following:

- Policies, measures, institutions and systems needed to enable the judiciary system to handle cases of violation of water legislation.
 - In the legal framework (water law: clear definitions and declaration/authorization in a permitting system)
 - At the institutional level (clear definition of responsibilities, organization of



control and inspection, qualified inspectors with appropriate guidelines and tools)

- At the judiciary level (high standard evidence, clear understanding of legislation and impact of violation, determination of sanctions, experts for support, special chamber, database, role of NGOs)

The main points derived from the discussions following the presentation are:

- Water experts should be integrated in courts to accelerate procedures and using them by the judges should become mandatory.
- Judges need to understand water and environment especially prosecutors because they intervene first in a case when the data is not complete yet. For judges it is easier because they can be supported by expert reports and proofs in later developing the case.

WAY FORWARD SESSION

- Identification of rule of law as a priority action for implementation of IWRM
- Overview of SWIM activities related to the rule of law

Request from SWIM to participants to suggest activities for SWIM extension and SWIM 2

- BURCI suggested mechanisms in legislation to facilitate enforcement and compliance through a review of information. Institutional setup for enforcement and compliance. How to organize of carrying out the business of law enforcement and compliance. Education and training of officers, judges, prosecutors.
- STEPHAN. Judicial new procedures. Accompanying measures when creating water law.
- MOR. Environment conformity and review of water laws.
- RAED. Public participation in water management.
- HK. Trainings and study tours for water enforcement officials.
- MOR. Remote sensing support.
- TUN. Restructuring the water code and strengthening water police. Methodologies for calculating penalties.
- PAL. Awareness raising campaign on importance of rule of law in water sector.
- LEB. Improve the knowledge of inspectors, judges and prosecutors on water and environment law. Support NGOs to collaborate with the public sector. Improve the knowledge of the private sector on PPPs.
- Israel: Transparency in decisions and adapting technologies.

6 EVALUATION

6.1 GENERAL COMMENTS

- Improve interpretation (2)
- Lack of team spirit (from Israel)



- Improve accommodation and transportation.
- Stick to the time allocated to presentations.
- Improve participation by the audience.
- Improve country presentations towards more targeted information and not generalities.
- Organize working groups from which to draw lessons.

LIKED

- The structured presentations
- The level of presentations
- Discussions and lessons learned
- Facilitation and interventions by the experts
- Good participation

DID NOT LIKE

- Flights and transport from and to the airport (2)

6.2 DESCRIPTIVE STATISTICS OF EVALUATION GRADING:

At the end of the meeting the participants filled an evaluation form to express their opinion and feelings about the efficiency, effectiveness and soundness of both the organization and delivery of the meeting. The forms were thereafter analysed to extract lessons and recommendations for future events. Below is a summary of the evaluation findings and main feedback from the participants. The form has been divided in 2 parts (A and B) and the questions made are summarized in the table below:

Table 1. Questions asked in the evaluation form

A1	Good handling of invitations, visas and event information
A2	Smooth flow of the programme
A3	Efficient logistics
A4	Planning of the event
A5	Efficient and effective follow up of preparation and progress towards the event
A6	Clarity, coverage and sufficiency of concepts
A7	Procedural issues. Design of methodology Programme Agenda and work rules
A8	Presentations correspond to planned objectives
B1	Efficient and effective performance and interaction by participants
B2	Efficient and effective facilitation



B3	Efficient and effective Cooperation and team spirit
B4	Acceptable level of achievement of planned objectives
B5	Length of the event
B6	Positive general impression

A scoring scale from 1 to 5, with 1= "Strongly disagree" or the lowest, most negative impression and 5="strongly agree", or the highest, most positive impression. As it can be noticed the average of all questions concerning the organization and administration of the meeting ranged from 3.77 to 4.68 points indicating an overall positive evaluation. On the other hand, the score for the execution of the EGM ranged from 4.09 to 4.40. The general impression about the meeting (B6) was 4.26. Figure 1 illustrates the evaluation of the participants for the organization and administration of the EGM. Figure 2 represents the scoring of the execution of the meeting.

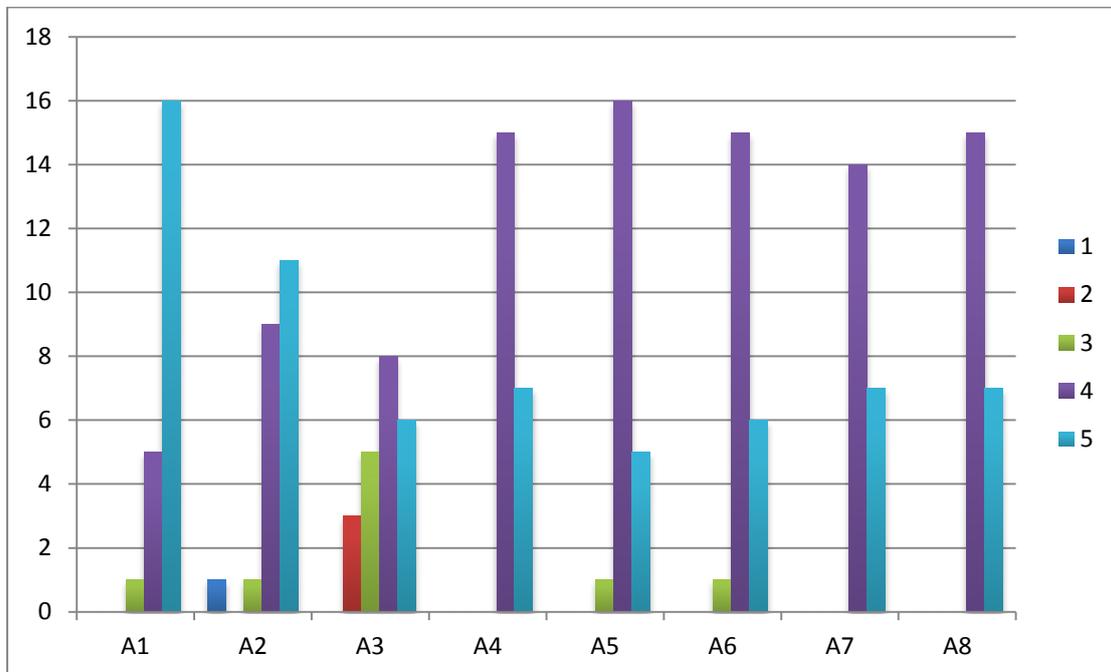


Figure 1. Average number of points obtained per evaluation criteria for organization and administration of the EGM

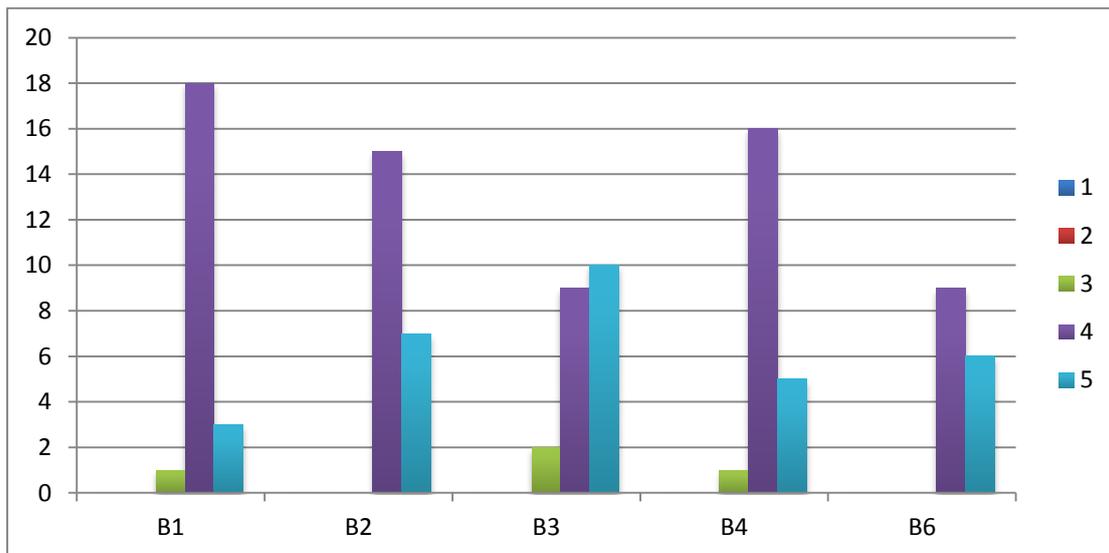


Figure 2. Results of the evaluation of the execution of the EGM

7 DETAILED WORKSHOP AGENDA

Day 1:

9:00-9:30 Session 1: Workshop Opening

- Opening remarks (EC SWIM Project Manager and SWIM-SM Project Director)
- Orientation remarks (Technical Director – SWIM-SM)
- Introductory remarks (Team Leader - SWIM-SM)
- Tour de table

9:30-11:00 Session II: Overview of SWIM-SM regional guidelines on measures for improving compliance with water legislations and assessing the available enforcement capacity and mechanisms currently practiced in the SWIM-SM region:

- Presentation on current status of compliance and enforcement of water legislations in SWIM Region, (15 minutes)
- Round table discussion of the findings, (30 minutes)
- Presentation on gaps and challenges encountered in enforcing water legislations in SWIM Region, (15 minutes)
- Round table discussion of the findings (30 minutes)

11:00-11:30 Coffee Break (30 minutes)

11:30-13:00 Session III:

- Presentation on means and measures to gear water regulations to commensurate with the command & control approach commonly used in SWIM-SM PCs. (15 minutes)
- Round table discussion (30 minutes)



- Presentation on feasible mechanisms & tools needed to communicate water requirements to the regulated community to promote compliance. (15 minutes)
- Round table discussion (30 minutes)

13:00 – 14:00 Lunch Break (60 minutes)

14:00-15:30: Session IV-1: Review national water enforcement policies in SWIM-SM countries.

- Egypt: National enforcement vision and policies (10 minutes)
- Israel: National enforcement vision and policies (10 minutes)
- Jordan: National enforcement vision and policies (10 minutes)
- Libya: National desalination vision and policies (10 minutes)

Discussion and comments (40 minutes)

15:30-16:00 Coffee Break

16:00-17:30: Session IV-2: Review national water enforcement policies in SWIM-SM countries.

- Lebanon: National enforcement vision and policies (10 minutes)
- Morocco: National enforcement vision and policies (10 minutes)
- Palestine: National enforcement vision and policies (10 minutes)
- Tunisia: National enforcement vision and policies (10 minutes)
- Discussion and comments (50 minutes)
-

Day 2:

9:00-11:00 Session V:

- Presentation on Measures to create an enabling environment for compliance including public participation and technical support. (10 minutes).
- Round table discussion. (20 minutes)
- Presentation on measures to motivate the regulated community to comply using incentives, disincentives, penalties and deterrence. (10 minutes)
- Round table discussion (20 minutes)
- Presentation on Policies, measure & capacity needed to monitor & verify compliance. (10 minutes)
- Round table discussion (20 minutes)
- Presentation on credibility of the indicting evidences of noncompliance and establishment of credible enforcement response systems to violations. (10 minutes)
- Round table discussion (20 minutes)

11:00-11:30 Coffee Break

11:30-13:00 Session VI:



- Presentation on systems to assess and incorporate proportionate penalties to water violations including a mechanism to assess adequate deterrence. (10 minutes)
- Round table discussion of the findings (20 minutes)
- Presentation on policies, measures, tools and capacities in need for further development in SWIM-SM countries to ensure conformity with water legislations. (15 minutes) (Mr Stefano Burchi - NKE SWIM-SM)
- Round table discussion of the findings (15 minutes)
- Presentation on policies, measures, institutions and systems needed to enable the judiciary system (prosecutors and judges) to handle cases of violation of water legislations. (15 minutes) (Ms Raya Marina Stephan - NKE SWIM-SM)
- Round table discussion of the findings (15 minutes)

13:00-14:00 Lunch Break

14:00-15:00: Session VII: Discussion of suggested policies options for the enforcement of water and environment related legislations in the SWIM-SM region.

- Presentation of suggested policy options (15 minutes)
- Moderated discussion (45 minutes)

15:00-16:00: Coffee break.

16:00-17:00: Session VIII: (Panel: Ms Raya Marina Stephan - NKE SWIM-SM, Mr Stefano Burchi- NKE SWIM-SM, Prof. Hosny Khordagui - SWIM-SM Team Leader)

- The way forward (30 minutes)
- Concluding remarks (30 minutes)



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