

SUSTAINABLE WATER INTEGRATED MANAGEMENT (SWIM)
CAPACITY DEVELOPMENT FOR WATER AND ENVIRONMENTAL
PROSECUTORS AND INVESTIGATORS

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LEGAL/INSTITUTIONAL
MACHINERY FOR THE
ENFORCEMENT OF WATER
LEGISLATION

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SCOPE AND NATURE OF ENFORCEMENT MECHANISMS

- ❑ SETTING THE STANDARD OF UNLAWFUL BEHAVIOUR: OFFENCES AND RELEVANT PENALTIES
- ❑ MONITORING COMPLIANCE WITH LEGAL OBLIGATIONS
 - ❑ Entry & inspection powers
 - ❑ Taking of samples & evidence
 - ❑ Duty to provide information on request

SCOPE AND NATURE OF ENFORCEMENT MECHANISMS

- ❑ STOPPING/REMEDYING NON-COMPLIANCE
 - ❑ Administrative directions
 - ❑ Enforcement orders/notices
 - ❑ Substituting for non-compliant order receiver

- ❑ PROSECUTING UNLAWFUL BEHAVIOUR
 - ❑ Power of arrest
 - ❑ Prosecutions in general

SELECTED CASES

CASE 1 – HONG KONG – WATER POLLUTION
(2001)

CASE 2 – INDIA – WATER POLLUTION
(2008)

CASE 3 – AUSTRALIA (NSW) – WATER
ABSTRACTION (2012)

INSTITUTIONAL ASPECTS

“A hyper-fragmented sector” (OECD Water Governance Survey, 2011)

Central government (ministries, line departments, public agencies) –

- ❑ strategic planning (France, Spain)
- ❑ priority-setting (ditto)
- ❑ environmental regulation (Canada, USA, UK)

INSTITUTIONAL ASPECTS

Sub-national levels of government –
role in water policy-making and
implementation

- ❑ principal actors (Canada, USA, Australia, Belgium)
- ❑ co-actors with CG (France, Spain, Italy, Netherlands, UK, Portugal)

INSTITUTIONAL ASPECTS

Sub-national actors include, in particular –

- ❑ Water Users' Associations, with increasing law enforcement profile
- ❑ Regional governments (Italy, Spain)
- ❑ River Basin Organizations, notably in France (6), Portugal (5), Spain (9), Mexico (25), Italy, Netherlands (Water Boards)

INSTITUTIONAL ASPECTS

Coordination mechanisms – upper horizontal level

- ❑ inter-ministerial bodies (France, Belgium)
- ❑ high-level structures (Australia, Greece)

Coordination – lower horizontal

- ❑ river basin networks (Canada: Mackenzie River Basin Board – Colorado: IBCC)

FINAL OBSERVATION

Enforcement of environmental norms ranked among top governance challenges outstanding by Belgium, France, Israel, Mexico, Spain, UK, moderately important by other countries (OECD Water Governance Survey, 2011)

THANK YOU!

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FAOLEX (water and other natural resources
legislation on-line database) [http://
faolex.fao.org/](http://faolex.fao.org/)