

# POLICY BRIEF

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## The Ocotepeque – Citalá Statement of Intent: A first step towards transboundary aquifer cooperation in Central America?

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## ***The Ocotepeque – Citalá Statement of Intent: A first step towards transboundary aquifer cooperation in Central America?***

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On 22 February 2019 the Ocotepeque – Citalá Statement of Intent (Ocotepeque – Citalá Sol) was signed (the official title in Spanish is “Carta de Intención entre municipalidades, juntas de agua, instituciones nacionales y regionales para la gobernanza integrada del acuífero Ocotepeque – Citalá compartido por El Salvador y Honduras en la región del Trifinio”). If only for the scarcity of agreements on transboundary aquifers (TBA), the Ocotepeque – Citalá Sol is to be celebrated, although it should not be considered as a formal legal instrument and should not be added to the very short list of TBA agreements in existence globally. Nevertheless, the document is interesting in a number of ways, and not just because it adds to the very scarce state practice in the field of TBA management. This short piece provides a brief overview of the main provisions of the Ocotepeque – Citalá Sol and focuses on a specific aspect: its inclusiveness when it comes to parties participating in the governance of the TBA.

### **The Ocotepeque – Citalá Statement of Intent and the GGRETA project**

The Ocotepeque – Citalá Sol is one of the results of the Governance of Groundwater Resources in Transboundary Aquifers (GGRETA)

project funded by the Swiss Development and Cooperation Agency and implemented by UNESCO-International Hydrological Programme in collaboration with the International Union for the Conservation of Nature. The project was key in providing clarity as to the nature and extent of aquifers in the Trifinio region, which includes parts of Guatemala, El Salvador and Honduras. The project was also essential in bringing together a wide array of stakeholders interested in surface water and groundwater management in the region. Finally, the project also provided local stakeholders with capacity building on the emerging international legal frameworks applicable to transboundary aquifers.

While the GGRETA project is to be celebrated and served as a catalyst for this arrangement, the Ocotepeque – Citalá Sol is the result of the will of people living over the transboundary aquifer and has been shaped by local, national and regional actors.



## **An overview of the Ocotepeque – Citalá Statement of Intent**

The Ocotepeque – Citalá Sol has a preamble, 6 main statements, and a final section that concludes the text. The preamble references sovereignty, a sticking point in the debate over the international law of TBAs, and to water as a vital human need and its importance for indigenous people. The preamble also focuses on climate change and on the need to have a reliable database as a precursor for any solid cooperation. It then makes clear references to the emerging international law of transboundary aquifers and UNGA Resolution 63/124 and to the Sustainable Development Goals, with a specific mention of SDG 6.5.

Moving to the substance of the text, the key intent of the signatories is to establish in future, and when appropriate, a TBA Binational Management Committee, and to nest it in the existing tri-national institutional framework for the implementation of the Plan Trifinio (Guatemala, in addition to El Salvador and Honduras, is also a member of this framework). The Committee would be constituted by:

- 1 person per municipality in the Ocotepeque – Citalá Aquifer area;
- 2 persons per country representing the local Water Supply & Sewage Authorities operating in the Ocotepeque – Citalá Aquifer area;
- 1 representative of the network of municipal commonwealths of the Trifinio region;
- 1 representative of the Plan Trifinio Executive Secretariat;
- 1 representative each of the ministries responsible for water resources in El Salvador and in Honduras.

The TBA Binational Management Committee also will ensure adequate gender representation and participation of indigenous people. The activities and tasks of the TBA Binational Management Committee are to consist of:

- Collection and collation of data necessary for the sound management of the TBA;
- Exchange of information amongst all TBA stakeholders; and
- Identification of funding in order to deliver its activities.



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The signatories further commit themselves to share information available to them, including socio-economic data that is collected locally on both sides of the border. Signatories also commit to harmonize this data in order to facilitate their processing. All these commitments are qualified, as they will be undertaken based on the signatories' capacities, competences, and respective authority.

Finally, it is foreseen that the cooperation triggered by the Ocotepeque – Citalá Aquifer Binational Management Committee will lead in the future to an agreed binational strategy for the conservation, protection and sustainable utilisation of Ocotepeque – Citalá Aquifer resources, including an implementation plan. In a bid to achieve the integrated management of the water resources in the region, the strategy will take into account the relationship between the Ocotepeque – Citalá Aquifer and the Ocotepeque – Citalá Valley surface water system.



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### **An open and inclusive list of actors in the governance of the Ocotepeque – Citalá Aquifer**

One striking aspect of the Ocotepeque – Citalá Sol is its inclusiveness. The document is not an

inter-governmental agreement negotiated and signed by the Ministries of Foreign Affairs. However, it is also not “just” a document signed by two sub-national entities, like the Salto-Concordia agreement related to the Guarani Aquifer System. The list of signatories to the Ocotepeque – Citalá Sol includes the following actors:

- Municipalities;
- Local water supply and sewerage authorities;
- Network of municipal commonwealths of the Trifinio region;
- Plan Trifinio Trinational Commission; and
- The ministries responsible for water resources in the two countries sharing the Ocotepeque – Citalá Aquifer.

The Ocotepeque – Citalá Sol is, hence, truly a document stemming from local, national and regional stakeholders. It includes actors who rely on the aquifer for their daily lives and actors who sit further away in the capitals of El Salvador and Honduras. This combination gives both immediacy and legitimacy to the document. The actors also include the top-level executives of the institutional framework in place for the implementation of the Plan Trifinio. This has operated over the past decades as a strong regional organisation capable of leveraging good practices in the field of natural resources management in the area of the Trifinio mountain range that straddles the borders of El Salvador, Guatemala and Honduras.

Interestingly, in its final section, the Ocotepeque – Citalá Sol opens itself to any public and “private” stakeholder based in the area of the Ocotepeque – Citalá Aquifer that wishes to join the initiative. In order to be added to the list of stakeholders that have subscribed to the common intent recorded in the Statement, the representative of the organisation (public or private) simply needs to sign the document.

The possibility of adding more signatories to the document appears to be a positive step forward in increasing the document's legitimacy. However, it also begs the question of whether this



could open the floodgates and reduce the effectiveness of the Ocotepeque – Citalá Sol. The possibility to have private actors sitting aside public actors is a novelty in the field of TBA management. Again, in principle, the participation of private actors should be commended as a positive step since it includes all stakeholders in the future management of the Ocotepeque – Citalá. However, safeguards should be developed to ensure that private actors involved in any future institution and governance framework developed through the Sol contribute meaningfully and not only as a means to lobby their own commercial interest. A further aspect concerns whether foreign private actors will be allowed to sign the document. As it currently stands, the only requirement is that they “belong” to the area of the Ocotepeque – Citalá.

### **Final remarks on the legal nature of the Ocotepeque – Citalá Statement of Intent**

It is worth reminding that the Ocotepeque – Citalá Sol is not a treaty or a Memorandum of Understanding. The document signed in February 2019 in Esquipulas is a mere statement of admittedly good intentions, and should be considered only as such. It does not impose any legal obligation upon any of the signatories, and definitely not on the two countries that share the Ocotepeque – Citalá Aquifer. Nevertheless, the

Sol does signal a first step toward a future binational cooperation mechanism, and possibly a legal instrument that would underpin it.

The author would like to thank Marina Rubio and Stefano Burchi for comments on this short piece.

Francesco Sindico collaborated in 2015 and 2016 with the GGRETA project Trifinio Aquifer case study contributing to workshops on the emerging international law of transboundary aquifers in San Salvador, El Salvador.

UNESCO press release on the Ocotepeque – Citalá Statement of Intent (in Spanish):

<https://es.unesco.org/news/avance-historico-gestion-conjunta-recursos-hidricos-compartidos-salvador-y-honduras>

This SCELG Policy brief is also available as a blog post on the International Water Law Project website directed by Prof. Gabriel Eckstein and is available at: <https://www.internationalwaterlaw.org/blog/>

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