

LES SYNTHÈSES TECHNIQUES DE L'OFFICE INTERNATIONAL DE L'EAU

The Oudin-Santini Law: 2005-2015, a Decade on ...

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This synthesis « **The Oudin-Santini Law: 2005-2015, a Decade on ...** » was performed by **Rémi Boyer**, student in the AgroParisTech-ENGREF specialized master "Water Management" (post-master degree) in Montpellier.

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TECHNICAL SYNTHESIS

The Oudin-Santini Law : 2005-2015, a Decade on ...

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Abstract :

The Oudin-Santini law is now ten years old. It has enabled water agencies and local authorities to mobilize up to 1% of their water and sanitation budgets for “decentralized cooperation”. Therefore, when it was passed, the law was accompanied with great expectations.

It has actually achieved most of its objectives. It reinforced legal certainty, permitted implementation flexibility and raised funds. It has also provided beneficial support for French public international development funding in a rapidly changing area. The 1% principle for water has spread to electricity and gas, and more recently, household waste.

However, the implementation of the Oudin-Santini law has had to cope with persistent obstacles in terms of dissemination. For elected representatives and for the wider population at large, however, information remains a significant challenge, and is clearly key to increasing the number of stakeholders involved.

Key-words

Decentralized cooperation – Oudin-Santini law – Water and sanitation – Water agencies – Local authorities

Résumé :

La loi Oudin-Santini a dix ans. En permettant aux agences de l'eau et aux collectivités de mobiliser jusqu'à 1% de leurs budgets spécifiques pour des actions de coopération décentralisée dans les domaines de l'eau et de l'assainissement, la loi suscitait au moment de son vote de grandes attentes.

La majeure partie de ses objectifs initiaux ont été atteints, car elle a effectivement garanti une sécurité juridique, une souplesse d'application et un volume financier disponible substantiel. Elle est venue soutenir l'aide publique au développement française, dans un paysage en pleine évolution. Son principe a même été prolongé, avec une ouverture rapide vers l'électricité et le gaz, puis plus récemment vers les déchets solides.

Cependant, la loi a également rencontré des limites dans la diffusion des pratiques qu'elle autorise. Pour les élus comme pour les populations, l'information reste un enjeu central en vue d'élargir le nombre d'acteurs engagés.

Mots-clés

Coopération décentralisée – loi Oudin-Santini – Eau et assainissement – Agences de l'Eau – Collectivités locales

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GLOSSARY

- AESN - Agence de l'Eau Seine Normandie (Seine Normandie Water Agency)
- AFD - Agence Française de Développement (French Development Agency)
- APD - Aide Publique au Développement (Public Development Aid)
- ART - Appui aux Réseaux Territoriaux (Support to territorial networks)
- CAD - Comité d'Aide Développement (Development Aid Committee)
- CGCT - Code Général des Collectivités Territoriales (General Code for Local Authorities)
- CNCD - Commission Nationale pour la Coopération Décentralisée (National Commission For Decentralized Cooperation)
- CNE - Comité National de l'Eau (National Committee for Water)
- CUF - Cités Unies France (France's United Cities)
- DAECT - Délégation pour l'Action Extérieure des Collectivités Territoriales (Delegation For Foreign Actions of Local Authorities)
- FP2E - Fédérations Professionnelle des Entreprises de l'Eau (Water Companies Federation)
- GIRE - Gestion Intégrée des Ressources en Eau (Integrated Water Ressources Management)
- IFOP - Institut Français d'Opinion Publique (French Poll Institute)
- INSEE - L'Institut National de La Statistique et des Etudes Economiques (National Institute For Statistics and Economic Studies)
- OCDE - Organisation de Coopération et de Développement Economiques (Organization for Economic Cooperation and Development)
- OIEau - Office International de l'Eau (International Office for Water)
- ONG - Organisation Non Gouvernementale (Non Governmental Organization)
- PFE - Partenariat Français pour l'Eau (French Water Partnership)
- PNUD - Programme des Nations Unies pour le Développement (United Nations Development Program)
- pS-Water - Programme Solidarité Eau (Water Solidarity Program)
- RIOB - Réseau International des Organismes de Bassin (International Network of Basin Organizations)
- SEDIF - Syndicat des Eaux d'Ile de France (Ile-de-France Water Authority)
- SIAAP - Syndicat Interdépartemental pour l'Assainissement de l'Agglomération Parisienne (Paris Agglomeration Sewage Authority)

Preliminary note: figures and economic data used in the following synthesis are presented in constant Euros. The evolution of the economic inflation over the period 2005-2014 is described in Annex document 3.

INTRODUCTION

“What are the main objectives of this law? I see three main goals : above all, it should give support to the French public development aid : our country has already done a lot in this field, but it must do even more ; then, it would create a legal framework for existing international cooperation action ; and finally it should promote the implementation of new actions.”

In June 22th, 2004, Jacques Oudin, who was currently senator of the Vendée, exposed to the Senate (Senat, 2004) the objectives of a bill he had written. After this speech, the text was adopted at first reading. It allowed water agencies and local authorities responsible of water and sanitation management to mobilize until 1% of their specific budget to actions of decentralized cooperation. After this first step of the procedure, the text continued its parliamentary path: a report was written by the Député André Santini to the law commission of the National Assembly, which adopted it on January 27, 2005. It was finally promulgated February 9th by the President (Loi n°2005-95), and took as usual the name of its two promoters: M. Oudin and M. Santini.

Ten years after, a first assessment can be made, regarding these initial goals: *what have been the effects of the Oudin-Santini law for decentralized cooperation in the fields of water and sanitation?*

To answer this question, many others must be raised. We can list them following the three points mentioned by Mr Oudin. First, by legalizing new possibilities of financing for decentralized cooperation in the fields of water and sanitation, how has this text strengthened law certainty for the preexisting actions? What were these actions? Have they been continued? Second, has the law really given support to the French public development aid? Recognizing 'decentralized cooperation' as a transnational and non-Static space for international relations, what have been the communications and influences between decentralized cooperation on the one hand and traditional interstate relations promoting public development aid on the other hand? Third, has the law been an engine to implement new shares? Has the 1% principle created its own dynamic? Can it be enlarged to other sectors?

These three dimensions will guide each part of the following synthesis: once having studied the juridical context of the law redaction, a statistical report of the financial mechanism in the general framework of French public aid will allow identifying the persisting challenges.

THE OUDIN SANTINI LAW IN ITS HISTORICAL CONTEXT

In order to measure the impact of the law on decentralized cooperation over the decade, it is necessary to study the text itself, by analyzing its innovative content as a response to a legal vacuum.

A LEGAL ISSUE

The legal framework of decentralized cooperation: a law built in answer to local authorities innovations

As explained by Mr André Laignel, in his report on local authorities' foreign relations¹ (Laignel, 2013): “Generally, (...) laws on external actions for local authorities ensued, and in the best cases, supported the concrete initiatives of the elected people more

¹ Provided to the French minister on January 29th, 2013.

than it preceded them.” Indeed, in this field, most of the key-laws were passed in order to “regularize” currently existing actions².

The Oudin-Santini law is not an exception. At the moment of the vote, many local authorities and water agencies were using a part of their financial resources to implement international solidarity actions. The Syndicat des Eaux d’Ile de France (SEDIF), for instance, had already funded 8,6 millions Euros for over twenty years. The Seine Normandie Water Agency (AESN), have also used a part of its budget for cooperation since 1997. We can underline that the president of the SEDIF and the vice-president of the AESN’s board of directors were actually the same person, also promoter of the law: Mr. André Santini. In other words, the representative introduced new actions, and then made them possible by law. Such a reform was actually necessary, considering the specific juridical weaknesses for each category of relevant actors.

Providing legal means for decentralized cooperation in the field of water and sanitation

On the one hand, local authorities responsible for water and sanitation management shall balance their accounts on a cost-recovery basis, according to the “water pays for water” principle. As an Industrial and Commercial Public Service (SPIC), this approach triggers two consequences: water and sanitation budgets have to be independent from the general budget, and consumers should find on their water bill an amount corresponding to the effective service provided (except from the VAT and water agencies’ taxes). However, without a specific law, local authorities billed consumers for a service that wasn’t provided. The possibility of a price modification was furthermore a high legal risk for the mechanism. A specific disposition was planned by article 30 of the “water policy reform” bill. The text was adopted at the first reading at the National Assembly on January 15th, 2002. Unfortunately, it never got to the Senate.

On the other hand, water agencies, as a public body of the State, must cope with the specialty principle. But international cooperation was not part of its responsibilities before the vote of the law. Taxes collected by agencies couldn’t be used for anything but their own prerogatives: attribution of subvention to mitigate water pollution in their jurisdictions. This weakness had been underlined by the Court of Auditors (especially at the occasion of a Rhin-Meuse Agency control in December 2002), and provoked the interruption of their cooperation actions (Court of Auditors, 2002).

Thus, for different reasons but with the same consequence, law certainty of international actions had to be reinforced for local authorities and water agencies. With a specific law, if possible, considering the political difficulties linked with a larger water reform at this time. Charles Guené, as reporter of the Senate law commission, illustrated clearly this necessity to promote a singular text (Guené, 2004, p.16): “the legal uncertainty in which local authorities and water agencies are placed, and the harmful consequences of the interruption of their actions (...) make necessary the adoption of such provisions, without waiting for a new bill to reform water policy”. So the law was passed in this particular context, legally (a double legal uncertainty) and formally (the need of a specific text to not have to wait a larger reform).

² As a key-text on the issue, the decree of 24 January 1956 on twinning actually regulated an already existing practice, supported since the early 1950s by the federalist movement and the Council of European Municipalities. The formulation was even perceived as too restrictive by local elected people, and the Minister for the Interior Mr Bourges Maunoury, published a more flexible circular on May 9th, 1957 (Vion, 2003). Another example is the law of February 6th, 1992. This law provided a legal framework and a name: “decentralized cooperation” to the multiple actions triggered by the early step of decentralization.

AN OPEN LAW

Two articles...

In order to tackle these juridical difficulties, the Oudin-Santini law was redacted in two articles. The first one inserted the article L. 1115-1-1 in the chapter about local authorities' foreign action, in the General Code of Local Authorities (CGCT), redacted as follows³:

“ Local authorities, public establishments of inter-municipalities cooperation and syndicates responsible of water and sanitation services can implement projects of cooperation with foreign local authorities up to 1% of the resources affected to the budget of these services (...).”

Article 2 added the following sentence to the article L. 213-6 of the Environmental Code⁴:

“ In compliance with the international commitments of France and in the framework of agreements conditioned to the opinion of the basin committee, the agency can conduct international cooperation activities in the areas of water and sanitation in up to 1% of its resources (...).”

To conclude, the first article was redacted specifically for local authorities, and the second one for water agencies. However, if the principle is the same, formulation is different, depending on the type of actors concerned.

... for a wide range of possibilities

On the one hand, for local authorities, mechanism of funding can be used for three categories of projects.

-First, the Oudin-Santini law enables local authorities to use the traditional principles of decentralized cooperation. It explicitly refers to the article 1115-1, which defines the framework for concluding agreement with foreign partners. This article was actually modified by the n°2007-147 law of the February 2nd, 2007, also called Thiollière law. This law makes development aid an “attributed competency” of local authorities (Zarecky-Weinberg, 2008).

-Secondly, the law allows international cooperation without agreements in case of humanitarian emergency (conflict or environmental disaster). In these situations, *time* and *money* are the most relevant issues. They are both promoted by the Oudin-Santini law. Here again, the historical context must be taken into account. The law was passed in the Assembly a month after the 26th December 2004 tsunami in Southeast Asia. This disaster aroused an upsurge of solidarity and local authorities weren't able to give a prompt reaction. Even if the bill had been passed in the Senate 6 months before, the Assembly agenda was accelerated by this terrible disaster.

-Thirdly, the law refers to solidarity projects, which are also exempted of agreements. They differ from humanitarian emergency projects by their temporality. Indeed, they are implemented to promote water and sanitation in developing countries, but they are not related to a crisis, and are planned in a middle or long term vision.

³ The article 1115-1-1 was modified on December 8th, 2006, opening the Oudin-Santini 1% mechanism to gas and electricity.

⁴ Considering the « Law on Water » of December 31th, 2006, this sentence is now part of the article L213-9-2 of the Environment Code.

The law is redacted in a fairly flexible formulation, giving space to interpretation. Above all, the choice of actors in position to implement projects is open. Local authorities can mobilize NGO's in the three types of projects (thanks to a multi-partnership for a classical decentralized cooperation, or by direct financing for humanitarian emergency and solidarity projects). The law also leaves significant space for interpretation on the question of funding amounts. The inter-ministerial administrative circular of November 30th 2007 (Ministère de l'Intérieur et al., 2007) gives more precision about the available rates. The 1% only refers to "resources collected from the consumers". This means that all resources from grants or loans are not considered as available resources by the law. Moreover VAT and taxes to water agencies are not part of the account.

Evaluate the exact amount available is a sensitive issue for local authorities. Especially if water and/or sanitation services have been delegated to a private company. The delegation contract may not provide operational earnings for local authorities. In this case, it is often necessary to renegotiate the contract with the company.

On the other hand, for water agencies, the general terminology used ("international cooperation") allows a wide range of activities. In facts, two categories of projects have been implemented in the past decade "institutional support" and "international solidarity":

- Institutional cooperation/support enables water agencies to share their expertise with Basin organizations or partners. In a few words, it can be projects of Integrated Water Resources Management (IWRM), diagnosis, management plans or implementing taxes, etc. In order to manage capacity building projects, water agencies also can use specialized associations, such as International Office for Water (IOWater), technical secretary of the International Network of Basin Organizations (INBO).

- "Solidarity projects" enable water agencies to finance projects managed by local authorities and/or associations of their basins.

To implement these projects, water agencies must have firm agreements submitted to the basin committees. In these committees, the 20% of the seats are held by States' representatives.

The support of the State

Each law of decentralization takes a special meaning in a Jacobin country. Before voting, the position of the State on the bill can be politically essential if the responsibility opened to local authorities is linked with foreign relations, which remains sensitive prerogatives of the State. In this instance, the State supported the bill, defending its juridical and strategic benefits in a globalized economy. During the debate at the Senate, on June 22th, 2004 (Senate, 2004), the delegate ministry on cooperation M. Darcos said: "I naturally give my entire support to the bill (...), it will allow, in my opinion, to valorize French expertise in the field of water, and provide for the committed actors the juridical framework they need. It's also a smart and generous way to promote the development of French water companies in Africa, while raising awareness of our populations."

In order to foster the National foreign policy coherence in a context of actors' diversification, the State has a special administrative direction: the Delegation for the Foreign Action of Local Authorities (DAECT), attached to the ministry of foreign relations. And for the purpose of preserving a space for reflection and proposal, the DAECT is the secretariat of the ministerial consultative body: the National Commission for Decentralized Cooperation (CNCD). Created by the 6th February, 1992 law. This commission is equally made up of local authorities' representative associations and relevant ministries. To facilitate the implementation of the Oudin-Santini law, a group

of experts was created on February 2nd, 2006, by the National Water Committee (CNE) and the CNCD. The Water Solidarity Network (pS-Water) was secretary of this group until 2013. This position is now occupied by the French Water Partnership (PFE).

While guaranteeing the existence of space for dialogue, the French State recognized that local authorities could play a significant international role in the field of water. In that sense, local authorities and State became “partners” in order to achieve the objectives of Public National Aid for development, in terms of solidarity, politics, and economy. Has this partnership been efficient in facts? To answer this question, an assessment of the decade must be made.

ASSESSMENT

The Oudin-Santini law has enabled to mobilize relevant amounts of funding, especially by donations (A). It has furthermore supported the National Public Development Aid (B).

THE DEVELOPMENT COOPERATION BY THE OUDIN-SANTINI MECHANISM

A positive trend, with still significant room for improvement

After ten years, something is clear: the economic effects of the law have been marked in general terms. Between the year 2007 (when was published the inter-ministerial application circular), and the year 2013 (when the last measures were done), the donations of local authorities and water agencies doubled, from 10, 8 M€ to 23, 5 M€ (Noblot, 2014)⁵.

Consequently, the total amount of money reserved for decentralized cooperation for water and sanitation also rose from 14, 2 M€ to 28, 3 M€. Among this total, the relative part of traditional cooperation dropped (24% to 17%) and the part of Oudin-Santini cooperation gained ground (76% to 83%). However, there was no substitution from one to the other because both of them rose in volume. Indeed, the traditional cooperation for water without using the Oudin-Santini mechanism rose in absolute terms, but not as quick as the Oudin-Santini funding. It was promoted by Regional and Departmental Councils, that weren't concerned by the Oudin-Santini law, and rose from 3,4 M€ in 2007 to 4,8 M€ in 2013⁶.

However, these good results should be nuanced, if we compare the real aid to the potential aid. The potential aid has been evaluated to approximately 67 M€ (Dussaux, Noblot, 2010), without taking into account the donations of water companies in case of public service delegation⁷. In facts, 40% of the available funding is currently mobilized.

The non-mandatory Oudin-Santini dispositive based on donors' commitment allowed to mobilize important resources, but a significant room for improvement still exists. In

⁵ Considering the difficulties of Measures, methodology is essential. In a balance sheet perspective, number and figures mentioned here comes from the same institution. It is the pS-Water that collects data directly from the concerned actors. The pS-Water method includes the valorization of human resources affected to project management.

⁶ The last year of measures (2013) differs from the general trends of the decade. Between 2012 and 2013, the total funding for decentralized cooperation didn't rise, amounting 28, 3 M€. The part of the funding provided via the Oudin-Santini mechanism rose from 22, 8M€ to 23, 5M€. The Oudin-Santini 1% rose from 22, 8 M€ to 23, 5 M€, and traditional decentralized cooperation dropped for the first time from 5, 5 M€ to 4, 8 M€. However, these data are too recent to conclude about a sustainable evolution.

⁷ The volume of available money including local authorities, water and agencies *and* water companies amounts 120 M€. This number mentioned by André Santini in its parliamentary report (Santini, 2005).

order to be precise about these results, we can study the role played by each category of actor: water agencies and local authorities.

Water agencies: key actors for the implementation of the Oudin-Santini law

During this decade, water agencies have nearly tripled their commitment for decentralized cooperation (from 5, 6 M€ in 2007 to 15, 4 M€ in 2013). Because of their independence, each agency manages its own strategy with its own means. In the framework of the law, they can implement different types of project, in diverse geographic areas. However, they all committed in 2012 during the 6th World Water Forum in Marseille to achieve the 1% objective by 2015. The consequences of their implication for the mechanism are:

- Water agencies directly contribute to growth of donations in terms of volume. They lead their own projects, especially in terms of institutional cooperation.
- Accordinging grants and subventions, Agencies also support the development of decentralized cooperation. They foster local authorities and NGOs to implement new projects.

Local authorities: a real but unequal development of decentralized cooperation

Local authorities also increased their participation to decentralized cooperation for water and sanitation, from 5, 2 M€ in 2007 to 8, 1 M€ in 2013. However, the source of this aid is unequally distributed in the French territory. For instance, the SEDIF and the SIAAP gave 43% of this total en 2013, respectively 1,88 M€ and 1,78M€ reserved to decentralized cooperation. Local authorities of big cities play a significant role in the success of the Oudin-Santini law.

This concentration is also visible at a larger scale: 87% of donations in 2013 for decentralized cooperation in the sectors of water and sanitation were provided by 25 organisations (agencies and local authorities), of which 9 gave more than 1M€.

During the last decade, the growth of donations made possible by the Oudin-Santini law wasn't linked with a rise in the number of actors. In 2010, the annual assessment of the pS-Water underlined such a trend: "the landscape of actors is drawn by a few institutions making the most significant financial effort" (Dussaux, 2011). The pS-Water confirmed this in its next assessments (Noblot, 2012; Noblot 2013).

But the most relevant donors in absolute terms don't necessarily give the most important amounts *by inhabitant* (because the proportion cooperation budget/inhabitant is not the same everywhere in France). Contrarily, the commitment of small cities or groupings is not marginal, because it enables a levy effect with the intervention of water agencies. In other words, even a modest donation of a small city can take part in the implementation of large projects.

A RELEVANT SUPPORT TO PUBLIC DEVELOPMENT AID

Studying decentralized cooperation as part of the set of French Public Development Aid (APD), it is clear to see that the Oudin-Santini law has provided a key statistical support to the State.

The Oudin-Santini law and French Public Development Aid

Concerning this issue, the first effect of the law was a matter of accounting; since the inter-ministerial circular of April 30th, 2007, decentralized cooperation in the fields of water and sanitation can be counted as part of the French APD. This semantic evolution is crucial.

On the one hand, the State recognized by a ministerial regulation that decentralized cooperation and State cooperation are part of a whole: the National Public Development Aid. On the other hand, an exchange group was created (in December 12th, 2005). Its role is to make coherence the action of local authorities, the French Development Agency (AFD) and the State. In fact, the State marked the statistical issue of inserting decentralized cooperation in the national accounts, especially on the repartition of loans/donations.

The statistical relevance of donations, in a rapidly changing context

Decentralized cooperation is exclusively made up of donations. However, donations have been used less by the State for international cooperation over the past decade: it has mainly used loans. From this point of view, the Oudin-Santini law has effectively supported the States' PDA.

According to the Development Aid Committee (DAC)⁸ of the Organization for Economic Cooperation and Development (OECD), France allowed between 2008 to 2012 an annual average of 555 M€ for water and sanitation' PDA. This aid was of two kinds: 132 M€ of multilateral aid (24%) and 423 M€ of bilateral aid (76%). The bilateral aid can itself be divided in two subcategories: 363 M€ of loans and 60M€ of donations. The amount of donations was relatively stable (from 66 M€ to 60M€ in the same period), but the origin of these donations changed.

The main donors for French bilateral PDA in the fields of water and sanitation are local authorities, water agencies, the AFD, but also ministries of education, foreign affairs and finance. Among them, the part of decentralized cooperation (local authorities and water agencies) has been growing over the decade. The year 2012 is a good illustration of this evolution. According to the OECD (Coalition Eau, 2014), decentralized cooperation allowed 25 M€ of donations for water and sanitation in 2012 (9M€ for local authorities and 16M€ for local authorities), which amounts to 42% of the 60 M€ total of French bilateral donations. So decentralized cooperation was in 2012 the first French donor for cooperation in the fields of water and sanitation, before the AFD (23 M€ of donations, or 38%).

Thanks to the mobilization of new actors and the support of the French PDA, the Oudin-Santini law principle has been successful. But by definition, it has only been effective for those who have used it. This simple assertion poses the question: what has been the diffusion of the law, nationally and internationally?

CHALLENGES

The main pitfall of the law remains the increase of actions and actors involved. First in order to promote it for local authorities which has not improved this opportunity (A)? Secondly to share this decennial experience with other countries and/or other sectors (B).

⁸ A unique source (the DAC of the OECD) is used here again in order to copy with a good statistical methodology. The Coalition Eau report makes reference on these data in its triennial report. These statistics are based on documents provided by member States and local authorities. So they can differ from the pS-Water numbers.

FROM FUNDING TO COOPERATION

Drawbacks to the increase of the number of actors involved

The issue of mobilization is crucial to completely improve the open possibilities of the law. Water agencies keep significant part of their financial resources for cooperation. But they often reserve it for projects managed (or supported) by local authorities or associations of their basins, with a minimal amount needed. In other terms, already reserved money could be used if more local authorities were committed to decentralized cooperation.

But territorial inequality for the application of the Oudin-Santini law persists. It would not be relevant to explain these differences by structural economic figures: territories in economic trouble are not the least generous, as the Artois-Picardie Basin illustrates, using nearly all its water agencies reserves. So we may ask why many local authorities *have not* used the mechanism of the Oudin-Santini law.

The pS-Water published (Fitte, 2011) an investigation about the perception of decentralized cooperation in the field of water and sanitation for elected people. It identified 7 significant factors.

The first obstacle mentioned by the study is linked with the financial and human means needed to manage an international cooperation project. The Oudin-Santini law allows “monetary” funds. It also provides the taking into account of the working time of water and sanitation services’ agents (if the local authority employs its own agents). Despite these budgetary options, the law didn’t go beyond this financial pitfall, well known for decentralized cooperation in general.

A second barrier underlined by the report is the political risk linked with the implementation of projects away from the regular territory of competency of the local authority, while these budgets could be used for other sectors considered as priorities. This assessment is a failure of the law. It originally aimed to reduce opportunity costs triggered by international projects registered in the general budget by creating cooperation in the perspective: “water finances water”. Furthermore, the limitation of up to 1% hasn’t been sufficient: the perception of political risk displaced to the water budget itself.

A third difficulty noticed is the lack of information. Despite the tangible efforts made by the pS-Water and Cités Unies France⁹, ten years has not been enough to make the law known. This element can be approximated to the six others issues of the list.

Finally, the last four obstacles are also contradictory with the initial objectives of the law:

- the “refusal of responsibility, considering it should be done at other levels of decision making” is a true paradox with the concept of decentralized cooperation.
- the “administration red tape” can be the result of internal tensions between technical and administrative services. It is related to the financial and human difficulties described above.
- “conjuncture issues” are part of a short-time vision. They may be opposed to the long-term and innovative principle of the Oudin-Santini law, based on a permanent commitment that should be independent from political and administrative cycles.
- finally, obstacles related to the water sector, judged as too specific and technical, are not convenient with the idea of a cooperation “by sector”.

⁹ Cités Unies France is an association created in 1975 gathering French local authorities in order to promote decentralized cooperation.

A financial mechanism managed by elected people

Two conclusions may be drawn from these remarks:

First, the law is mainly perceived as a new financial tool to implement decentralized cooperation projects, but not as an instrument of cooperation *per se*. Therefore pitfalls of traditional decentralized cooperation also exist for the Oudin-Santini law. We might explain this difficulty by the hybrid nature of the mechanism: for the consumer, it is accounted on the bill of an effective service (water and sanitation), but international cooperation is not a service *strictly speaking*. In a few words, the Oudin-Santini law hasn't been differentiated from the traditional decentralized cooperation except from its way of funding. And it remains an accounting issue... it still receives the criticism reserved to an accounting issue.

Secondly, the legitimate decision makers for Oudin-Santini projects are elected people. As M. Miquel said¹⁰ (This makes the choice for developing (or not) cooperation projects sensitive, for two reason.

Above all, the motivation of elected people to run an international project are often complex and always human. The decision can be related to a personal experience, an efficient promotion either made by a local association (from emigrated people for instance) or institutional stakeholders. In any case, it is difficult to identify these reasons in order to systematize it and facilitate lobbying actions.

Also the local scale vision is essential to understand decentralized cooperation. Firstly because the size of the local authority is important: the smaller is the city, the higher are the financial and political impacts *per inhabitant*. Secondly, the nature of the local authority is relevant: the president of a water public syndicate has not the same relationship with the citizen than a mayor, and even more in a small local authority.

The consumer/citizen has a role to play

In order to tackle these difficulties, the Oudin-Santini mechanism will have to be supported by the population. As Bertrand Gallet, director of CUF, said: "the French decentralized cooperation (...) is the action of civil society – the people's diplomacy, represented in territories by local elected people" (Gallet, 2005). The law has a strong selling point concerning this issue, compared to other existing funding mechanisms. The problems of cost and political risk would be reduced with a better willingness of the consumer/citizen. Indeed, they vote *and they pay their bills*.

With higher commitment from the citizen, decentralized cooperation for water and sanitation *via* the Oudin-Santini law could lose a part of its political weight. It would be seen as a service provided for the citizen/consumer, with the objective to facilitate cooperation between its territory and a developing country. This would also enable achieving the targets of decentralized cooperation. But such a commitment necessitates better information for populations, especially about the benefits of decentralized cooperation for the French territory. As underlined in the report of the senator Jean-Claude Peyronnet (Peyronnet, p.43, 2012) the positive impacts for the French local authority are mainly ignored by the population. This assessment calls for specific communication campaigns on the issue.

The potentialities are high. Despite this lack of information, a poll shows that French people can be open to the Oudin-Santini mechanism. The second "National poll on knowledge and opinion towards water policy" (IFOP, 2014) indicates that 71% of the French are in favor of the 1% aid principle, because "it's necessary to provide support

¹⁰ Miquel S., 2014. Councilor, Hérault Department Presidency. Interview on the 11/18/2014.

to countries in trouble”; and 29% are opposed to the same mechanism, because there are priority investments to make in France”. It is difficult to make absolute conclusions, but these results show a tendency, and remain quite stable in an economic crisis period: in 2011, the distribution of opinions measured by the same institute was up to 70%-30%.

A THEMATICAL AND GEOGRAPHICAL DIFFUSION

Adapt the mechanism to other sectors in France

In ten years, the Oudin-Santini mechanism and other sectors of the French law.

Since the law n°2006-1537 (of December 7th, 2006), public services of gas and electricity are also concerned by the same mechanism, and share the article 1115-1-1 of the CGCT with water and sanitation. But the most remarkable legal success of the Oudin-Santini principle occurred on July 7th, 2014, or approximately 10 years after the Jacques Oudin's speech to the Senate, when he argued about the future posterity of the law. On this day, the law n°2014-773 related to “orientation and programming of development policy and international solidarity” was promulgated. This text has had a deep influence on the legal framework of French development aid, especially concerning local authorities (Chapter III). Among the key-elements of the text, many ones are related to the Oudin-Santini law:

- Above all, by modifying the article 1115-2 of the CGCT, the law enlarged the principle to waste management services. Up to 1% of the budgets related to waste collect and waste treatment can be mobilized for decentralized cooperation (“humanitarian, cooperation, or development aid”) by municipalities, inter-municipalities and syndicates responsible of these services. A report on the “Oudin-Santini experience” was published before the law was passed (Basic and al., 2014).

- The article 1115-1 of the CGCT, which made compulsory the confirming of agreements for decentralized cooperation projects, was modified. Now agreements are optional depending on the project : “in order to finance annual or multiannual international cooperation actions in the context of humanitarian projects or development aid (...), local authorities can, *if needed*, have firm agreements with foreign local authorities.” This is also an achievement of the Oudin-Santini law: actions without agreements were legally recognized as not risky for the coherence of foreign policy.

An experience to share

Jointly with this enlargement of the principle on the French territory, many attempts for an international diffusion have been made over the decade.

On this issue, it is important to remark that decentralized cooperation mechanisms cannot be exactly the same in various European countries, because it depends on institutional frameworks. The French decentralized cooperation is deeply ... French, because it is based on a special decentralization process, run in an especially centralized Jacobin country.

The instance of water and sanitation services doesn't make an exception: local authorities funding firstly depends on the institutions responsible for these services in France. However, the 36 700 municipalities and their 31 445 public services of water and sanitation are quintessentially French (Aït Kaci et al. 2012). Therefore the law of the sector is really different in each European country, such as the distribution of responsibility between local authorities and water companies. In this context, trying to export the Oudin-Santini law would be a nonsense. But the experience can be diffused in order to promote legislation favorable to innovative financing.

The European parliament noticed the French innovation, in three resolutions to the Commission and the Council (March, 15th 2006, March 12th 2009, and March 15th 2012, or before the last three World Water Forums). In these documents, it recommended to “motivate European local authorities to mobilize a part of their water and sanitation budget (...) for decentralized cooperation’ actions”. Therefore, many initiatives have been implemented in the last few years. The « 1% European platform » published a report on the many existing laws in Europe (pS-Water, 2012). According to this study, only the Netherlands have a specific legal framework. Dutch water companies are really present in the country and abroad: so a special article was voted for them in the General Water Law of 2009. It enables companies to mobilize 1% of their turnover for international cooperation actions, if they are not related to a rising price of water. This issue of rising prices made it impossible to have a law in Belgium. The Belgian State Council refused two bills (2008 and 2009) that could allow decentralized cooperation for water without a guarantee on water price.

Various existing initiatives without a specific law also exist in Europe. WaterAid have financed projects from Great Britain since 1981, thanks to individual donors. The Alliance for Water in Spain bring together more than 330 actors (like companies, State, local authorities, NGO's, research centers, etc.) in order to promote solidarity and international cooperation. In Italy, Venice and Treviso provinces mobilize one cent on each m3 sold since 2002, as the Tuscan society Publicacqua S.p.A does. Finally, the “solidarit’eau” Swiss platform (created in 2007 by various stakeholders, including the federal administration with the Direction of Development and Cooperation, water societies and local authorities) provides a label for local authorities mobilizing 1 Swiss Franc for m3 sold. This label is actually an incentive for funding. Switzerland and France launched the platform “Global Water Solidarity” (GWS) of the United Nations Program for Development (UNDP) during the 6th World Water Forum. Continuing the action of the Support to Territorial Network (ART), the UNDP created the GWS specifically for water and sanitation. It published a guide for good practice for decentralized cooperation (UNDP, 2013).

CONCLUSION

The three objectives exposed by Jacques Oudin on June 22th, 2004 have been partly achieved. The law effectively regularized the preexisting cooperation actions; it has provided support for French Public Development Aid; and it has enabled new actions, with an expansion to other sectors (gaz, electricity and waste). However, many challenges remain.

Firstly, the number of local authorities committed to decentralized cooperation *via* the Oudin-Santini mechanism could be more. The structural constraints (number of small local authorities, water consumption trends, etc.), come to join the conjuncture factors (political priorities and socio-economical pressure to not implement new taxes in a period of economic crisis). However, transformation from a financial perspective to a citizen perspective is able to foster a new dynamic in this sense. The Oudin-Santini mechanism is not a simple alternative to traditional decentralized cooperation funding. Of course, as essential services provided for populations, water and sanitation issues are shared by Northern and Southern citizens, and the domain remains important in the world's development agenda (with a probable presence among the post-2015 goals). In that sense, the evolution of the French institutional landscape for local authorities could promote the future of decentralized cooperation for water (with the crescent agglomeration of municipalities, creating economically stronger local authorities able to implement international projects).

Secondly the future of decentralized cooperation will depend on the people concerned. This issue is related to the evolution of international expertise. Nevertheless, the Oudin-Santini law is a key-factor for the professionalization of cooperation in the sectors of water and sanitation. A specialized field of competencies is emerging, for NGO's and local authorities, combining technical, geographical, political and cultural skills. These polyvalent professions still are in a process of consolidation. In fact, the articulation between these domains of expertise is becoming a crucial issue for the future of decentralized cooperation. In order to decide the internalization and/or externalization' of project's implementation (Lemée, 2014) for local authorities, this element is yet determinant. As Jean - Pierre Mahé¹¹ (director of Expert solitaire, an NGO specialized in supporting communities to decentralized cooperation), said: "no one is required to produce low-end projects because they fall into the category of decentralized cooperation. Solidarity projects can foster a high level of quality, and even more innovation". In other terms, if the problem appears in various forms, the same central question is always asked: how to find the balance between efficiency and effectiveness? To answer this, both knowledge and know-how are necessary.

Thirdly, in order to perpetuate the process, stakeholders must continue their action in favor of decentralized cooperation. Among them, water agencies are key-actors. However after their contribution of 210 millions € in 2014 (that was supposedly "exceptional"), they will have to provide 175 millions € per year to the State until 2017, as mentioned in the article 32 of the 2015 law of public finance (that was passed December 29th, law n°2014-1654). This creates two problems. On the one hand, the principle "water pays water" is broken. On the other hand, many elements lets us think that water agencies will continue their action: they are at the point to achieve the 1% objective, defined during the 6th World Water Forum. Furthermore in terms of volume, the weighting between the money needed for cooperation and the money needed by the States is clearly unbalanced. So the reduction of the cooperation will not be enough. While a polemical report of the Court of Auditors noticed many improvements to make for evaluation and implementation of international cooperation, the question of Agencies commitment is pending. Could the State, which knows how to take support of the Oudin-Santini law for its PDA, become an obstacle for its development? Ten more years would surely be necessary to answer this question.

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¹¹ Mahé J.P., 2014. Director, Experts-Solidaires. Interview on the 11/24/2014.

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ANNEX DOCUMENTS

ANNEX 1 : RELEVANT ARTICLES OF THE "CODE GENERAL DES COLLECTIVITES TERRITORIALES."

- Partie législative
 - Première partie : dispositions générales
 - Livre 1er : principes généraux de la décentralisation
 - Titre unique : libre administration des collectivités territoriales
 - **Chapitre V : Coopération décentralisée**

Article L1115-1

Modifié par Loi n°2014-773 du 7 juillet 2014 - art. 14 (V)

Dans le respect des engagements internationaux de la France, les collectivités territoriales et leurs groupements peuvent mettre en œuvre ou soutenir toute action internationale annuelle ou pluriannuelle de coopération, d'aide au développement ou à caractère humanitaire.

A cette fin, les collectivités territoriales et leurs groupements peuvent, le cas échéant, conclure des conventions avec des autorités locales étrangères. Ces conventions précisent l'objet des actions envisagées et le montant prévisionnel des engagements financiers. Elles entrent en vigueur dès leur transmission au représentant de l'Etat dans les conditions fixées aux articles L. 2131-1, L. 2131-2, L. 3131-1, L. 3131-2, L. 4141-1 et L. 4141-2. Les articles L. 2131-6, L. 3132-1 et L. 4142-1 leur sont applicables.

Article L1115-1-1

Modifié par Loi n°2006-1537 du 7 décembre 2006 - art. 49 JORF 8 décembre 2006

Les communes, les établissements publics de coopération intercommunale et les syndicats mixtes chargés des services publics de distribution d'eau potable et d'assainissement ou du service public de distribution d'électricité et de gaz peuvent, dans la limite de 1 % des ressources qui sont affectées aux budgets de ces services, mener des actions de coopération avec les collectivités territoriales étrangères et leurs groupements, dans le cadre des conventions prévues à l'article L. 1115-1, des actions d'aide d'urgence au bénéfice de ces collectivités et groupements, ainsi que des actions de solidarité internationale dans les domaines de l'eau et de l'assainissement et de la distribution publique d'électricité et de gaz.

Article L1115-2

Modifié par Loi n°2014-773 du 7 juillet 2014 - art. 14 (V)

Les communes, les établissements publics de coopération intercommunale et les syndicats mixtes compétents en matière de collecte et de traitement des déchets des ménages au sens de l'article L. 2224-13 ou percevant la taxe ou la redevance d'enlèvement des ordures ménagères peuvent mener, dans la limite de 1 % des ressources qui sont affectées aux budgets de ces services et dans le cadre de l'article L. 1115-1, des actions de coopération, d'aide au développement ou à caractère humanitaire dans les domaines de la collecte et du traitement des déchets des ménages.

Article L1115-4

Modifié par Loi n°2008-352 du 16 avril 2008 - art. unique (V)

Les collectivités territoriales et leurs groupements peuvent, dans les limites de leurs compétences et dans le respect des engagements internationaux de la France, adhérer à un organisme public de droit étranger ou participer au capital d'une personne morale de droit étranger auquel adhère ou participe au moins une collectivité territoriale ou un groupement de collectivités territoriales d'un Etat membre de l'Union européenne ou d'un Etat membre du Conseil de l'Europe.

Cette adhésion ou cette participation est autorisée par arrêté du représentant de l'Etat dans la région. Elle fait l'objet d'une convention avec l'ensemble des membres adhérant à l'organisme public en cause ou participant au capital de la personne morale en cause. Cette convention détermine la durée, les conditions, les modalités financières et de contrôle de cette adhésion ou de cette participation. Le total de la participation au capital ou aux charges d'une même personne morale de droit étranger des collectivités territoriales françaises et de leurs groupements ne peut être supérieur à 50 % de ce capital ou de ces charges.

La convention prévue à l'alinéa précédent entre en vigueur dès sa transmission au représentant de l'Etat dans les conditions fixées aux articles L. 2131-1, L. 2131-2, L. 3131-1, L. 3131-2, L. 4141-1 et L. 4141-2. Les articles L. 2131-6, L. 3132-1 et L. 4142-1 sont applicables à cette convention.

Les comptes, certifiés par un commissaire aux comptes, ainsi que le rapport d'activité des personnes morales de droit étranger aux capitaux desquels participent les collectivités territoriales et leurs groupements sont chaque année annexés au budget de ces personnes publiques. Il en est de même des comptes et du rapport d'activité des organismes publics de droit étranger auxquels adhèrent les collectivités territoriales et leurs groupements. Cette annexe précise le montant de la participation de chacune de ces personnes publiques.

Article L1115-4-1

Créé par Loi n°2008-352 du 16 avril 2008 - art. unique (V)

Dans le cadre de la coopération transfrontalière, les collectivités territoriales et leurs groupements peuvent créer avec des collectivités territoriales étrangères et leurs groupements un groupement local de coopération transfrontalière dénommé district européen, doté de la personnalité morale et de l'autonomie financière.

L'objet du district européen est d'exercer les missions qui présentent un intérêt pour chacune des personnes publiques participantes et de créer et gérer des services publics et les équipements afférents.

La personnalité morale de droit public lui est reconnue à partir de la date d'entrée en vigueur de la décision de création. Cette création est autorisée par arrêté du représentant de l'Etat dans la région où le district européen a son siège.

Sauf stipulation internationale contraire, les dispositions du titre II du livre VII de la cinquième partie sont applicables au district européen.

Les collectivités territoriales étrangères et leurs groupements peuvent adhérer à des syndicats mixtes existants créés dans le cadre des dispositions du titre II du livre VII de la cinquième partie. Cette adhésion entraîne de plein droit la transformation de ces syndicats mixtes en districts européens dans les conditions fixées aux alinéas précédents.

Article L1115-4-2

Créé par Loi n°2008-352 du 16 avril 2008 - art. unique (V)

Dans le cadre de la coopération transfrontalière, transnationale ou interrégionale, les collectivités territoriales, leurs groupements et, après autorisation de leur autorité de tutelle, les organismes de droit public au sens de la directive 2004 / 18 / CE du Parlement européen et du Conseil, du 31 mars 2004, relative à la coordination des procédures de passation des marchés publics de travaux, de fournitures et de services peuvent, dans les limites de leurs compétences et dans le respect des engagements internationaux de la France, créer avec les collectivités territoriales, les groupements de collectivités territoriales et les organismes de droit public des Etats membres de l'Union européenne, ainsi qu'avec les Etats membres de l'Union européenne ou les Etats frontaliers membres du Conseil de l'Europe, un groupement européen de coopération territoriale de droit français, doté de la personnalité morale et de l'autonomie financière.

Cette création est autorisée par arrêté du représentant de l'Etat dans la région où le groupement européen de coopération territoriale a son siège. (...)

Les collectivités territoriales, leurs groupements et, après autorisation de leur autorité de tutelle, les organismes de droit public au sens de la directive 2004 / 18 / CE du Parlement européen et du Conseil, du 31 mars 2004, précitée peuvent, dans les limites de leurs compétences, dans le respect des engagements internationaux de la France et sous réserve de l'autorisation préalable du représentant de l'Etat dans la région, adhérer à un groupement européen de coopération territoriale de droit étranger.

Article L1115-5

Modifié par Loi n°2014-58 du 27 janvier 2014 - art. 9

Une collectivité territoriale ou un groupement de collectivités territoriales ne peut conclure une convention avec un Etat étranger, sauf dans les cas prévus par la loi ou lorsqu'il s'agit d'un accord destiné à permettre la création d'un groupement européen de coopération territoriale, d'un groupement eurorégional de coopération ou d'un groupement local de coopération transfrontalière. Dans ce dernier cas, la signature de l'accord est préalablement autorisée par le représentant de l'Etat dans la région.

Article L1115-6

Modifié par Loi n°2014-773 du 7 juillet 2014 - art. 14 (V)

Il est créé une Commission nationale de la coopération décentralisée qui établit et tient à jour un état de l'action extérieure des collectivités territoriales. Elle favorise la coordination entre l'Etat et les collectivités territoriales et entre les collectivités territoriales et peut formuler toute proposition relative à l'action extérieure des collectivités territoriales. Les collectivités territoriales et leurs groupements transmettent à la commission les informations nécessaires à l'accomplissement de ses missions.

Article L1115-7

Créé par Loi n°2004-758 du 29 juillet 2004 - art. 1 JORF 30 juillet 2004

Des décrets en Conseil d'Etat fixent (...), les conditions d'application du présent chapitre.

ANNEX 2 : INTERMINISTERIAL CIRCULAR OF 30th APRIL 2007 RELATED TO THE ARTICLE L 1115-1-1 OF THE "CODE GENERAL DES COLLECTIVITES TERRITORIALES"

Ministère de l'Intérieur,
et de l'Aménagement du
Territoire

Le directeur général
des collectivités locales

Ministère des Affaires étrangères

Le délégué
pour l'action extérieure
des collectivités locales

Ministère de l'Ecologie
et du Développement
durable

Le directeur
de l'eau

NOR

INT E D I O D O S 2 C

30 AVR. 2007

à Madame et Messieurs les Préfets de région,
A Mesdames et Messieurs les Préfets

OBJET : Coopération décentralisée en matière d'eau et d'assainissement

REF. : Article L. 1115-1-1 du code général des collectivités territoriales (C.G.C.T.)

RESUME : L'intervention de la loi n° 2005-95 du 9 février 2005 (*« Loi Oudin »*) ouvre la faculté aux collectivités territoriales et à leurs groupements de consacrer une partie de leurs ressources spécifiques « eau et assainissement » à des actions de coopération internationale. La présente circulaire analyse ces nouvelles possibilités afin de permettre une mise en œuvre effective de ce dispositif tendant à la réalisation d'un des principaux Objectifs du Millénaire pour le Développement (O.M.D.).

Faisant suite à une initiative parlementaire soutenue par le Gouvernement, le législateur a instauré, par la loi n° 2005-95 du 9 février 2005 (dite *loi Oudin*, *Journal officiel du 10 février 2005*), la possibilité pour les communes, les établissements publics de coopération intercommunale et les syndicats mixtes d'eau et d'assainissement de mener, sur les budgets de ces services, des actions internationales. Cette disposition figure désormais, en tant qu'article L. 1115-1-1, dans le code général des collectivités territoriales (C.G.C.T.). Elle répond à un besoin manifesté depuis plusieurs années par les collectivités territoriales, les syndicats des eaux et de l'assainissement et les agences de l'eau, de pouvoir mener, par elles-mêmes ou avec le concours d'organisations non gouvernementales (O.N.G.) spécialisées, des actions à long terme, dans des domaines jugés prioritaires par la Communauté internationale. La France est le premier pays à s'être doté d'une législation spécifique de la sorte, ce qui, outre ses compétences techniques reconnues, lui vaut une audience particulière dans ce domaine.

Suite à la réunion du 12 décembre 2005, un groupe d'échange a été créé pour mettre en cohérence les politiques de développement des collectivités territoriales et de l'Etat de l'AFD et des agences de l'eau.

La présente circulaire vise à préciser les modalités pratiques de mise en œuvre de ce nouveau dispositif en ce qui concerne les collectivités territoriales et leurs groupements.

*

1. Le cadre juridique des actions

En prenant ces dispositions, le législateur a entendu viser trois situations distinctes :

- les actions de coopération avec les collectivités territoriales étrangères et leurs groupements, dans le cadre des conventions prévues à l'article L. 1115-1 du code général des collectivités territoriales,
- des actions d'aide d'urgence au bénéfice de ces collectivités et groupements,

- « ainsi que des actions de solidarité internationale dans les domaines de l'eau et de l'assainissement ».

Dans le premier cas, il s'agit d'opérations de coopération décentralisée « classiques », obéissant donc aux règles de l'article L. 1115-1 (existence d'un partenaire ayant la qualité de collectivité territoriale ou de groupement, convention, etc.)

Dans le deuxième, il s'agit encore d'actions dirigées vers une collectivité ou un groupement identifiés, mais l'urgence justifie que l'on n'agisse point dans le cadre d'une convention.

Dans le troisième enfin, aucune mention n'est faite de la qualité du partenaire, le législateur se bornant à viser, en termes généraux, les actions de solidarité internationale dans les domaines de l'eau et de l'assainissement, ce qui n'exclut pas qu'elles soient confiées à - ou assurées par - des organisations non gouvernementales.

Cette interprétation s'appuie à la fois sur la pratique de fait antérieure à la loi (actions menées par des syndicats des eaux), sur l'intention du législateur de rendre juridiquement fondées de telles pratiques, ainsi qu'il ressort des travaux préparatoires, et sur un argument de rédaction. En effet le membre de phrase « dans le cadre des conventions prévues à l'article L. 1115-1 » est intercalé entre les actions de coopération et les actions d'urgence, et, dès lors, ne s'applique qu'aux premières.

Dans ce contexte, et s'il est loisible à la collectivité territoriale ou au groupement, et même à certains égards préférable, qu'elle se place sous le régime de la convention de coopération décentralisée (avec éventuellement signature d'une convention d'opérateur avec une ou plusieurs O.N.G., cf. circulaire du 20 avril 2001, ou d'une convention tripartite avec une collectivité étrangère ou un groupement), il ne s'agit pas de la seule formule possible, la collectivité ou le groupement pouvant tout aussi bien contracter avec des O.N.G., françaises ou étrangères, pour mener des actions de solidarité internationale, dans le cadre de sa politique et sous son contrôle.

II. Le calcul de l'assiette des fonds disponibles et modalités de mise en œuvre.

L'article L. 1115-1-1 du C.G.C.T. dispose que « Les communes, les établissements publics de coopération intercommunale et les syndicats mixtes de distribution d'eau potable et d'assainissement peuvent, dans la limite de 1 % des ressources qui sont affectées aux budgets de ces services, mener des actions de coopération avec les collectivités territoriales étrangères et leurs groupements »

Cela s'entend des seules ressources collectées auprès des usagers ou redevables au titre du service de l'eau et de celui de l'assainissement, à l'exclusion des subventions ou concours extérieurs ou remboursements de prestations.

Les emprunts n'entrent pas en ligne de compte dans l'assiette de calcul du pourcentage maximal autorisé à l'article L. 1115-1-1 du C.G.C.T.

La TVA, ainsi que les redevances versées par les collectivités et les groupements, notamment aux agences de l'eau, n'entrent pas non plus dans cette assiette.

Il est précisé que toute action de coopération décentralisée doit être validée par une délibération.

III. Le contenu des coopérations

L'intention du législateur, dans la ligne du Sommet de Kyoto et des engagements pris par la France, est bien de favoriser l'accès des populations à *l'eau potable et aux services d'assainissement*. Il ne s'agit pas de financer par ce moyen les usages agricoles et industriels de l'eau, ou les aménagements pour la navigation. Les actions à ces titres ne peuvent être prises en compte que sur le budget général des collectivités ou groupements, sous réserve qu'elles agissent dans les limites de leurs compétences (article L. 1115-1 du C.G.C.T.) et en aucun cas sur le budget annexe de l'eau et de l'assainissement.

Sont donc en principe exclus les investissements dans l'irrigation ou le drainage, sauf s'ils présentent un caractère à la fois connexe et marginal par rapport à une opération principalement consacrée à l'adduction d'eau ou à l'assainissement. *En revanche les actions relatives à la protection de l'environnement en lien avec les métiers de base des Agences de l'eau peuvent être considérées.*

Une attention particulière doit être portée – notamment dans la présentation de la facture d'eau – à l'information directe et à la participation des usagers du service, principaux contributeurs des coopérations envisagées.

IV. L'éligibilité en tant qu'Aide publique au développement (A.P.D.)

Les actions menées dans le domaine de l'eau et de l'assainissement entrent en ligne de compte dans l'Aide publique au développement (A.P.D.) des collectivités territoriales, dès lors qu'elle s'opèrent au profit d'un des pays figurant sur la liste du Comité d'Aide au Développement de l'O.C.D.E. Selon les cas, elle sont comptabilisées en aide-projet, en coopération technique ou en dons aux O.N.G. Leur montant est déclaré par la collectivité ou le groupement dans le cadre de l'enquête annuelle menée par la D.A.E.C.I.

V. Informations diverses.

- L'équipe de la délégation pour l'action extérieure des collectivités locales (D.A.E.C.L.) est à la disposition des collectivités territoriales pour apporter toute information complémentaire, par le site Internet de la C.N.C.D. à l'adresse suivante : <http://www.diplomatie.gouv.fr/cncd>
- L'ambassade de France dans chacun des pays concernés est en mesure d'informer les acteurs locaux sur la pertinence des actions menées dans chaque pays en particulier, au regard des Objectifs du Millénaire, des stratégies nationales de développement et des programmes menés par la France (souvent par le canal de l'Agence française de développement), ses partenaires européens ou les organismes multilatéraux.
- Une plaquette a été éditée par la D.G.C.I.D., en liaison avec l'Association des Maires des Grandes Villes de France (A.M.G.V.F.), à l'occasion du

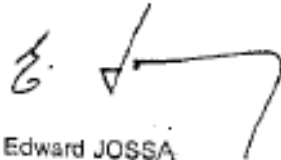
Sommet mondial de l'Eau de Mexico (mars 2006), donnant un catalogue systématique des actions existantes, sous une forme permettant les comparaisons et fournissant des points de repère utiles pour les initiatives futures.

- Une plaquette explicative d'application de la loi du 9 février 2005 produite par le groupe d'échange CNE/CNCD

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Nous appelons spécialement votre attention sur l'importance qu'il y a pour la France et ses collectivités territoriales à faire reconnaître dans les instances internationales l'effort qu'elles accomplissent en matière d'aide au Développement dans le domaine de l'eau et de l'assainissement, et les savoir-faire qu'elles développent dans ces domaines.

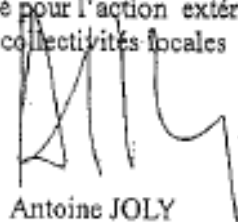
Le directeur général des collectivités
locales


Edward JOSSA

Le directeur de l'eau

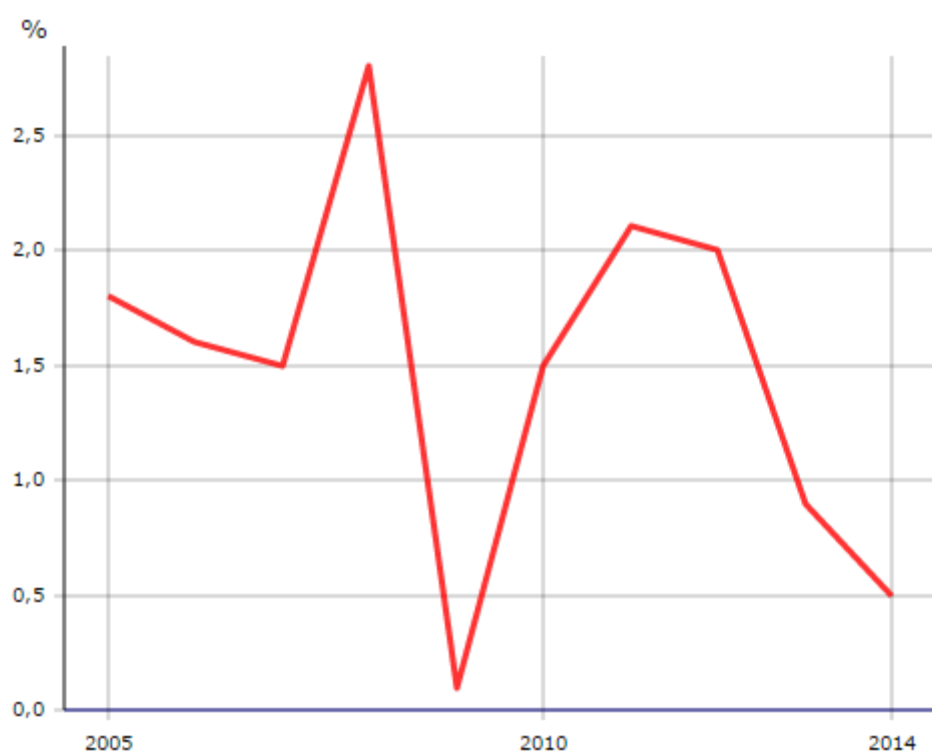

Pascal BERTEAUD

Le délégué pour l'action extérieure
des collectivités locales


Antoine JOLY

ANNEX 3: INFLATION RATE DURING THE 2005-2014' PERIOD

Taux d'inflation en France



	Taux d'inflation	%
2014		0,5
2013		0,9
2012		2,0
2011		2,1
2010		1,5
2009		0,1
2008		2,8
2007		1,5
2006		1,6
2005		1,8

Source : Insee, indices des prix à la consommation



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