

# UNECE Water Convention: Support to Management of Transboundary Waters

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UNECE Water Convention



# Background: International water law

- Helsinki rules (1972)
- 2 global Conventions and customary water law
- Planned measures require exchange of information and consultations, prior notification
- Principles of international water law:
  - Equitable and reasonable utilization
  - No-harm
  - Cooperation principle

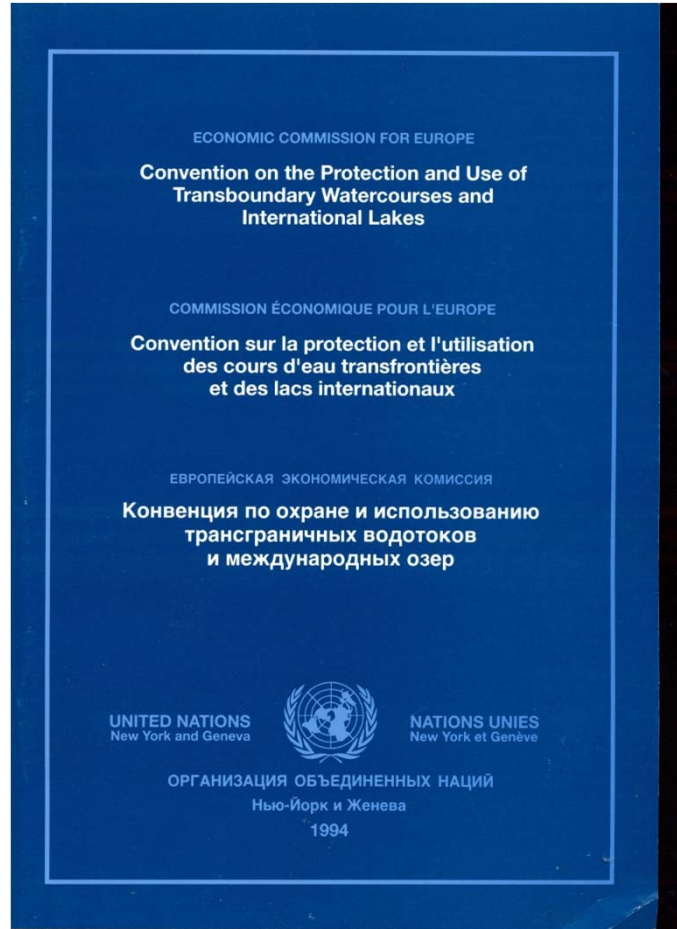


# Two United Nations Conventions: similar but different

- Two based on the same principles, very similar obligations, need to be interpreted in light of each other, fully compatible, complementary
- 1997 UN Watercourses Convention
  - Negotiated by the International Law Commission and General Assembly
  - In force since August 2014
  - Currently without an intergovernmental framework
- 1992 UNECE Water (Helsinki) Convention
  - Negotiated by UNECE countries
  - In force since 1996
  - With an intergovernmental framework



# UNECE/Helsinki Water Convention (1992)



- Signed on 17 March 1992
- Entered into force on 6 October 1996
- Protocols:
  - Water and Health
  - Civil Liability



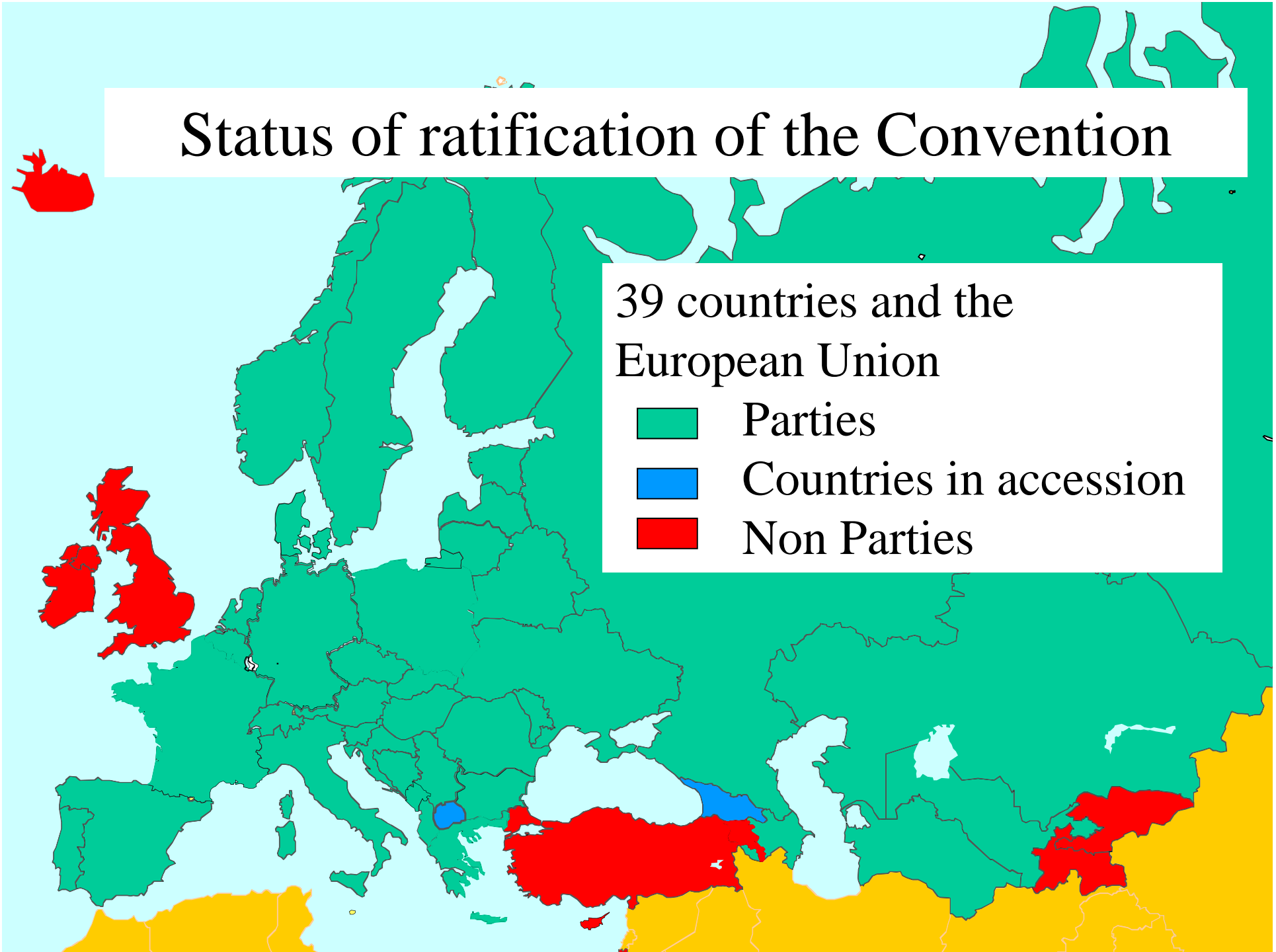
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# Status of ratification of the Convention

39 countries and the  
European Union

-  Parties
-  Countries in accession
-  Non Parties





## **Contribution to water diplomacy**

- 21 years of experience in facilitating transboundary water cooperation
- Intergovernmental platform – facilitating water conflict prevention and resolution:
  - Exchange of experience and assistance to implementation
  - Assistance to establish cooperation in difficult cases (frozen conflicts, post-war, no diplomatic relations, etc.)
  - Addressing emerging issues that involve conflict potential (dam failure, climate change)
  - Strong participation of non-Parties and other regions



# Holistic approach

- Covers surface and groundwaters, and links to the recipient seas
- **Catchment area** concept => IWRM
- **Ecosystem approach**
- Diverse **transboundary impacts** considered: (significant adverse) effect on human health and safety, flora, fauna, soil, air, water, climate, landscape and structures, and socio-economic conditions resulting from a change ... caused by a human activity”



# Main obligations under the Convention



- Protection of transboundary waters by preventing, controlling and reducing transboundary impacts
  - Reasonable and equitable use of transboundary waters
  - Obligation to cooperate through agreements and joint institutions
- => Overall objective of sustainability



## 1st category of obligations: General/for all Parties -> also benefit for national legislation

- Licensing of waste-water discharges by the competent national authorities and monitoring of authorized discharges
- Best environmental practice for non-point pollution sources
- Minimization of the risk of accidental pollution
- Application of Environmental Impact Assessment



## 2nd category of obligations: for Riparian Parties

- Conclude bilateral and multilateral agreements  
Cooperate on the basis of IWRM
- Establish joint bodies (e.g. river commissions)
- Consult and exchange of information
- Joint monitoring and assessment
- Elaborate joint objectives and action programme

=> the Convention does not replace basin agreements

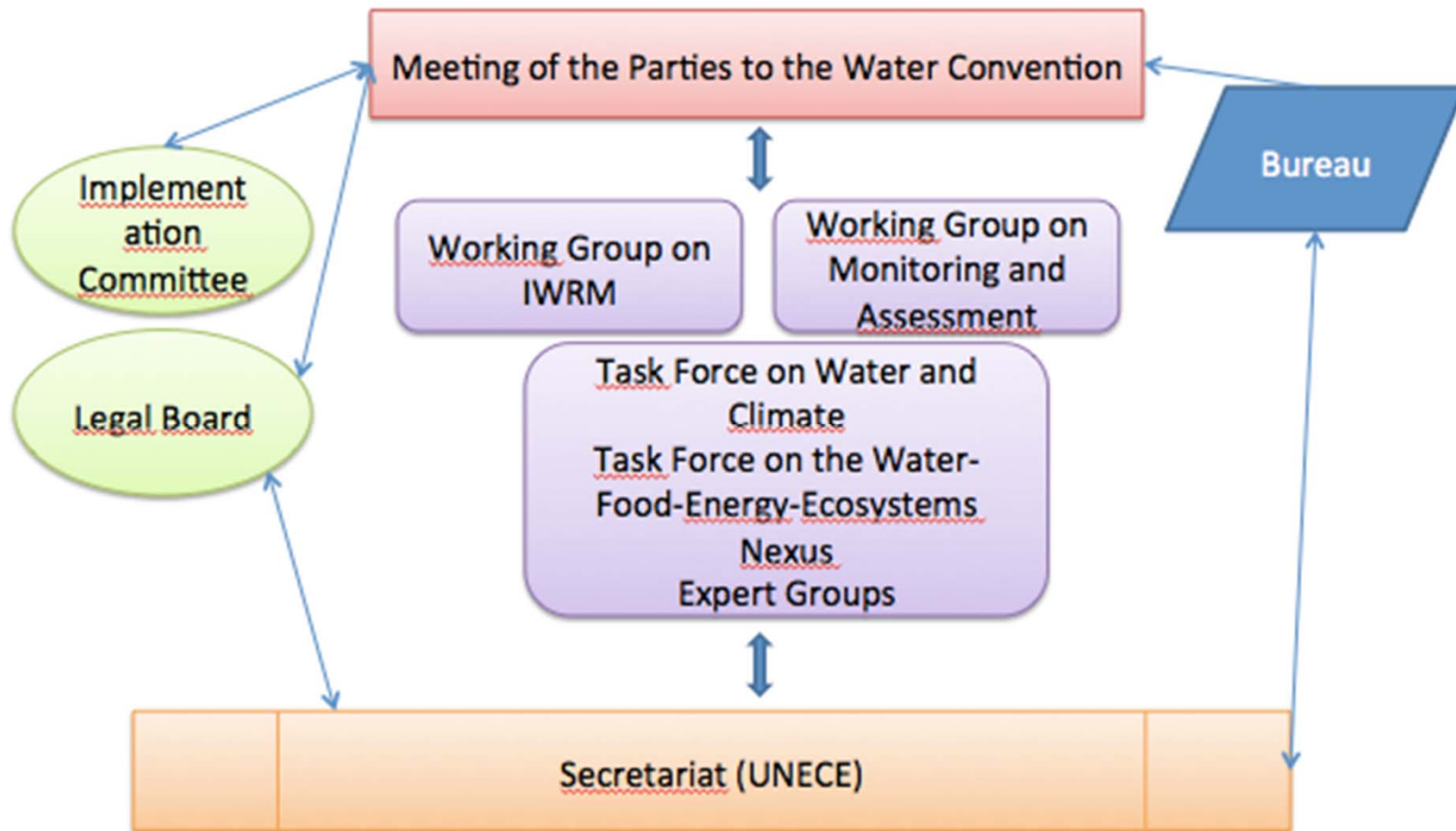


# Soft law development to support implementation

- Water pollution by hazardous substances (1994)
- Water pollution from fertilizers (1995)
- Licensing of wastewater discharges (1996)
- Monitoring & assessment of rivers & lakes (1996), transboundary groundwaters
- Sustainable flood prevention (2000)
- Safety of pipelines (2006)
- Payments for ecosystem services (2007)
- Transboundary flood management (2007)
- Tailing management facilities (2009)
- Water and adaptation to climate change (2009)
- Guide to Implementing the Water Convention (2009)
- Transboundary groundwaters (2012)...



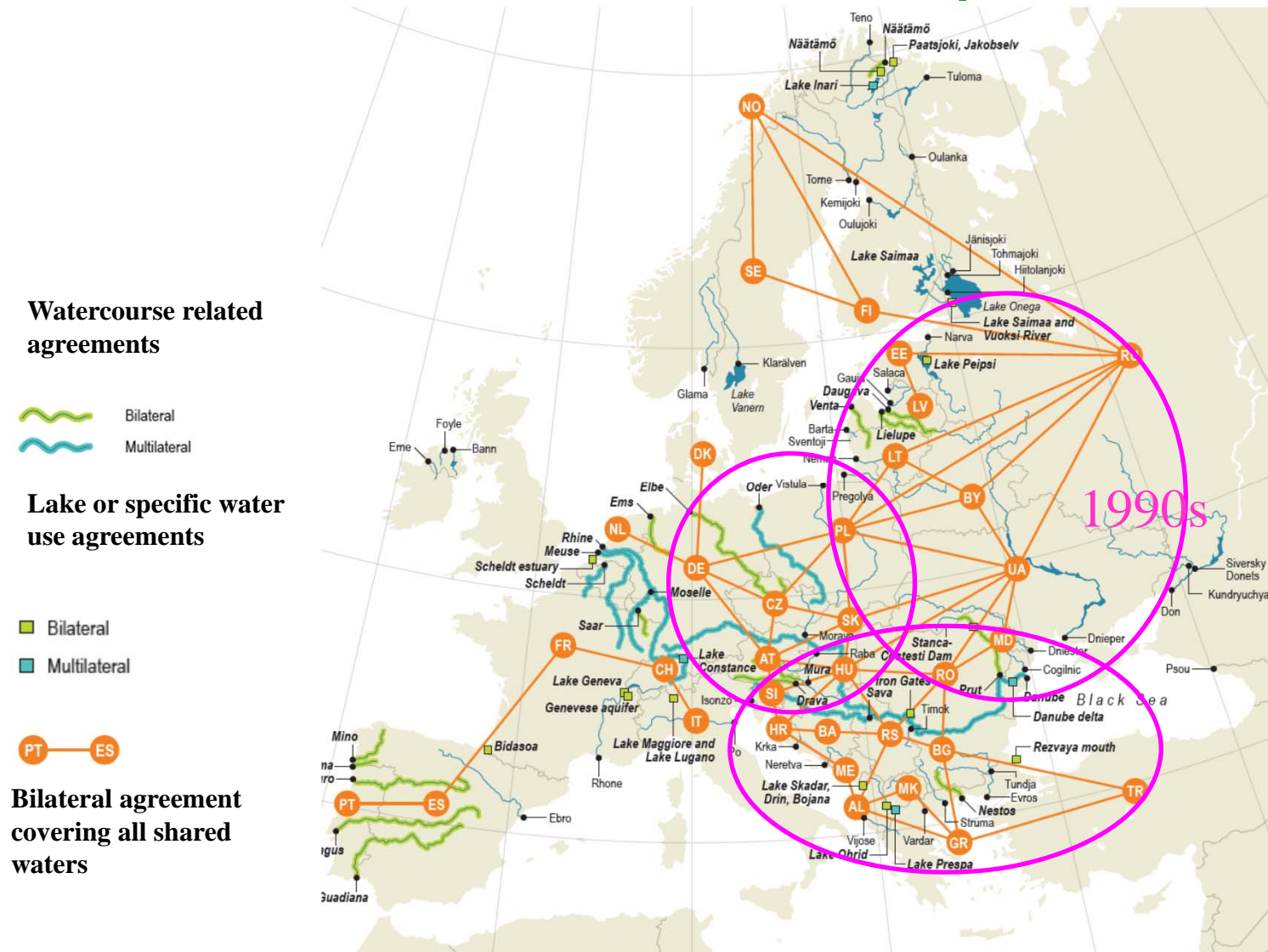
# Institutional framework



# **The Water Convention was negotiated in Europe- but what is Europe?**

- Not only EU, includes most ex-Soviet Union countries
  - Not a peaceful continent
  - Not a homogeneous continent in terms of economic development
  - Not a water-problem free continent
- = not really different from the rest of the world

# Cooperation on transboundary waters in Europe



## Map: Zoï



# Cooperation on transboundary waters in the Caucasus, Central Asia and the Russian Federation

## Watercourse related agreements



## Lake or specific water use agreements



Bilateral agreement covering all shared waters



Map: Zoi



## In practice...

- The Convention played a crucial role in the region in supporting cooperation
- Most of the existing agreements in Europe are modelled on the Convention (Danube, Sava, Bug, Kazakh-Russian, Lake Peipsi, also the Water Framework Directive)
- Helped in the establishment of river basin commissions (e.g. Dniester, Chu Talas) and influenced their work
- A lot of guidance papers (soft law) to support implementation

# Achievements and future perspectives

- Strengthened legal and institutional basis for transboundary cooperation: Convention as **model for most agreements** from the 1990s (former Soviet Union, former Yugoslavia etc.)
- Practical **assistance**: Guidelines, soft-law instruments & projects on the ground
- Gradual **shift** of emphasis in work to the east and now a more determined shift beyond the UNECE region
- Work programme themes have evolved to meet the needs and include a mix of **political** work (such as EUWI National Policy Dialogues) and **technical** work
- New means of support (Implementation Committee)& new thematic areas
- **Globalization**: Amendment opening the Convention to all UN Member States entered into force in February 2013 & possibility to accede expected from 2014

## 6<sup>th</sup> Meeting of the Parties to UNECE Water Convention (Rome, November 2012)

- Unanimous decision of Parties to grant, once and for all, the approval to all future accession requests
- Implementation Committee established to render practical case-tailored assistance to prevent water-related disputes and support Parties in their efforts to implement the Convention
- New programme of work adopted for 2013-2015, including activities on adaptation to climate change, water-food-energy-ecosystems nexus, benefits of cooperation and opening of the Convention
- Decisions on cooperation with GEF & UNESCO adopted will reinforce the implementation globally



# Implementation Committee

- **Dispute prevention**, not dispute settlement
- Practical case-oriented assistance
- 9 members in personal capacity, outstanding lawyers and water professionals
- Procedures (advisory procedure, Committee initiative and others)
- Measures (national plan of implementation, transboundary water agreement, capacity building, facilitating technical assistance), may recommend stronger measures to Meeting of the Parties



# Opening up the Convention to all UN member states



- Amended in 2003 to allow accession to countries beyond the UNECE region
  - Amendment entered into force in on 6 February 2013, non-ECE countries can likely ratify Convention as of late 2014/early 2015
  - MOP6 approved all future requests for accession
- => Promote exchange/share experience
- => Raise awareness & build capacity
- => Work together

# Opening up the Convention to all UN member states

- Aims:
  - Apply the principles and provisions worldwide
  - Share experiences of Helsinki Water Convention
  - Learn from other regions of the world
- Amendments entered into force 6 February 2013
- Possibility all UN Member States to accede from late 2014 when all 2003 Parties ratify the amendments
- More than 50 non-UNECE countries already participated in Convention's activities
- Many countries expressed interest in acceding to the Helsinki Water Convention, in particular Iraq, Jordan, Lebanon and Tunisia







## Message by UN Secretary General Ban Ki-moon to the Meeting of the Parties to Water Convention (Rome, November 2012)

“Soon the Convention on the Protection and Use of Transboundary Watercourses and International Lakes will become open for accession to all Member States. Your experience and the lessons you have learned will be **invaluable. I encourage countries outside the UNECE region to join the Convention and contribute to its further development.**”



# How countries outside ECE accede to the Convention

- Decision at Rome MOP6 => same process as for ECE countries (as for any other Convention)
- Interministerial preparations + national adoption
- Refer to MOP6 decision in the instrument of ratification to the NY depositary
- Need to wait until end of 2013
- When countries outside ECE become Parties there are no difference of rights and obligations compared to ECE countries



# **Programme of work 2013-2015: areas of work**

- 1: Support to implementation and accession
- 2: EU Water Initiative and NPDs
- 3: Quantifying the benefits of cooperation**
- 4: Adapting to climate change in transboundary basins**
- 5: Water-food-energy-ecosystems nexus**
- 6: Opening of the Convention outside the ECE-region**
- 7: Promotion of the Convention and establishment of strategic partnerships

# Pan-European regional assessment of transboundary waters

>140 rivers, 25 lakes, about 200 groundwaters and 25 Ramsar Sites/wetlands of transboundary importance covered EU, South-Eastern Europe, Eastern Europe, Caucasus, Central Asia

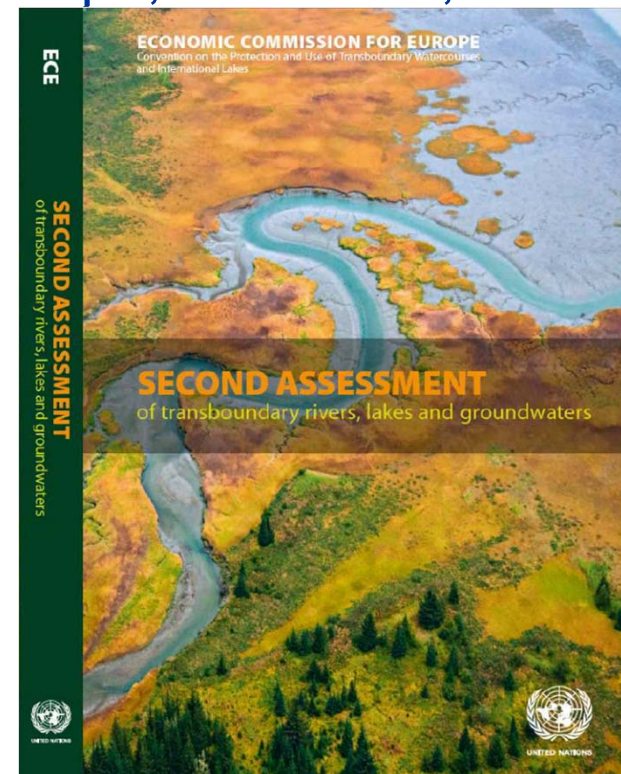
Information collected:

- Inventory
- Location, extent and delineations
- Quantity and quality status
- Pressure factors (abstractions, pollution sources)
- Transboundary impacts
- Management response
- Transboundary cooperation



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# Some general observations – legal basis and institutions

- border of the European Union (EU) — a divide of approaches, concepts and regulatory obligations; “aquifer” vs. “groundwater body”
- Many bilateral and multilateral **agreements** in the EECCA subregion: often no explicit reference to groundwater, or application to groundwater remains very low
- principle of **integrated management of surface and groundwater** missing in water laws in a number of countries of the EECCA
- Joint bodies in most cases do not deal with groundwaters; among the exceptions: the Danube Basin, groundwater monitoring cooperation of the Russian Federation and Estonia



# Quantifying the benefits of transboundary water cooperation

- **Objectives:** Support countries to estimate the full range of potential benefits of transboundary water cooperation to encourage the broadening of cooperation
- **Methodology:** Development of a Policy Guidance Note on Identifying, Quantifying and Communicating the benefits of cooperation
- **Activities:**
  - Expert framing workshop (June 2013)
  - Seminar during the Stockholm World Water Week (3 Sept. 2013)
  - Working session at the WG-IWRM (25 Sept. 2013)
  - Workshop to gather & share experiences (22-23 May 2014)
  - Expert Workshop on geopolitical benefits (January 2015)

# Adapting to climate change in transboundary basins

- Programme of pilot projects and global network of transboundary basins working on adaptation to climate change
- Global platform for exchanging experience: annual workshops since 2011, next one on 13-14 October 2014
- Collection of good practices and lessons learned to be prepared by 2015
- Based on the UNECE Guidance on Water and Adaptation to Climate change

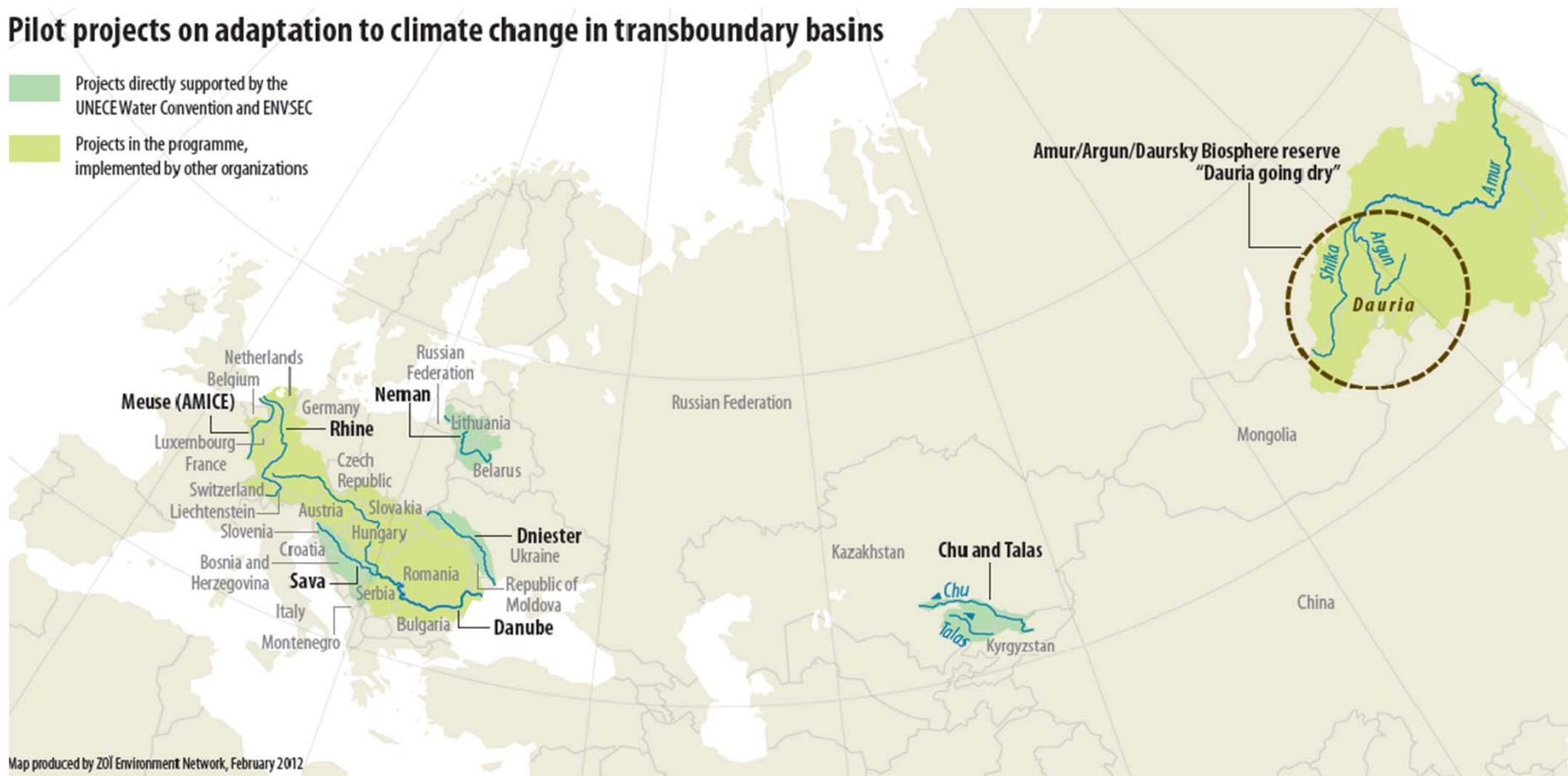




# Global network of basins

## Pilot projects on adaptation to climate change in transboundary basins

- Projects directly supported by the UNECE Water Convention and ENVSEC
- Projects in the programme, implemented by other organizations



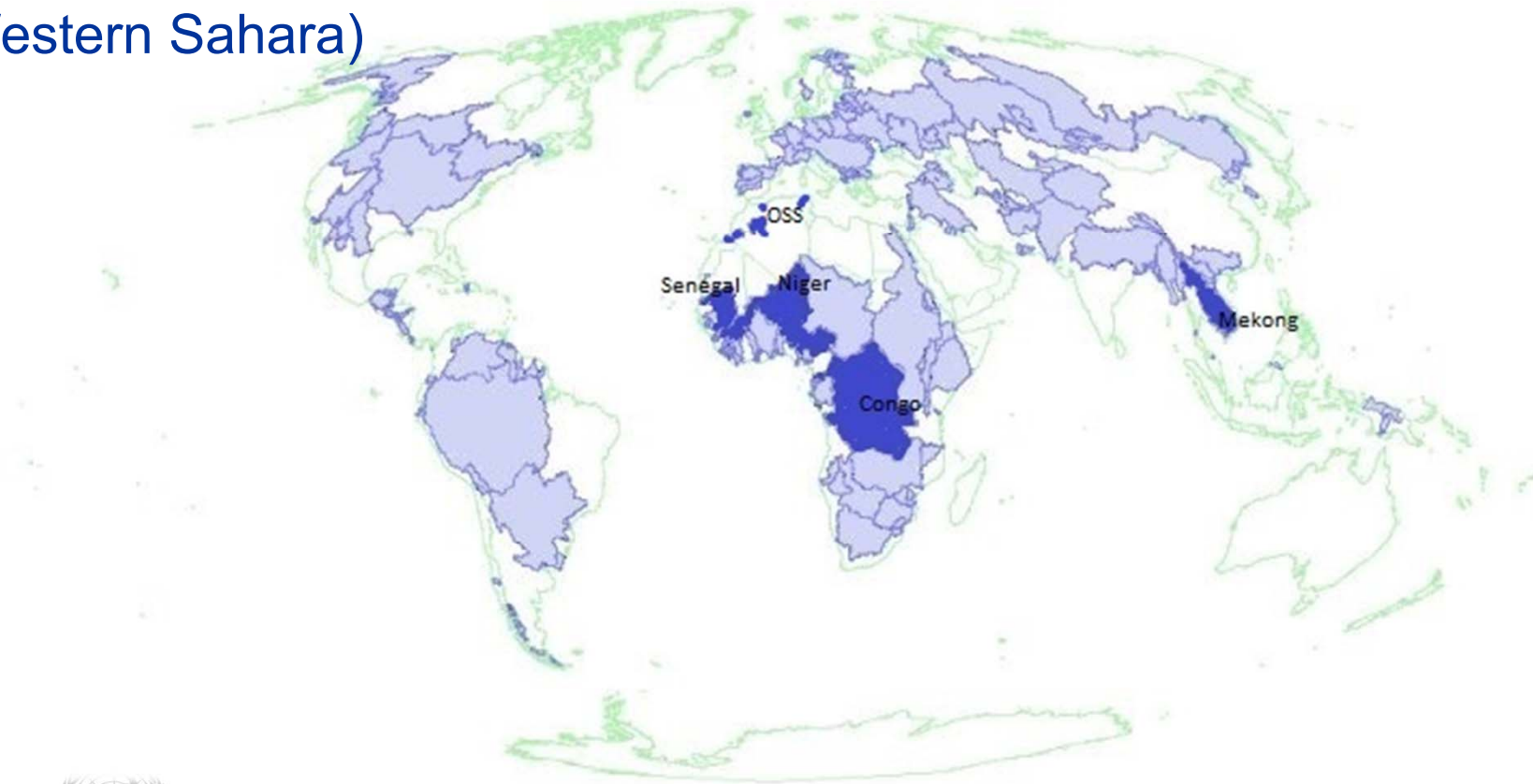
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# Global network of basins

Basins outside UNECE region that recently joined the global network are: Mekong, Niger, Congo, Senegal, OSS (Sub-Saharan Aquifer and Western Sahara)



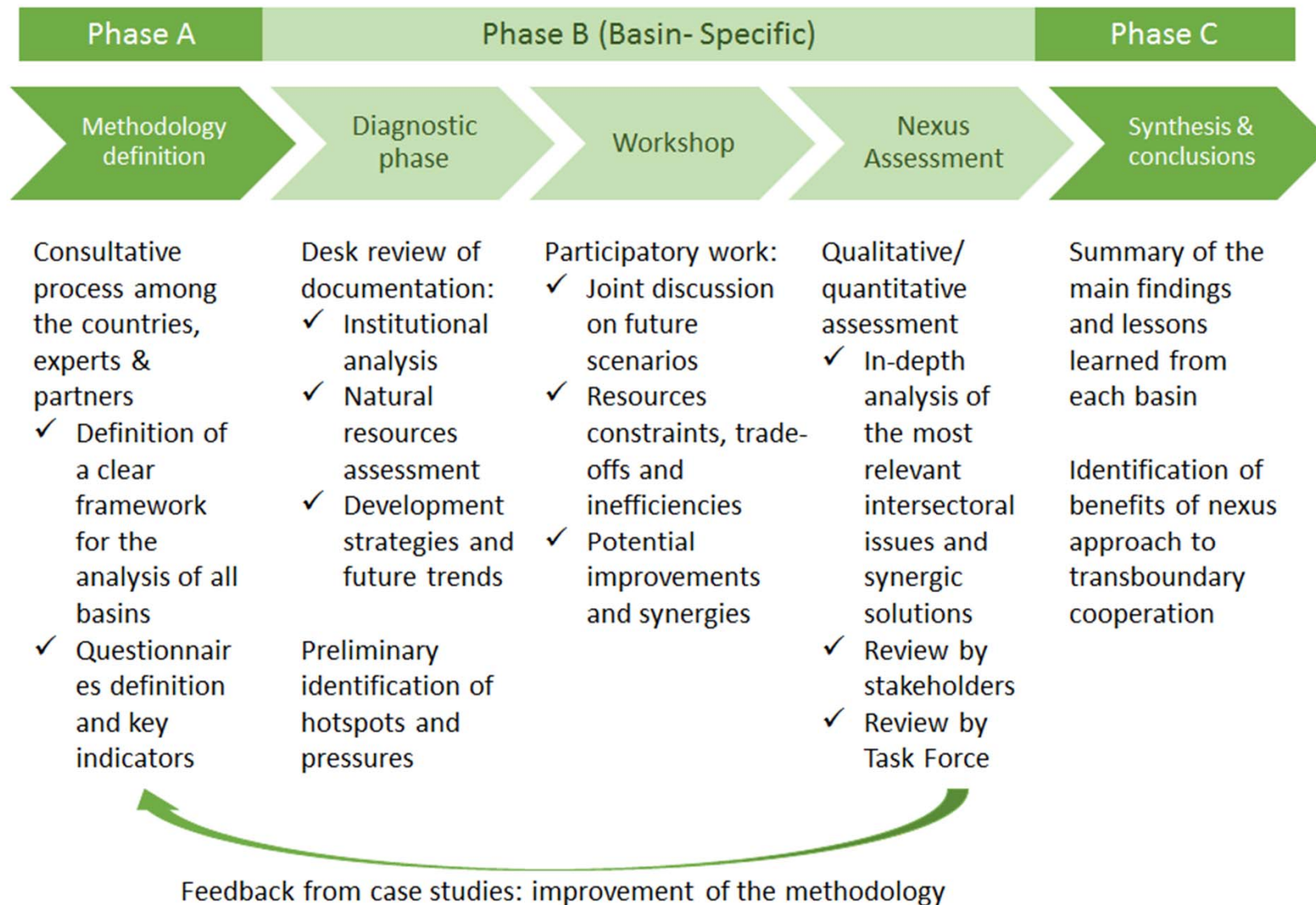
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# Assessment of the water-food-energy-ecosystems nexus under the Water Convention in selected basins

- Part of the Convention's Work Programme 2013-2015
- Work overseen and guided by the Task Force on the Water-Food-Energy-Ecosystems Nexus
- Some 6-8 basins to be assessed – pan-Europe, Africa, Asia; different nexus settings, climate, resource scarcity etc.
- Key partners: Finland (lead)/Finnish Environment Institute SYKE, FAO, Royal Institute of Technology (Stockholm)
- Generic methodology developed & piloted on the Alazani/Ganyh; adapted to the different basins
- 2<sup>nd</sup> basin worked on: the Sava; cooperation with ISRBC; complementary modelling by JRC

# Process & key steps of the methodology



## Aims at the basin level

- Support transboundary cooperation by
  - identifying intersectoral synergies that could be further explored and utilized in the different basins;
  - Determining policy measures and actions that could alleviate negative consequences of the nexus and help to optimize the use of available resources
- Help to move towards increased efficiency in resource use, greater policy coherence and co-management



# Some transboundary considerations related to adaptation – links to the Convention

- Adaptation measures potentially have transboundary impacts
- Cooperation enables more effective and efficient adaptation (through wider knowledge base, larger planning space etc.)
- Variability and change affect availability of the resource, and uses -> equitable & reasonable use
- Beneficial to develop common research, harmonized policies, programmes and strategies to adapt
- Well set-up transboundary cooperation can more effectively respond to changes



# Value of the UNECE Water Convention in managing transboundary waters

- Already the platform for cooperation and sharing experience for some 40 Parties & increasingly beyond pan-Europe
- Convention has fostered the development of transboundary agreements, the establishment of joint bodies and cooperation at the political & technical levels for 20 years
- Strengthening of capacity, support to implementation
- The well-functioning institutional structure adjusts to the needs
- Rich experience accumulated; guidelines of wide applicability



# **The Convention is working in difficult water-scarce regions: Tajikistan-Afghanistan example**

Establishing cooperation on hydrology and environment in upper Amudarya together with OSCE:

- bilateral working group
- towards exchange of hydrological data
- joint visits to hydrological monitoring stations
- first steps towards integrating Afghanistan in cooperation of Central Asian States

**Longer term security perspective**



Convention is supporting agreements:  
Intergovernmental bilateral Dniester Basin Treaty  
of the Republic of Moldova and Ukraine  
supported by UNECE and OSCE



# Some lessons learnt

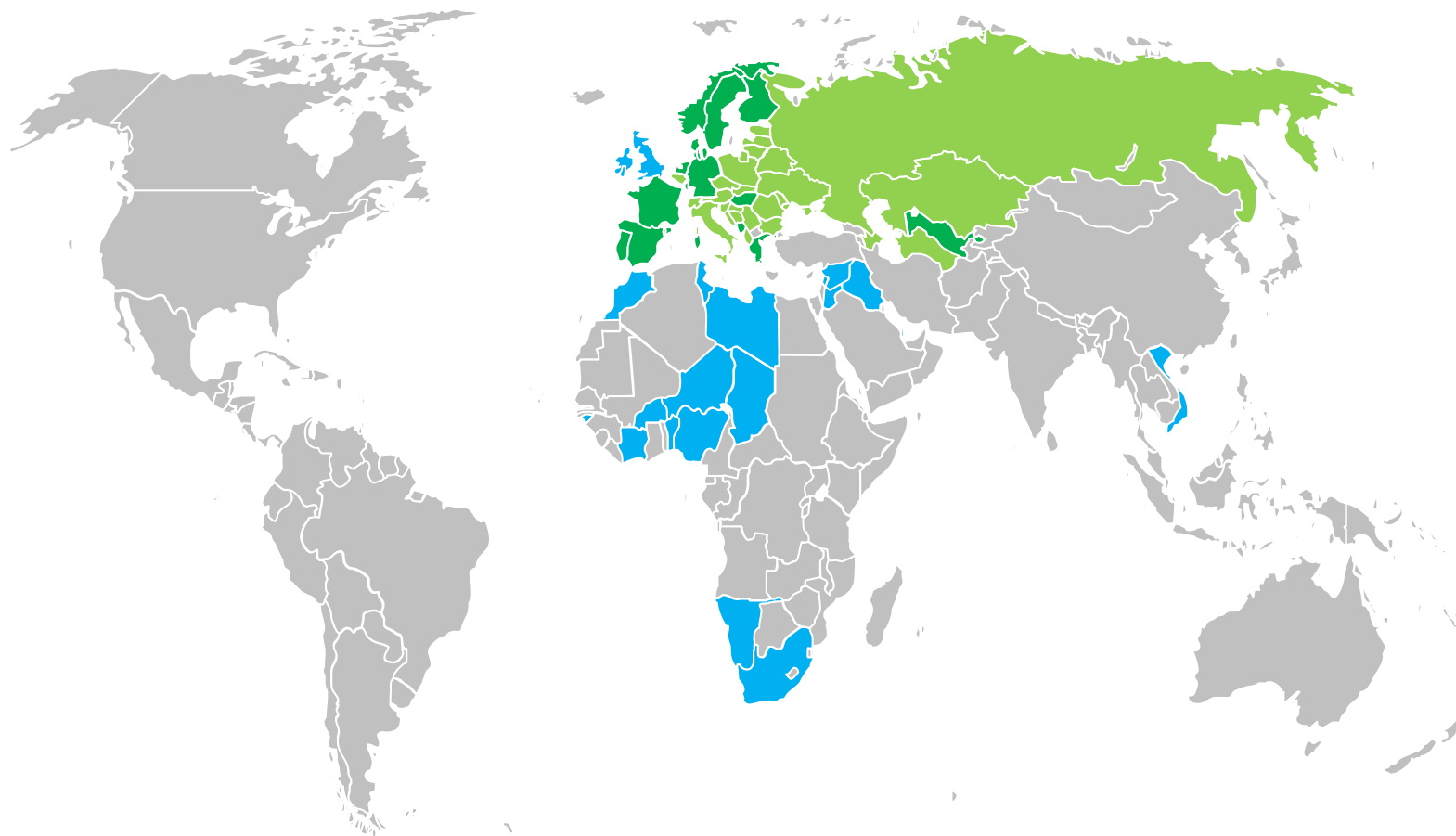
- **Agreements, joint bodies** (commissions etc.) are key to establishment of sustainable transboundary water cooperation
- A constructive **dialogue** and **identification of common interest** among riparians and with partners is necessary
- establishment of contacts and a necessary basis through **technical cooperation for building trust** among riparian countries - potential for a more political dimension
- Developing effective transboundary cooperation takes time – **long-term engagement** and patience important
- Sharing / solidarity/political willingness essential for progress, and identification of windows of opportunity!





## Strengths

- Sound legal framework coupled with action to support implementation
- Catalyst for cooperation
- Strong ownership by Parties
- Even non-Parties participate
- Continuously evolving
- Cooperation with numerous UN agencies, NGOs and other partners



Party to UNECE Water  
Convention (1992)

Party to UN Watercourses  
Convention (1997)

Party to both Conventions

# Comparing the Conventions: Similarities – great!

- Same objective: Protection, preservation and management of international watercourses (New York & Helsinki Conventions)
- A ‘package of norms’ approach to substantive norms
  - equitable and reasonable utilization
  - due diligence obligation of no-harm
- Principle of cooperation as catalyst for the implementation of the two substantive norms
- Almost same provisions with regard to dispute settlement

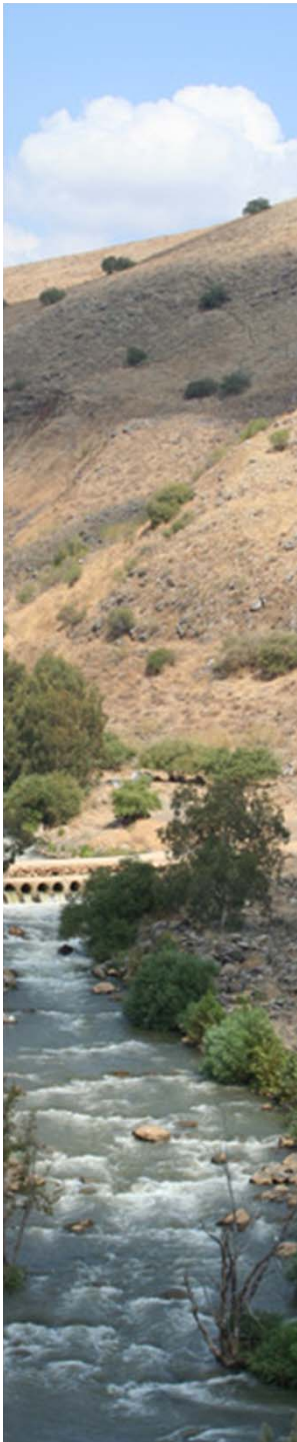




# Comparing the Conventions: Differences – even better!

*Two Conventions provide a stronger package of norms*

- Scope of transboundary waters
  - Surface water **or** groundwater (Helsinki Convention)
  - Surface water **and connected** groundwater (New York Convention)
  - NB: 2008 ILC Draft Articles on Transboundary Aquifers
- Existing watercourse agreements
  - **Obligation** to harmonize (Helsinki)
  - **Recommendation** to harmonize (New York)
- Future watercourse agreements and joint institutions
  - **Obligation** to create (Helsinki)
  - **Recommendation** to create (New York)

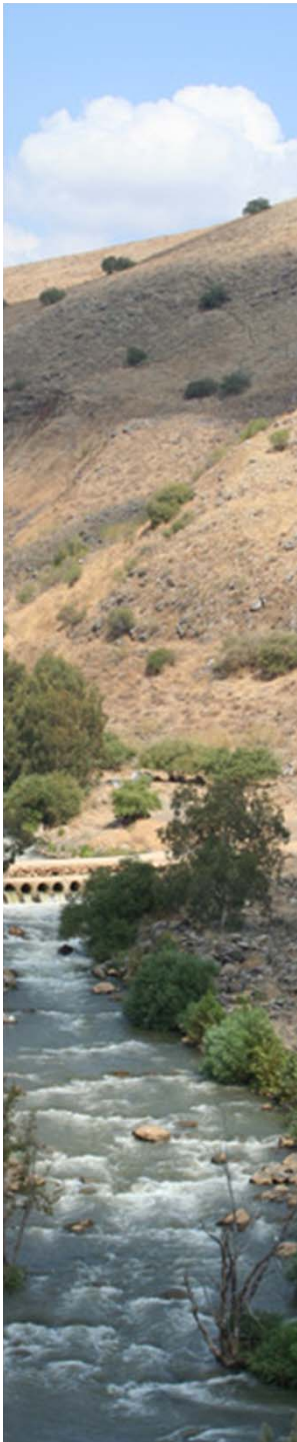




# Comparing the Conventions: Differences – even better!

*Two Conventions provide a stronger package of norms*

- Transboundary EIAs
  - Explicit obligation (Helsinki)
  - Implicit obligation (New York)
- Public information
  - Explicit obligation (Helsinki)
  - No provision under New York Convention – perhaps implicit?





# Comparing the Conventions: Differences – even better!

*More detailed provisions in one instrument can inform the other*

- Appropriate measures to prevent harm
  - Detailed guidance under Helsinki Convention on appropriate measures (Helsinki)
- Equitable and reasonable
  - List of factors (New York) can guide the implementation of Helsinki Convention
- Exchange of information & planned measures
  - Obligation under both Conventions
  - Generally more detailed under Helsinki Convention, although developed provisions on planned measures under New York Convention

# The two Conventions: mutual complementarity

Countless examples...

- \* Factors to equitable and reasonable utilization (Art.6 of the Watercourses Convention)
- \* Planned measures (Part III of the Watercourses Convention)
- \* Consequences of occurrence of transboundary impact (Art.7(2) of the Watercourses Convention)
- \* Content of specific agreements and tasks of joint bodies (Art. 9 of the Water Convention)
- \* Water quality objectives and criteria and BAT (annexes of the Water Convention)
- \* Information subject to exchange, and “joint assessments” (Art. 13 and 11 of the Water Convention)...



# The two Conventions: what differences?

- Few differences (confined groundwater not covered by Watercourses Convention; intellectual property limitation to exchange of information in UNECE Water Convention; obligation to adapt existing agreements to basic provisions in UNECE Water Convention)
- One major difference:
  - Mandatory character of institutional cooperation between Riparian Parties in the UNECE Water Convention (recommendation in Watercourses Convention)
  - Institutional mechanism based on the Meeting of the Parties in the UNECE Water Convention (no such mechanism in Watercourses Convention)







# The two Conventions: the principle of harmonization

**“Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law”, Report of the Study Group of the International Law Commission, 2006:**

*“The principle of harmonization.* It is a generally accepted principle that when several norms bear on a single issue they should, to the extent possible, be interpreted so as to give rise to a single set of compatible obligations”.

**Guide to Implementing the Water Convention, 2009:**  
interpreting many of its provisions in light of the  
Watercourses Convention and the ILC Commentary



# Complementarity of different international frameworks for water management

## Example: the Danube Basin

- Convention regarding the regime of navigation (1948) & Danube Commission
- International Convention for the Protection of the Danube River & ICPDR
- UNECE Water Convention
- EU Water Framework Directive
- Framework Agreement on the Sava River Basin & Sava Commission (ISRBC)
- Various bilateral agreements (e.g. UA-MD on the Dniester)



# The Protocol on Water and Health

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where health, environment  
and development policies  
meet



UNECE



EUROPE

# The Protocol on water and health:



It is the world's first legal treaty designed to reduce water-related deaths and diseases through improved water management.

It is up to the countries to translate its code into the reality of greater access to safe water and improved sanitation.

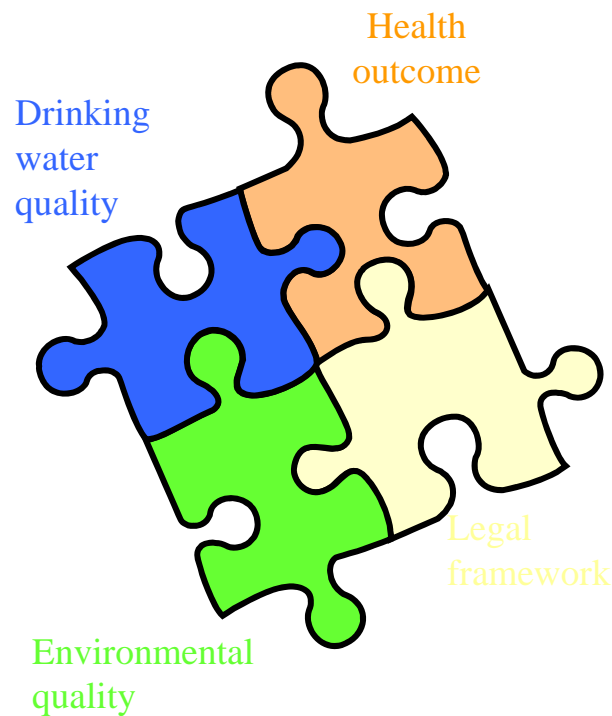
**Status of ratification**

- Signatories
- Parties

The map shows that most European countries are either signatories or parties to the convention. Notable non-ratifying states include Russia, Belarus, and several countries in the Balkans and Eastern Europe. The legend indicates that blue represents signatories and green represents parties.

 Parties

# Goal: Protect human health and well being by better management of water resources



Environmental  
Management

- Effective protection of water related ecosystems and sustainable use of water resources
- Provision of adequate supplies of wholesome drinking water

Health  
Outcomes

- Prevention, control and reduction of water-related diseases
- Detection, contingency planning and response to outbreaks

# Parties shall:

## ESTABLISH TARGETS

- Water supply and sanitation
- Water management
- Health protection

## SET DATES

Within 2 years of becoming a Party, each country sets and publishes targets, and dates for achieving them

## REVIEW PROGRESS

- collect and evaluate data
- publish results
- review progress
- provide summary reports



**Thank you!**

**More information**

including guidelines, publications and information  
on activities under the Convention can be found at

<http://unece.org/env/water>

[water.convention@unece.org](mailto:water.convention@unece.org)