

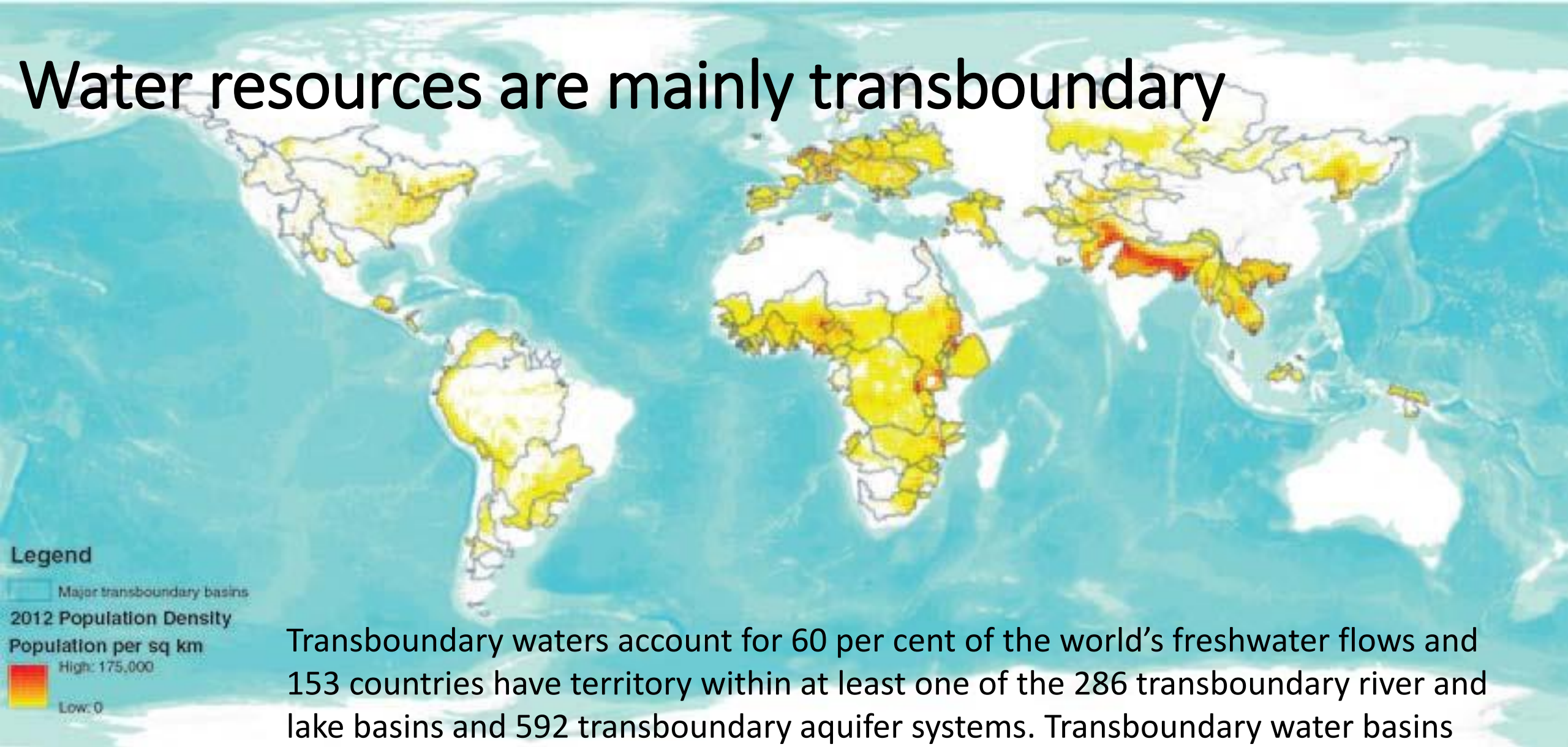
# Transboundary water resources and international water law

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# Water resources are mainly transboundary



Transboundary waters account for 60 per cent of the world's freshwater flows and 153 countries have territory within at least one of the 286 transboundary river and lake basins and 592 transboundary aquifer systems. Transboundary water basins cover almost half of the Earth's land surface.

SDG target 6.5: Implement integrated water resources management at all levels, including through transboundary cooperation

# Challenges of water management in transboundary basins

- Potential friction or conflict may arise e.g. from **diversions, major abstractions, pollution**, change of **flow regime** (flow regulation, storage), **hydrological extremes** (floods, drought). The impacts may be **compound effects** of e.g. policies, decisions, technical projects/works, regional political dynamics and commerce.
- **Water scarcity or variability** may aggravate seasonally or with **climate change**. **Population growth** and **economic development** may increase or shift water demands

FUNCTIONS/USES ISSUES	Human health	Ecosystem functioning	Fisheries	Recreation	Drinking water	Irrigation	Industrial use	Hydro power	Transport medium <sup>1</sup>	Navi- gation
Flooding	x	x		x					x	x
Scarcity	x	x	x	x	x	x	x	x	x	x
Erosion / sedimentation	x	x			x			x	x	x
Biodiversity		x	x	x						
River continuity		x	x	x				x	x	x
Salinisation		x			x	x	x			
Acidification <sup>2</sup>		x	x		x					
Organic pollution <sup>3</sup>	x	x	x	x	x					
Eutrophication	x	x	x	x	x	x	x			
Pollution with hazardous substances <sup>4</sup>	x	x	x	x	x	x				

x Main impact  
on functions/  
uses (problem)

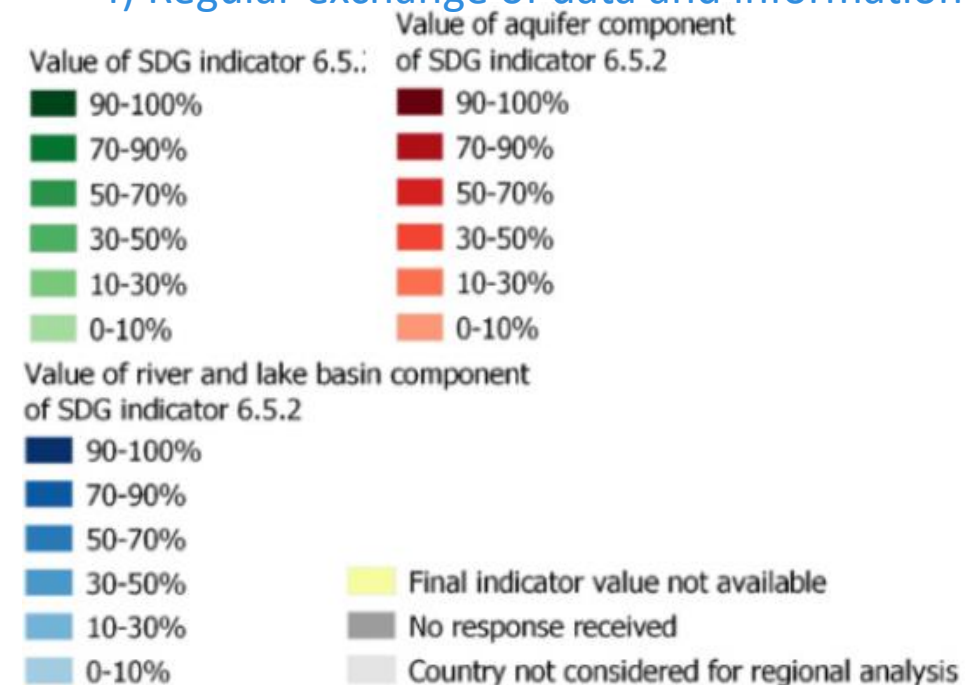
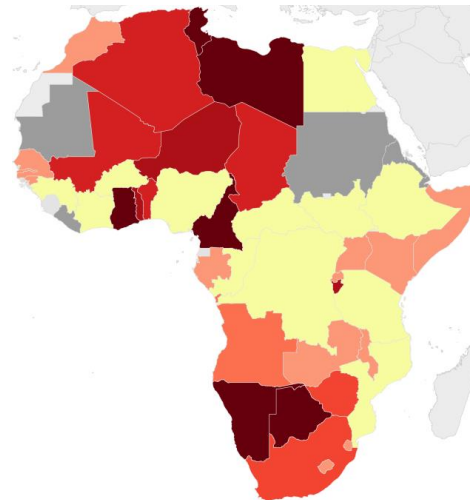
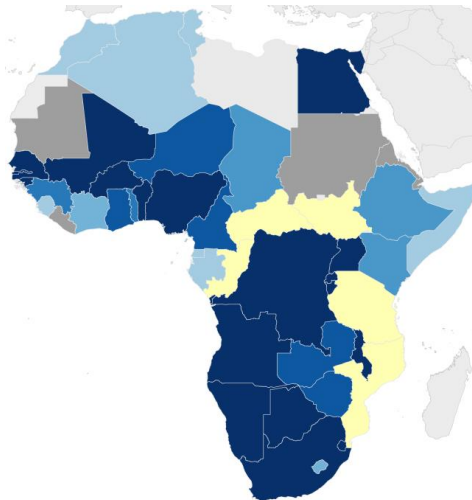
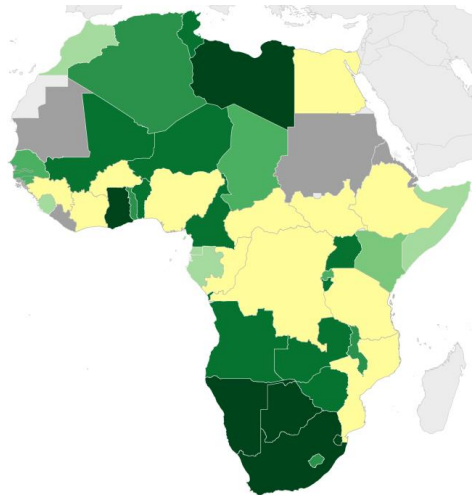


# Results of the 2<sup>nd</sup> monitoring in 2020 on SDG indicator 6.5.2 Africa region

Indicator 6.5.2: Proportion of transboundary basin area with an operational arrangement for water cooperation

- **43** out of **48** African countries sharing water resources responded (worldwide 129 countries, or +80% countries sharing waters responded), vs 37 in 2017
- Indicator 6.5.2 overall value available for 31 countries in 2020, vs 23 countries in 2017
- Increased responses rate & increased quality of the responses
  - more information provided on aquifers, but still a challenge

- 1) Existence of a joint body
- 2) Regular, formal communication
- 3) Joint or coordinated management plans or a similar instrument
- 4) Regular exchange of data and information

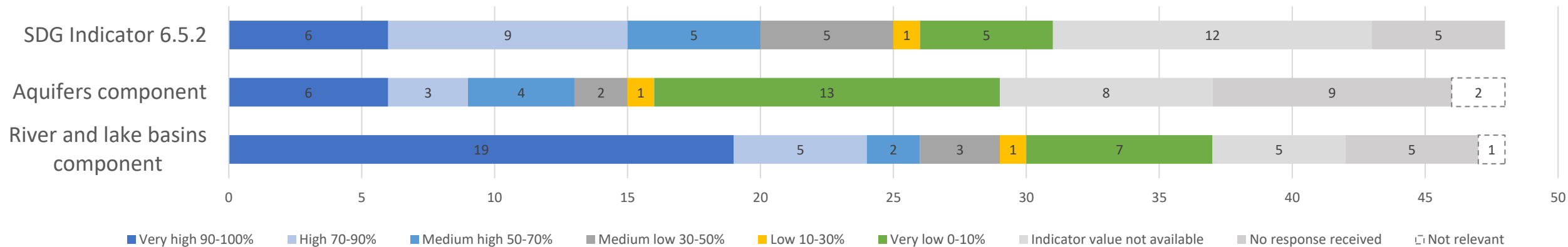


# Results of the 2<sup>nd</sup> monitoring in 2020 on SDG 6.5.2

## Africa region

- Only **2** countries with **all** transboundary waters covered by operational arrangements
  - 11 countries with all surface waters covered
  - 3 countries with all aquifers covered
- Lack of information on **aquifers**
  - Further information needed to calculate the value

Breakdown of the 48 African countries sharing waters SDG indicator 6.5.2 values

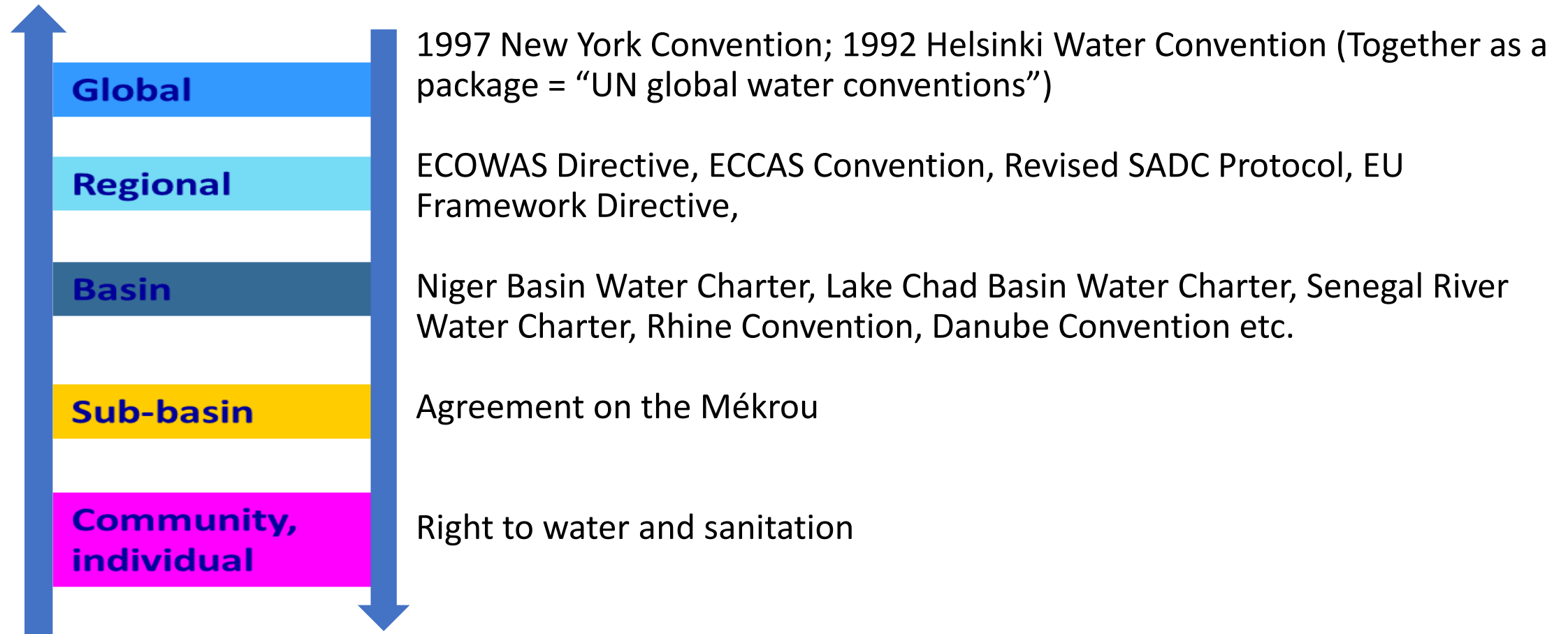


# Why international rules are necessary

- **River basin or aquifer** should ideally be managed as one whole (IWRM). Implications of development and measures **traverse administrative and state borders** → coordination, consultation, **cooperation** are necessary
- All riparians have a **right to a fair share of the uses or benefits of their international watercourse**, but also have **obligations** 1) to use shared waters **equitably and reasonably**, 2) to **prevent transboundary impact**/not to cause significant harm
- International law provides **general principles** and the correct **conduct** but they **need to be applied in each specific context**. **Various factors and circumstances** need to be considered, including natural and socio-economic ones.

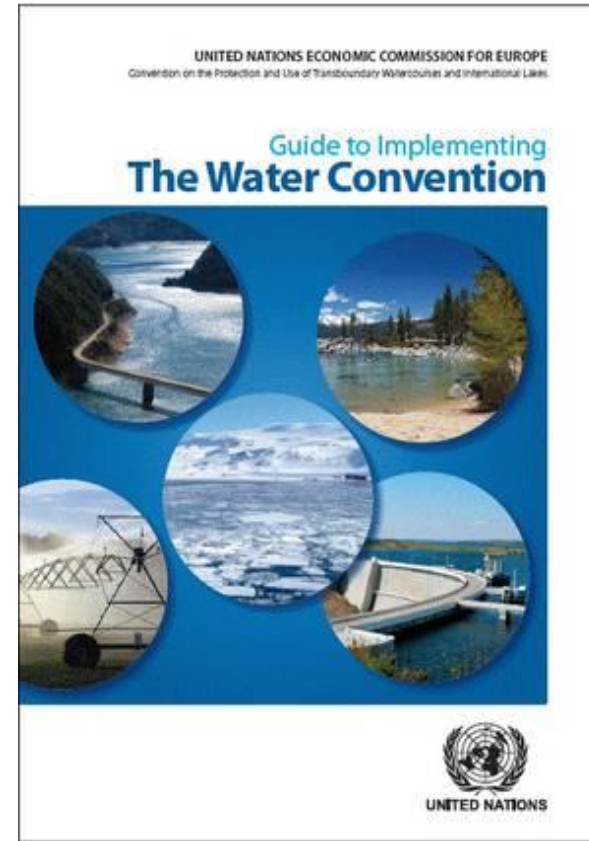
# International water law: collective solutions to the problems of shared water management

A multilevel law => different solutions in different contexts



# The United Nations global water conventions: in support of transboundary water cooperation

- **1997** Convention on the Law of the Non-navigational Uses of International Watercourses (Watercourses Convention)
  - *Entry into force in 2014*
- **1992** Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention)
  - *Entry into force 1996. Global opening in 2016*





# Why are global framework instruments needed?

- For the continuity and sustainability of transboundary cooperation on the basis of a common language and mutual understanding
- Support cooperation when it is not established:
- When there is no specific legal and institutional mechanism at basin level, i.e. for more than 60% of all basins
- When the existing legal and institutional arrangements at the basin level are weak, eg. many agreements do not provide for data sharing, provision for dispute resolution
- When all the basin states are not party to the basin agreement, i.e. for more than 80% of the basins
- Promote the gradual improvement of cooperation when it is established and strengthen implementation, for example, through a platform to share experiences and good practices
- Support ≠ replace because basin agreements are to be created and the Conventions facilitate negotiations and cooperation
- Strengthen the profile of 'transboundary waters' at national and international political level, and foster synergies with other global initiatives, for example for climate change

# Synergies - substantive norms

## 1992 Water Convention

- Equitable and reasonable utilisation (Art 2(c))
- Obligation to take all appropriate measures to prevent, control and reduce any transboundary impact (Art 2)
- Obligation to cooperate (Art 2 (6))

## 1997 Watercourses Convention

- Obligation to utilise an international watercourse in an equitable and reasonable manner (Art 5)
- Take all appropriate measures not to cause significant harm (Art 7)
- Obligation to cooperate (Art 8)

# Synergies – procedural aspects of both Conventions

## 1992 Water Convention

- ✓ Obligation to conclude specific agreements and to establish joint bodies (art. 9)
- ✓ Consultations (Art. 10)
- ✓ Development of common criteria and objectives (Art. 9(2))
- ✓ Concerted action programmes (Art. 9(2))
- ✓ Joint monitoring and evaluation (Art. 11 & Art. 9(2))
- ✓ Exchange of information (Art. 13)
- ✓ Conduct of EIA (Art. 9(2))
- ✓ Joint research and development activities (Art. 12)
- ✓ Warning and alarm systems (Art. 9(2) & 14)
- ✓ Mutual assistance (Art. 15)
- ✓ Information to the public (Art. 16)

## 1997 Watercourses Convention

- ✓ Regular exchange of data and information (Art. 9)
- ✓ Obligation to notify proposed measures (Art. 11-19)
- ✓ Protection and preservation of ecosystems (Art. 20)
- ✓ Joint management (Art. 24)
- ✓ Prevention and mitigation of harmful conditions (Art. 27)
- ✓ Non-discrimination (32)

## The two Conventions have inspired regional instruments



**The regional instruments** make specific reference to a Convention as an **international conventional source of principles and rules for the management and protection of shared water resources:**

- ✓ **Niger Basin Water Charter (2008)**
- ✓ **Lake Chad Basin Water Charter (2012)**
- ✓ **Draft ECCAS Convention on shared water resources**
- ✓ **Draft ECOWAS directive on transboundary water resources**
- ✓ **Draft Water Charter for the Volta Basin**
- ✓ **Etc.**

# The Water Convention



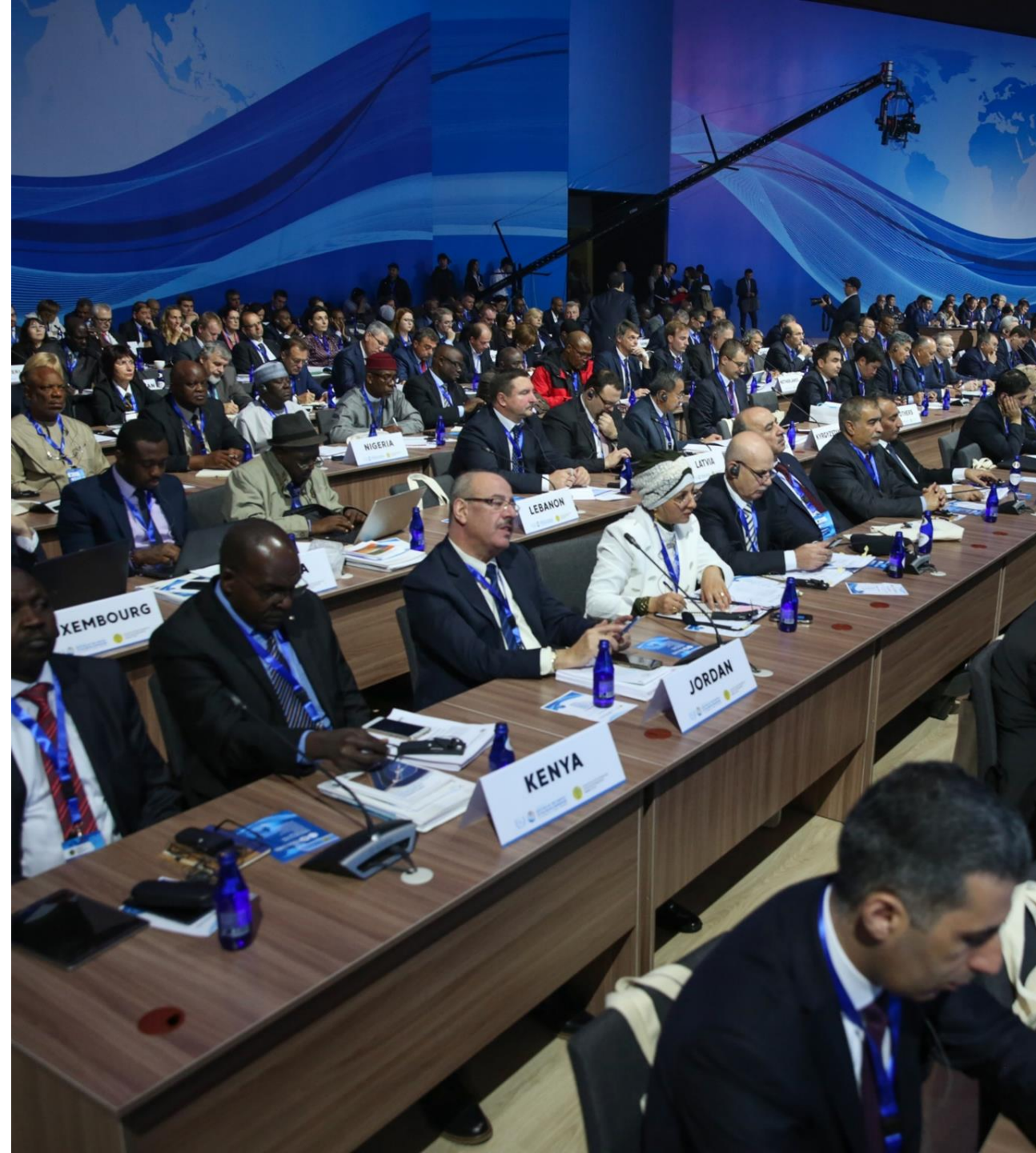
A legal and institutional framework for **transboundary water cooperation** contributing to **sustainable development**, international **peace** and **security**.



A **unique platform** to discuss progress of **transboundary water cooperation** worldwide under the umbrella of the **United Nations**



Opened to all interested countries, with **more than 130 countries** exchanging experiences and knowledge to prompt progress in cooperation





# The Water Convention institutional mechanism



Meeting of the Parties

Implementation  
Committee



Bureau



Working Group on IWRM  
Working Group on M&A



Water Convention Secretariat  
UNECE

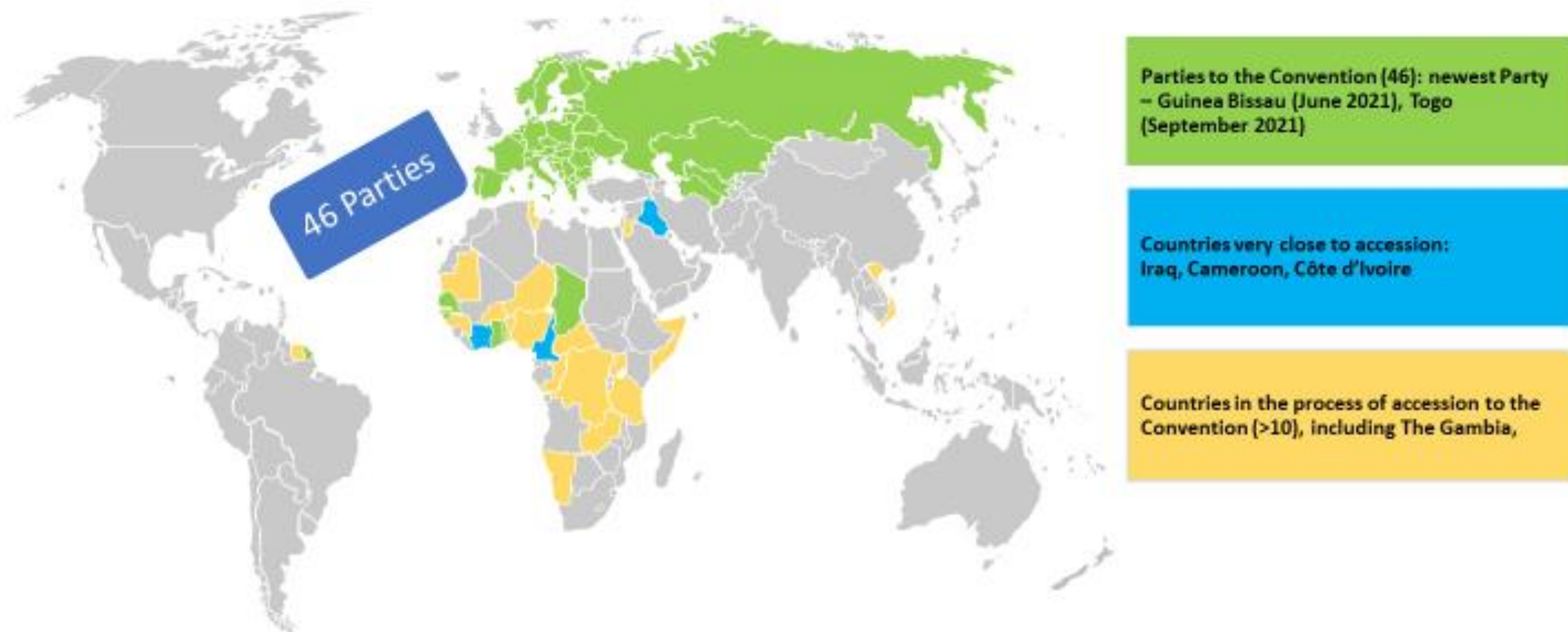


- Task Force on Water and Climate
- Task Force on Water-Food-Energy-Ecosystems Nexus
- Expert Groups
- JEG on Water and Industrial Accidents

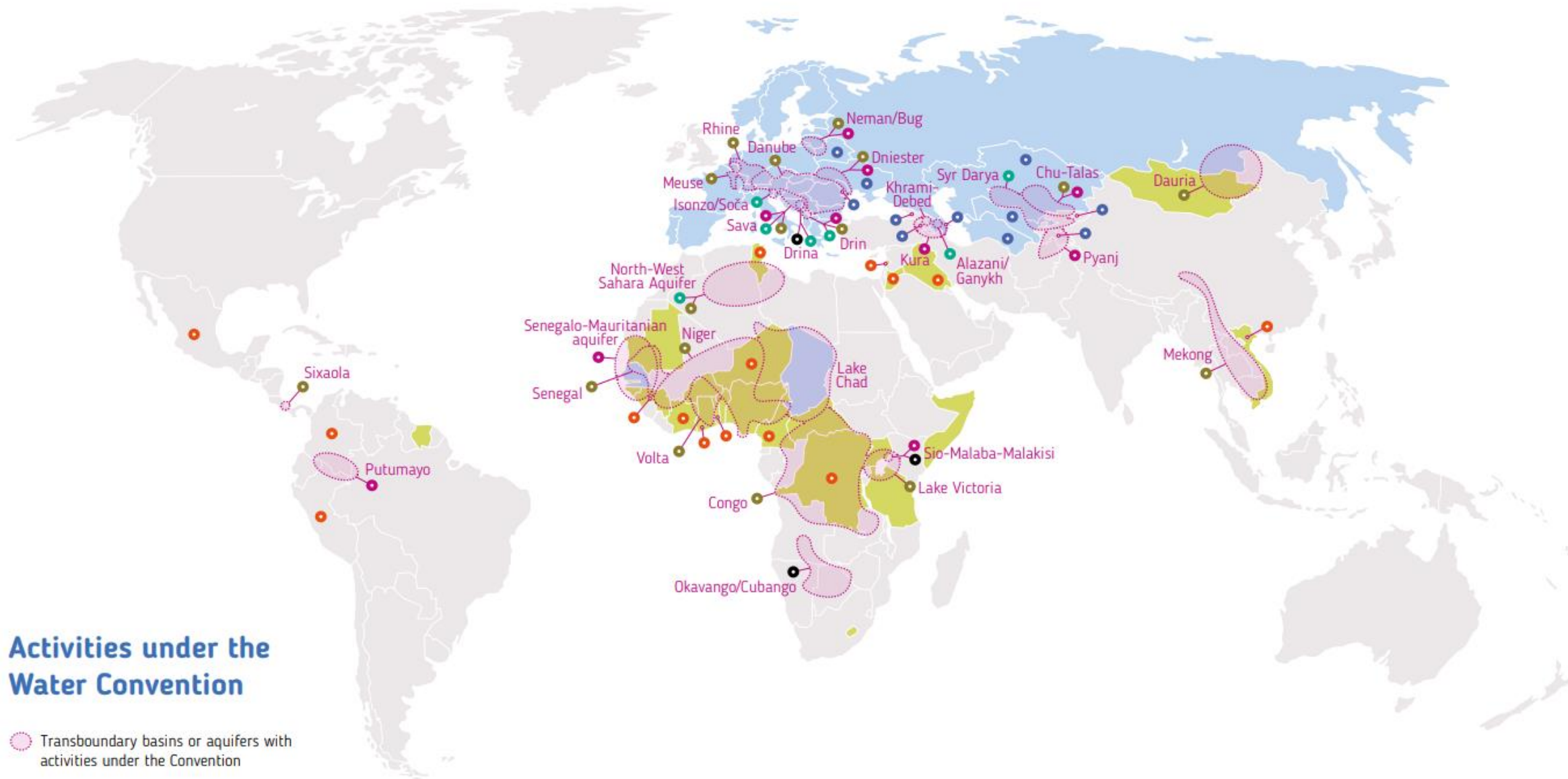


WATER  
CONVENTION

# GLOBAL MOMENTUM: Parties to & interest in the Convention



Globalization guided by the **Strategy for the implementation of the Water Convention at global level**



### Areas of work

- Support to the development of agreements and the establishment of joint bodies
- Identification, assessment and communication of the benefits of transboundary water cooperation
- Assessment and promotion of the Water-food-energy-ecosystems nexus in transboundary basins

### Country Status

- Adaptation to climate change in transboundary basins
- Opening of the Convention, promotion and partnerships
- National Policy Dialogues on IWRM under the European Union Water Initiative
- Parties
- Countries which have started a discussion on accession

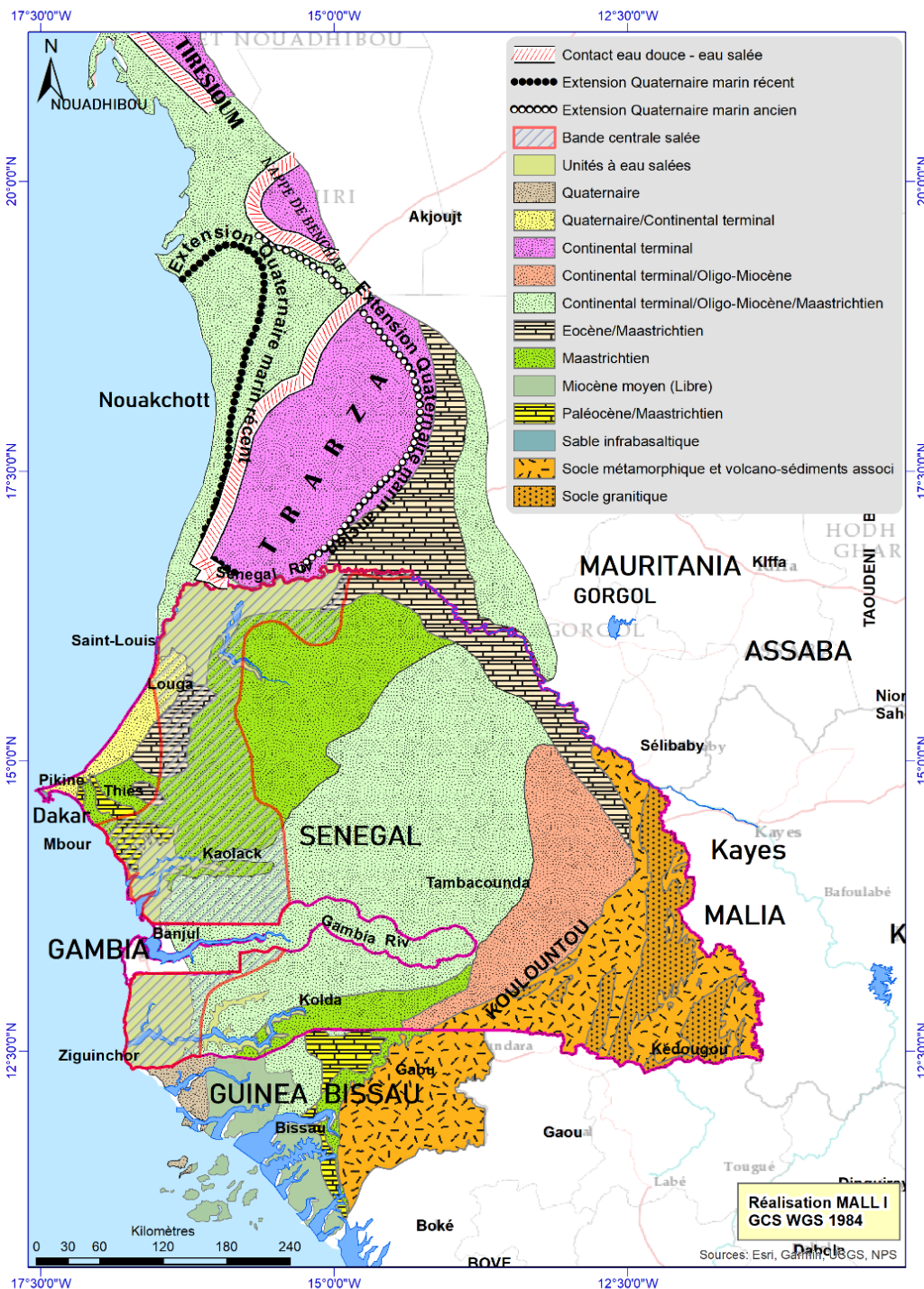


# Assistance from the Water Convention in the Balkans: examples

**Formalizing & operationalizing cooperation, mobilization of funding:** In the **Drin Basin**, the riparians sought to address flooding, pollution, hydromorphological changes and to improve access to data. An initial technical cooperation project with a regional partner GWP-Med led into development of an MoU, a multi-million GEF project, adoption of a Strategic Action Plan, initiating an agreement's negotiation & a follow up GEF project

**Albania-Montenegro: Advisory procedure of the Implementation Committee** regarding a possible transboundary impact of the planned construction of small hydropower plants on the **Cijevna/Cem River**. The parties agreed to establish a joint technical working group on “Monitoring & assessment” and to develop and implement an information exchange protocol.





## TRANSBOUNDARY COOPERATION PROJECT ON THE SENEGALO-MAURITANIAN AQUIFER BASIN

- Area 331,450 km<sup>2</sup> : 100% Gambia, 41% Guinea Bissau, 14% Mauritania, and 84% Senegal
- Estimated population 11,930,000 (Altchenko & Villholth, 2013)
- BASM countries depend on groundwater resources for more than 80% of their total population

### Objectif of the SMAB

To design a joint project to initiate concerted management of the SMAB containing development components, a legal and institutional framework for cooperation

### Results to date:

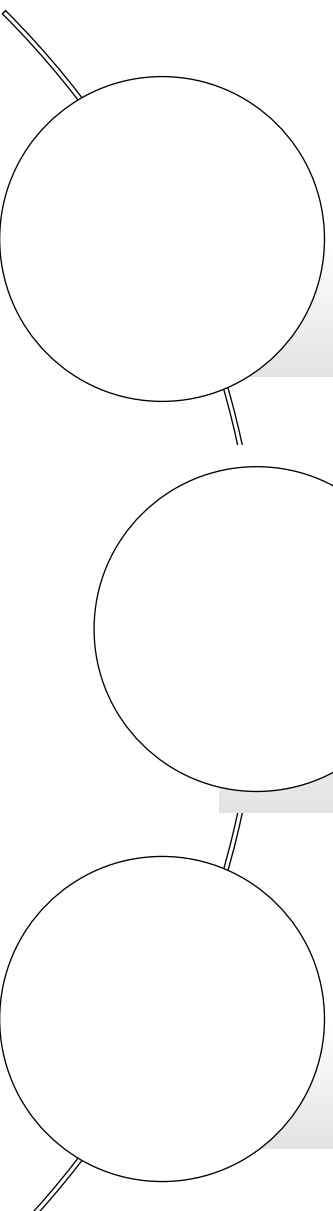
Strengthened cross-border cooperation with:

- Regional Working Group (RWG) established the multi-million dollar Senegalo-Mauritanian Aquifer Basin transboundary cooperation project (several donors), the launch of the negotiation of an agreement
- Joint declaration of the ministers in charge of water of the BASM member countries at the Meeting of Parties to the Water Convention in October 2021 (Political commitment)



# International legal framework for developing cooperation in transboundary basins

## - Key points to consider



Transboundary cooperation is key to achieving the Sustainable Development Goals, particularly in the areas of water security, peace and conflict prevention. Strong encouragement for joining the freshwater conventions of the UN and implementing the water charters.

Universal legal frameworks aim to ensure coherence of interventions at universal, regional and basin levels to ensure sustainable development, regional integration and peace. They complement regional frameworks by supporting their effective implementation

International law provides general principles and conduct but they need to be applied in each specific context. Various factors and circumstances need to be considered, including natural and socio-economic ones.

# Thanks for your attention !

To know more about the Water Convention:

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

[komlan.sangbana@un.org](mailto:komlan.sangbana@un.org)

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

...and the project Water Cooperation and Peace - Finnish Water Way:

<https://www.syke.fi/projects/waterdiplomacy>

[annukka.lipponen@gov.fi](mailto:annukka.lipponen@gov.fi)

