

# Draft checklist on the development of legal frameworks for transboundary waters

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Virtual Workshop on designing legal frameworks for transboundary water cooperation

28-29 July 2020

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## Background



**Nur-sultan, 10-12  
October 2018,**  
Meeting of the Parties  
to the Water  
Convention adopts  
programme of work  
for 2019-2021

**Programme of work  
includes checklist**  
Preparation of the first  
draft of annotated  
outline (secretariat in  
cooperation with  
several partners)

**28-29 July 2020,**  
Virtual Workshop  
Tailored to support the  
preparation of the  
checklist

**Next steps and further  
development**

## Structure

Introduction:  
About the  
checklist

II. Preparing  
the ground

III. Checklist



## About the checklist

- Aimed at **supporting countries in the design and drafting** of agreements or other arrangements for transboundary waters
- Focus on **content and drafting options** rather than on process
- **Target audience:** country representatives involved in negotiation and drafting and other stakeholders working on transboundary water cooperation



# Rationale and analytical framework

- Checklist to serve as an **agreement/arrangement builder**
  - ❖ 6 thematic modules
  - ❖ Building blocks: provisions/issues that countries may consider including within each module
  - ❖ Key aspects, help define content of building blocks
  - ❖ Supporting resources, assist in further developing the content





## Considering building blocks



- Country representatives using the tool during negotiations will **assess/negotiate** whether the issue/provision is relevant to their context
- Some building blocks are **especially advantageous** to include within a legal framework  
E.g. help ensure that legal framework can be effectively implemented, help fulfill SDG target 6.5, indicator SDG 6.5.2
- To facilitate process of selecting building blocks, checklist will:
  - 1) **Indicate advantages** of including building blocks and key aspects
  - 2) **Provide examples** from existing instruments, including the two Conventions
- Many building blocks are **interdependent** and **mutually supportive**  
Value in preserving their integrity

# Preparing the ground – key messages

1. The development of a legal framework is a **process**

- Initiating cooperation
- Developing a shared understanding of the basin
- Negotiating a legal framework
- Evolvement over time
- Implementation, bringing concrete benefits for river basin/aquifer populations

2. There is **wide diversity** in international water law practice

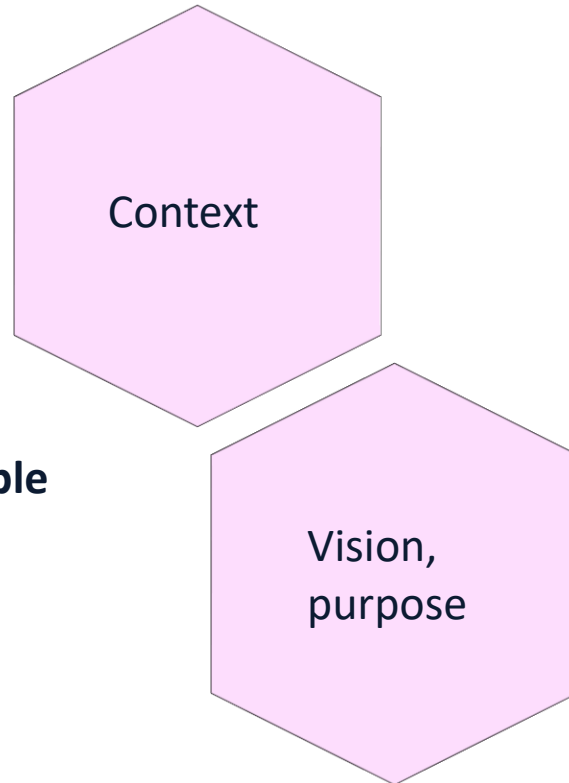
- The question of form
- Diversity for geographical and material scope
- Adapting legal frameworks to the characteristics of the basin

3. Consider **relevant international law**

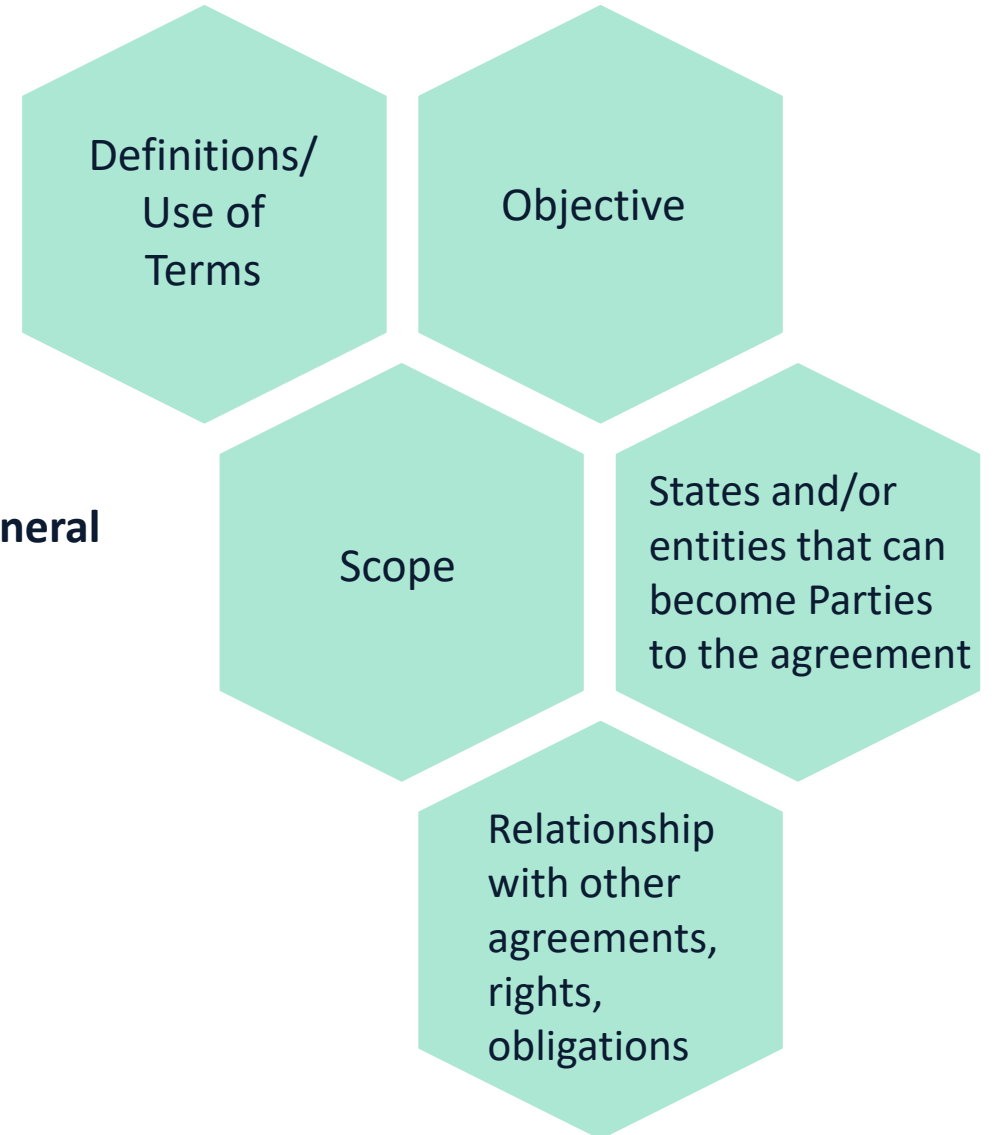
- Effects of becoming a Party to a treaty
- Harmonizing elements in international water law
- Link with international environmental law
- Links with international human rights law

# Draft annotated outline – modules and building blocks

## Module 1: Preamble

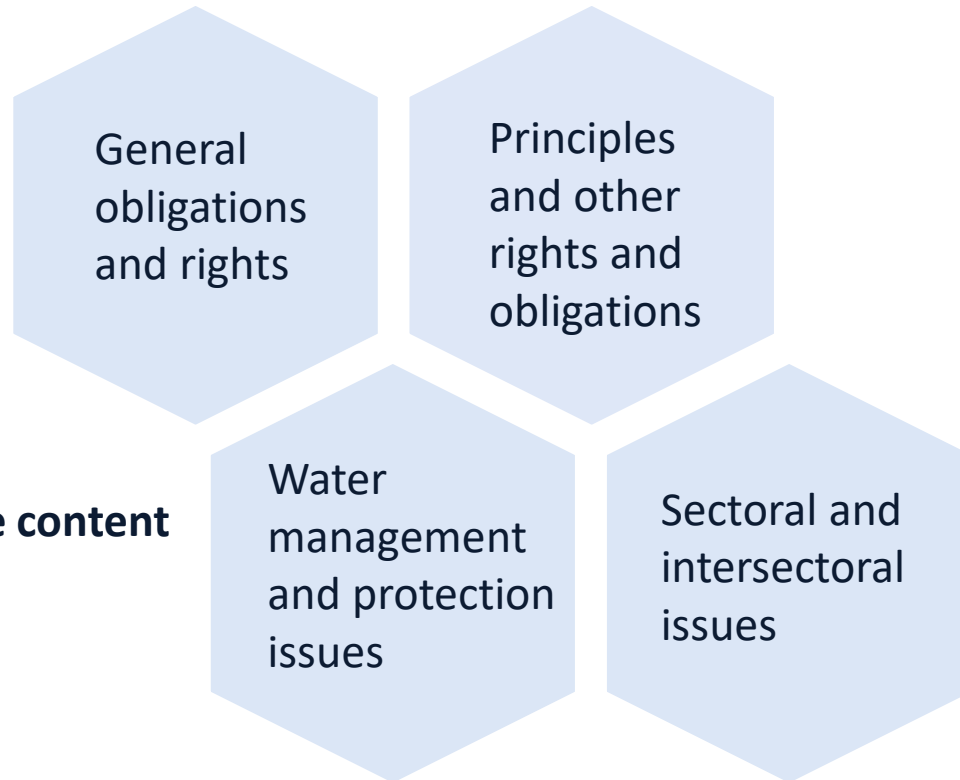


## Module 2: General provisions

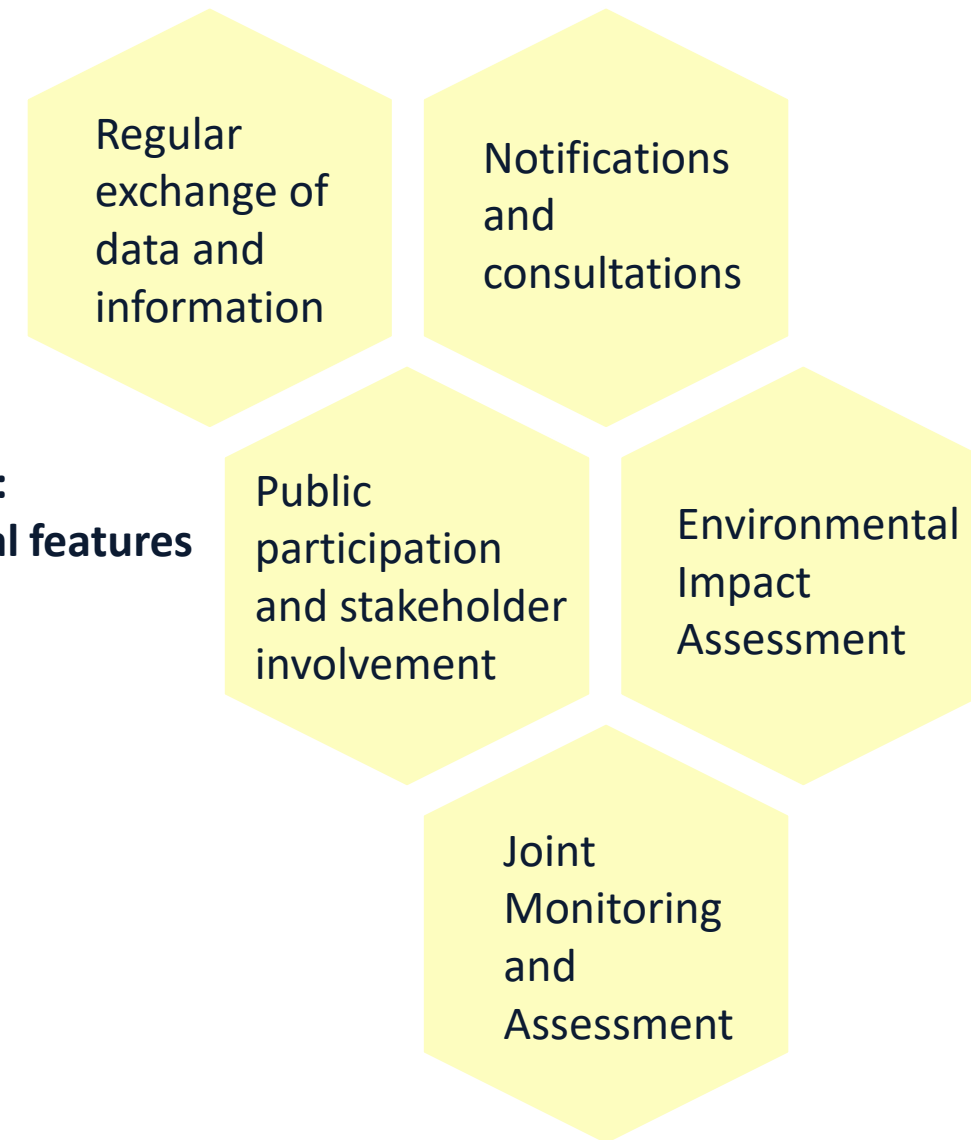




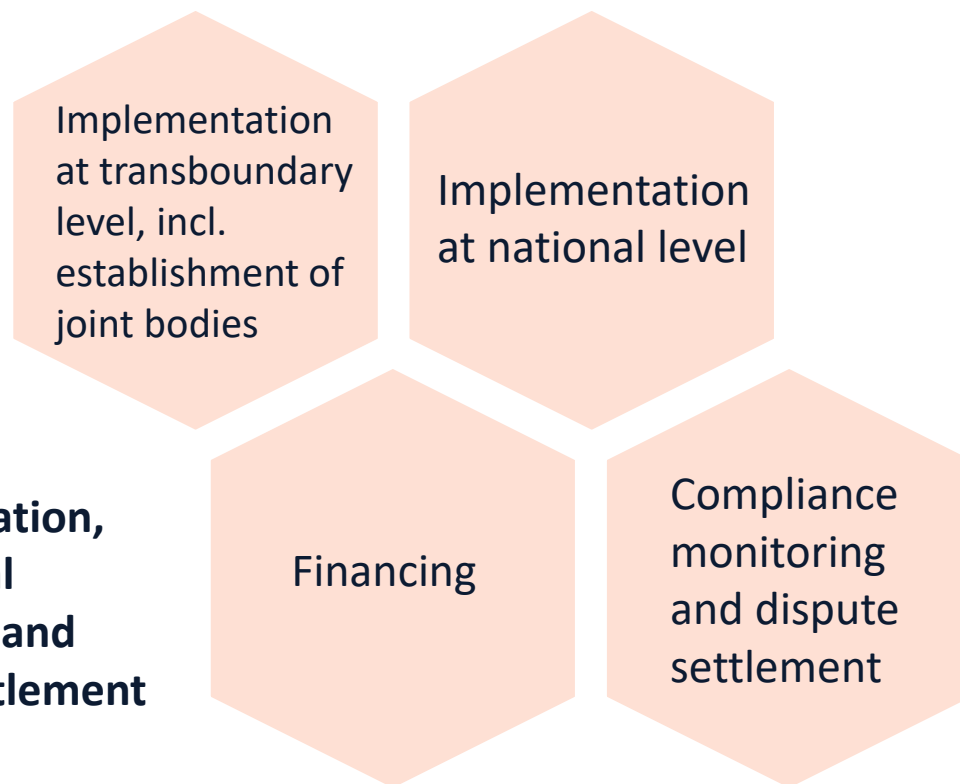
**Module 3:  
Substantive content**



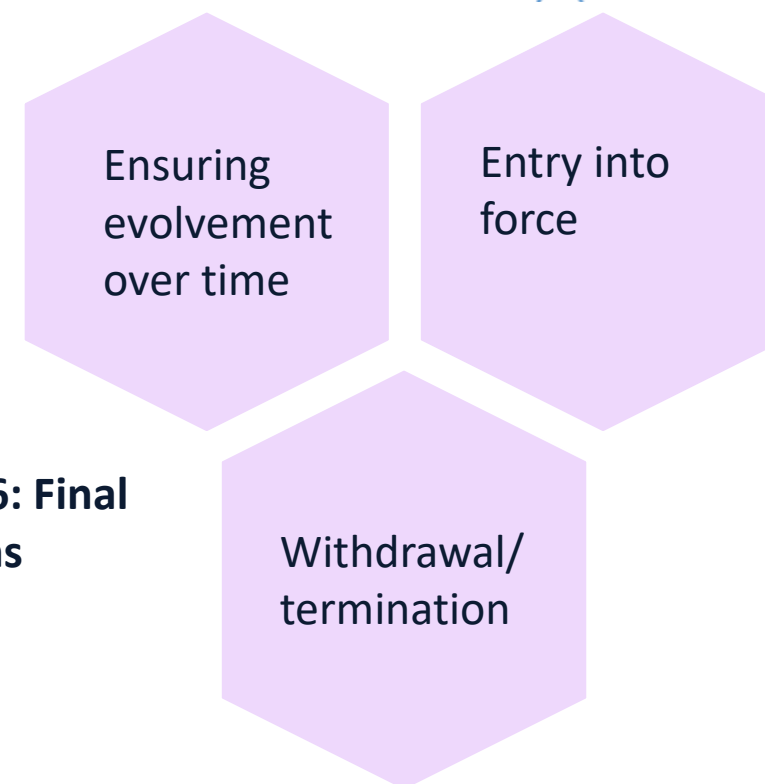
**Module 4:  
Procedural features**



**Module 5:  
Implementation,  
Institutional  
framework and  
dispute settlement**



**Module 6: Final  
provisions**





## Virtual workshop

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**Session 1:** Preliminary considerations and general provisions

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**Sessions 2 and 3:** Substantive content and procedural features

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**Session 4:** Implementation, institutional framework and dispute settlement

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## Checklist

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**Module 2: General provisions**

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**Module 3: Substantive content**

**Module 4: Procedural features**

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**Module 5: Implementation, institutional framework and dispute settlement**

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## Your input is welcome!

### Draft annotated Checklist outline

Thematic modules	Building Blocks	Key aspects (Draft in progress)	Advantages of the building blocks/key aspects (to be filled)
1. Preamble	Context	<ul style="list-style-type: none"> <li>- Explain the reasons that led to the development of the agreement/arrangement (e.g. cooperative efforts that led to the adoption of the legal framework).</li> <li>- Put the agreement/arrangement into context by explaining its relationship with other instruments and institutions that operate at a global, regional and/or sub-regional level</li> <li>- Refer to basin-specific conditions, if relevant</li> </ul>	
	Vision, purpose	<ul style="list-style-type: none"> <li>- Explain the vision and purpose, including by referring to principles,</li> </ul>	



**Thank you for your attention!**