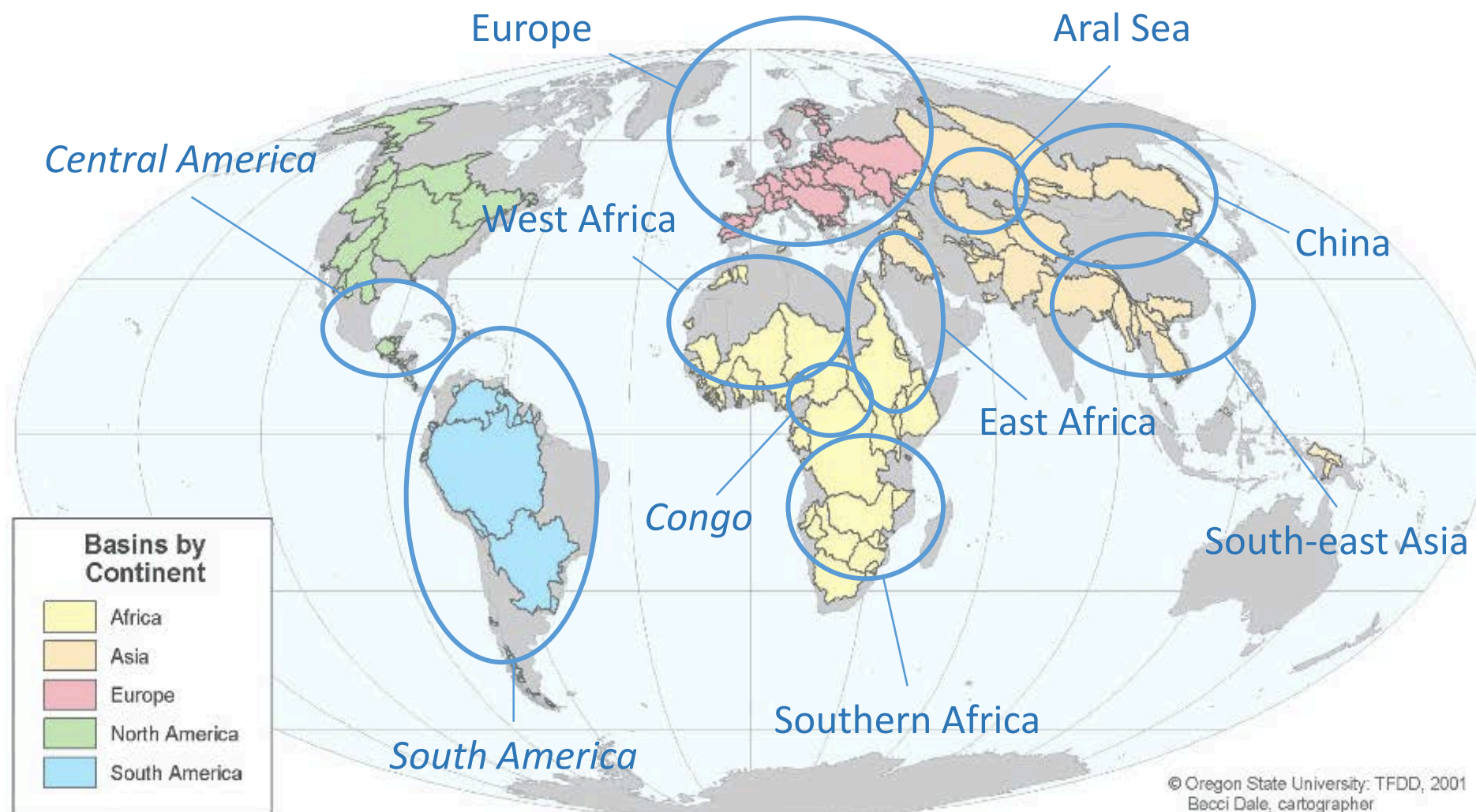


*Guide to Implementing the UNECE  
Water Convention and the UN  
Watercourses Convention User's Guide*

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# Regional and Basin studies conducted to assess value added of global water conventions within specific regions (2006 - )





# Key outcomes from IWL assessments

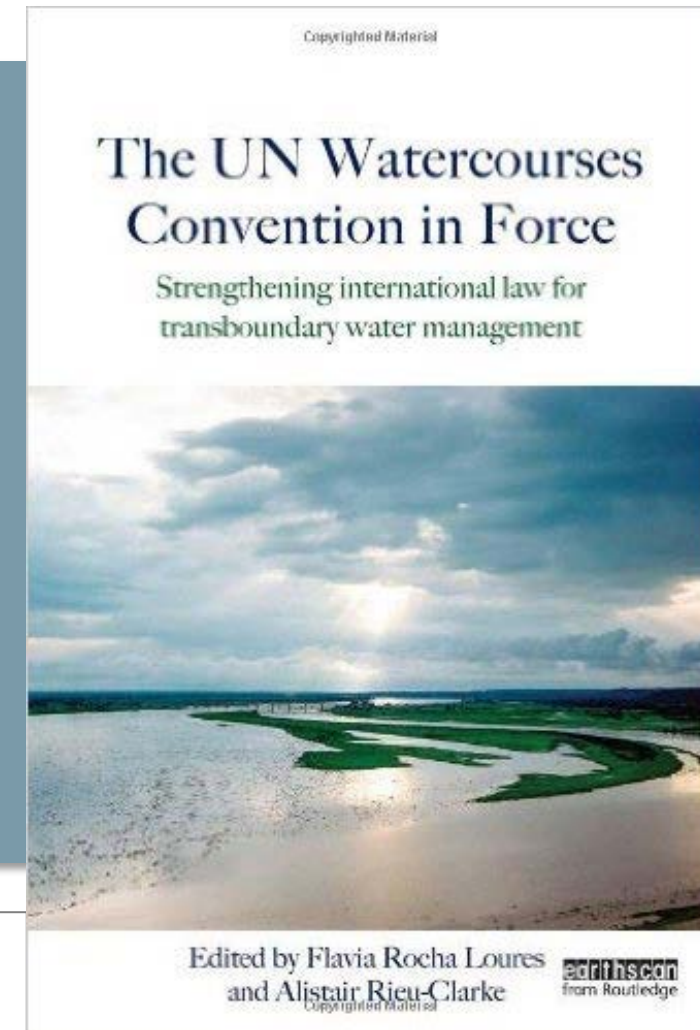
- Transboundary water cooperation recognised as important
- Existing frameworks seen as inadequate
  - Some watercourses not covered by *any* treaty
  - Not all watercourse States party to a watercourse treaty, e.g. 1995 Mekong Agreement
  - Existing basin-level treaty or treaties not fit for purpose
  - Implementation remains a key challenge
- UNECE Water Convention and UN Watercourses Convention can *supplement* existing treaty architecture
- Awareness of the UNECE Water Convention and UN Watercourses Convention generally low
- Need to address misunderstandings
- Encouraging more States to become party to the Conventions will require capacity building initiatives
- Capacity building initiatives also critical for implementation

Why the need for guides? Is the text not enough?

# A guide can help address misunderstandings

- Scope
  - UNWC only covers surface water ☒
  - UNECE Water Convention only deals with water quality ☒
- Notification on planned measures
  - Gives veto power to notified state ☒
- Relationship between equitable and reasonable utilisation and no significant harm
  - Favours upstream states ☒
  - Favours downstream states ☒
- Dispute settlement procedures
  - Compulsory arbitration or adjudication ☒
- Regional economic integration organisations
  - Could unilaterally become riparians equal to states ☒

Salman, 'Misconceptions regarding the interpretation of the UN Watercourses Convention' (2013)



# Guides can help interpret open textured/ ambiguous provisions

- Provisions included that aim to appease different negotiating positions/ interests or apply to a wide range of context
- Technical terms require further explanation
- Examples include
  - 'Equitable'
  - 'Reasonable'
  - 'Significant'
  - 'Harm'
- 'Adverse effect'
- 'Appropriate'
- 'Timely'
- 'Available'
- 'Where appropriate'
- 'Good faith'

UN WATERCOURSES CONVENTION

User's Guide

Alistair Rieu-Clarke  
Ruby Moynihan  
Bjørn-Oliver Magsig



# Water Conventions do not operate in isolation nor are they static documents!

- Treaty interpretation (Section 3, Vienna Convention on the Law of the Treaties)
  - Ordinary meaning
  - Other relevant treaties, instruments, and practice
  - Any relevant rules of international law
  - Preparatory works
- Influences by other treaties, instruments and practice
  - Text of other MEAs, basin agreements, etc.
  - Guidelines adopted by MEAs, e.g. Ramsar Convention or UNECE WC
  - Advancement in scientific knowledge and understanding, e.g. Millennium Ecosystem Assessment and Protection of Ecosystems

## Guide to Implementing The Water Convention



UNITED NATIONS

# Treaty interpretation by international courts

- 1975 Uruguay Statute and 2010 Pulp Mills Case (Argentina v Uruguay)
  - ‘the obligation to protect and preserve, under Article 41 (a) of the Statute, has to be interpreted in accordance with a practice, which in recent years has gained so much acceptance among States that it may now be considered a requirement under general international law to undertake an environmental impact assessment where there is a risk that the proposed industrial activity may have a significant adverse impact in a transboundary context, in particular, on a shared resource’
- See also
  - 1960 Indus Water Treaty and 2010 Kishenganga Dispute, PCA (Pakistan v. India)
  - 1997 Gabčíkovo-Nagymaros Case, ICJ (Hungary/Slovakia)
  - ...



# UN Watercourses Convention User's Guide

- Article-by-Article
  - Text of Article
  - Commentary
    - Context
    - Meaning of key terms used
    - Linkages with other provisions, legal instruments, practice, etc.
  - Application
    - Hypothetical examples of how a provision might apply in practice
  - Additional reading
- Link to website: [unwatercoursesconvention.org](http://unwatercoursesconvention.org)
- Unofficial text

## UN WATERCOURSES CONVENTION User's Guide

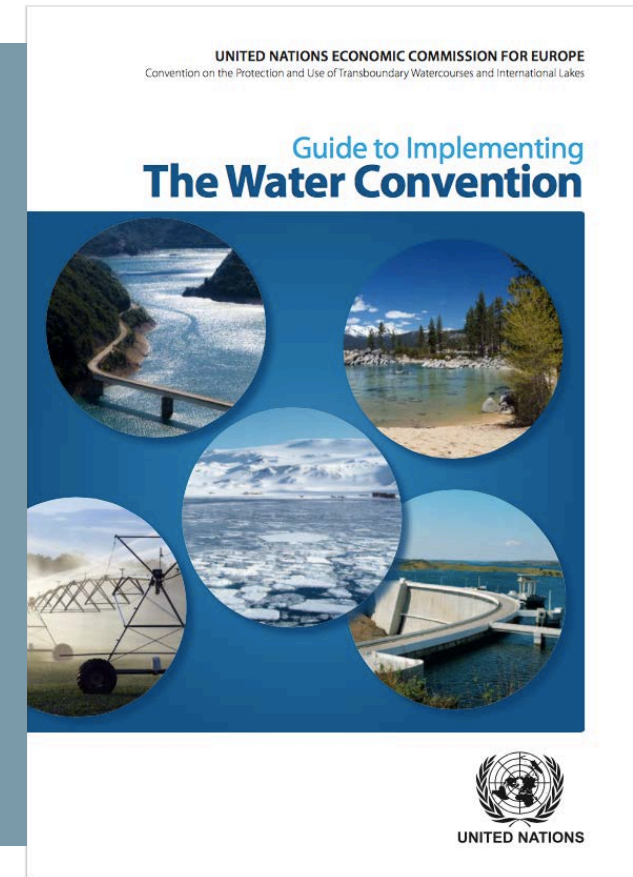
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# Guide to Implementing the UNECE Water Convention

- Legal reference for implementing the Convention
- Practical commentary
- Comprehensive commentary to Convention's provisions
  - Explanations of legal, procedural, administrative, technical and practical aspects
  - Illustrative 'case study' examples
  - Draws upon a diverse team of experts and their experiences
- Developed under auspices of Legal Board and IWRM Working Group
- Adopted by 5<sup>th</sup> Meeting of the Parties in 2009, with updates under guidance of Convention's Bureau in accordance with mandate given by 6<sup>th</sup> Meeting of the Parties in 2012
- Available in English, French, Russian, Spanish and Arabic

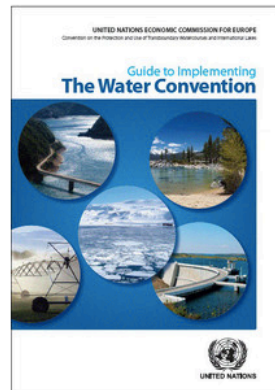


# Further information

## Guide to implementing the Water Convention

[Go to Previous Page](#)

Published: September 2013



Available in [English](#), [French](#), [Russian](#), [Spanish](#) and [Arabic](#)

The Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention) was adopted in 1992 and entered into force in 1996. It brings together almost all countries sharing transboundary waters in the pan-European region, and is expected to achieve broader participation with its global opening to all United Nations Member States.

The Water Convention serves as a mechanism to strengthen international cooperation and national measures for the ecologically sound management and protection of transboundary surface waters and groundwaters. Furthermore, it provides an intergovernmental platform for the day-to-day development and advancement of transboundary cooperation.

The present Guide to Implementing the Water Convention constitutes a commentary to the Convention's provisions, providing explanations of the legal, procedural, administrative, technical and practical aspects of the Convention's requirements for appropriate implementation. It aims to strengthen the understanding of the Convention among current and future Parties, international partners, non governmental organizations and academia.

ECE/MP.WAT/39

<http://www.unece.org/index.php?id=33657>

The screenshot shows the homepage of the 'UN WATERCOURSES CONVENTION ONLINE USER'S GUIDE'. The header includes a search bar and navigation links for Home, About Us, News &amp; Events, FAQs, and Contact Us. A dark blue navigation bar contains sections for 'THE CONVENTION', 'IMPORTANCE', 'GLOBAL RELEVANCE', and 'Resources'. The main content area features a large banner with the text 'Global Initiative' and 'Find out more about the UNWC Global Initiative Symposium 2012 Proceedings', accompanied by an image of hands holding water. Below the banner, there are three columns: 'Welcome to the UN Watercourses Convention (UNWC) Online User's Guide', 'Latest News' with a link to a journal issue, and 'Connect with us...' featuring a Twitter feed for @UNWCOnline.

<http://unwatercoursesconvention.org>