



**Why 2 UN global Water Conventions? *Key provisions, similarities, differences & complementarities of both global legal frameworks for consideration by Nigeria***

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# Momentum for UN Global Water Conventions: Time to act now!



Ms. Amina J. Mohammed

Deputy Secretary General of the United Nations  
Chair of the United Nations Sustainable Development Group

Africa Water Week, 19 November 2021

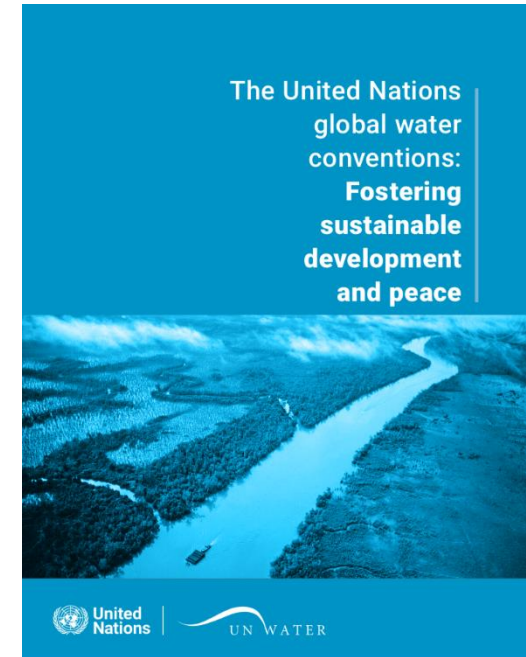


“The world will not achieve the sustainable development goals without urgent progress on access to water, sanitation and hygiene services [...]

I see 3 priorities for action.

First, we must promote water security for all. This includes transboundary water cooperation, which can help build peace and prevent conflicts.

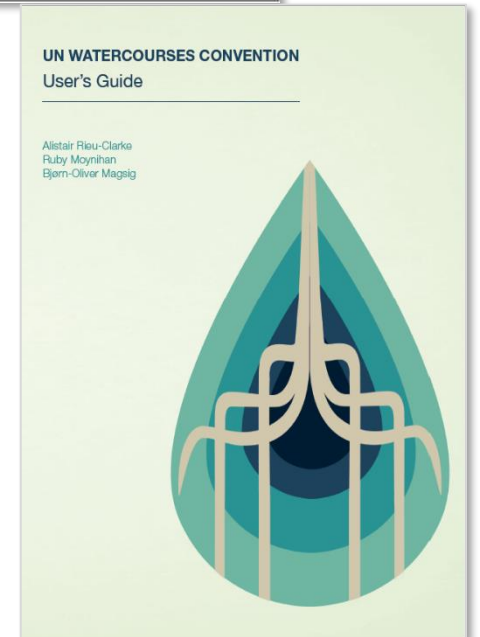
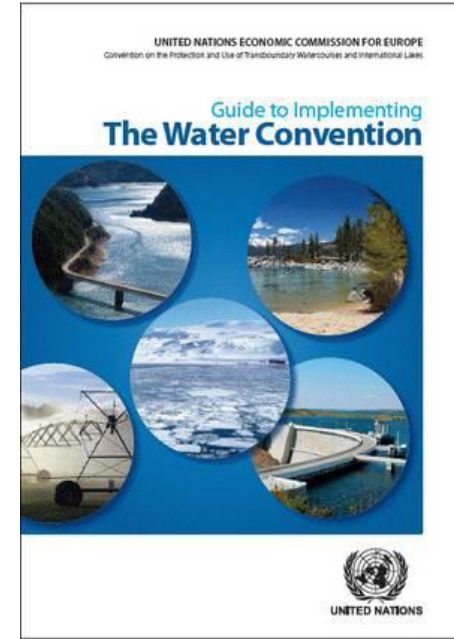
To achieve this, **I encourage all governments to accede, implement and comply with the 2 UN global water conventions.**”



WATER  
CONVENTION

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

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



# Global legal framework for shared rivers, lakes & aquifers

1. Not all basin states and/or river sections (mainstream v. tributaries) and/or uses are included in agreements

2. Weak and/or lack of governance institutions and/or mechanisms to implement the agreement & resolve disputes



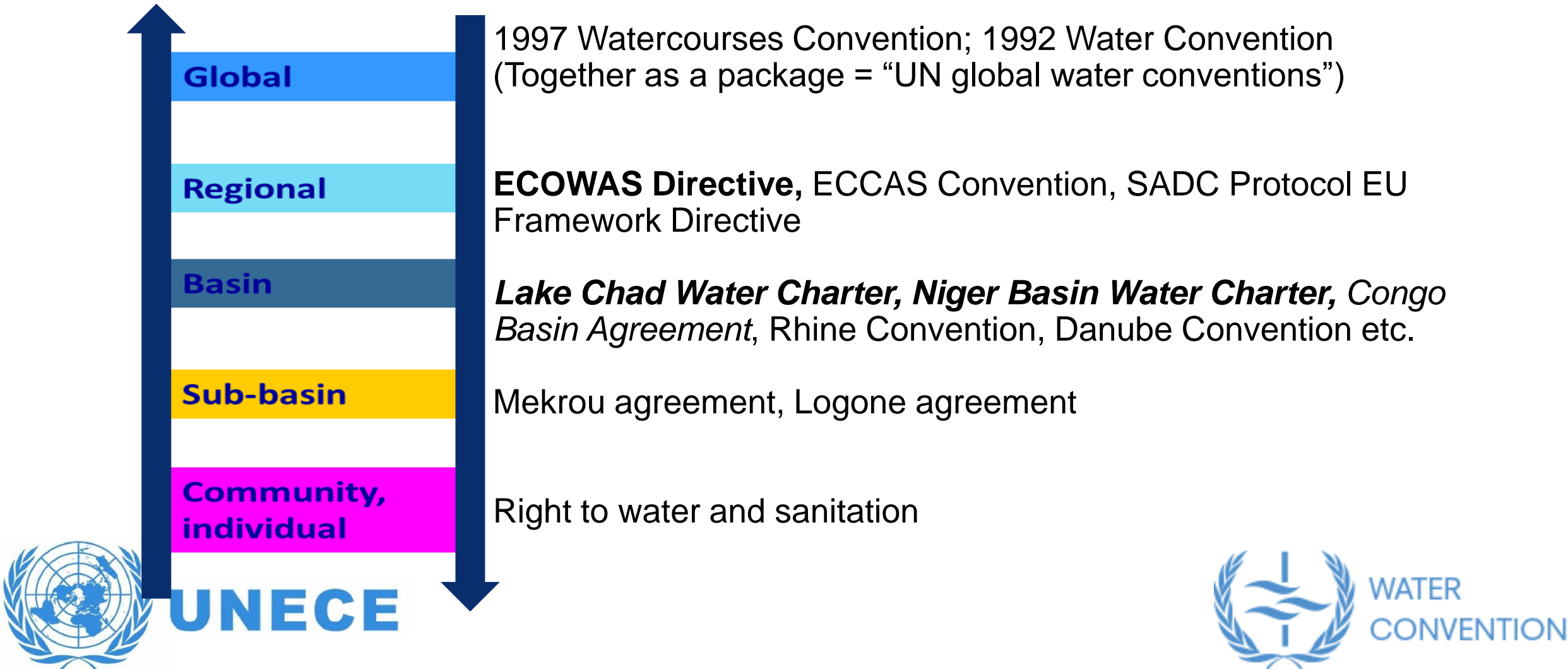
3. Key legal principles and/or processes are missing and/or weak in agreement

**OVERALL LEGAL ARCHITECTURE  
= FRAGMENTED, WITH KEY GAPS**



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

A multilevel, integrated architecture of laws => different solutions for different scales & contexts



# Why the need for global framework instruments? (1)

- Codify legal foundations for international water law & supports basic fundamental principles and procedures for shared waters in situations where:
  - no specific legal and institutional arrangement exists at the basin level, i.e. in more than 60% of all basins
  - weak legal and institutional arrangements exist at the basin level, e.g. many agreements to not provide for regular data-sharing, contain dispute settlement provisions etc.
  - not all basin states are party to a basin agreement, ie in more than 80% of basins



# Why the need for global framework instruments? (2)

- Support ≠ replace
  - Both do not substitute existing obligations; **instead clarify, reinforce or fill gaps at different levels**
- Fosters harmonisation of laws and applying principles between countries, basins & regions
- Consolidates, clarifies & develops customary international law that applies in any case
- Strengthen implementation, e.g. via a platform for sharing experiences and good practice
- Strengthens profile of ‘transboundary water cooperation’ at the global level, and fosters synergies with other global initiatives, eg climate change



# Water Convention: from global vision to global application

**Originally operated at a regional level, it has been global since 2016**

## History of the Water Convention

- **Negotiated in 1990-1992** through an intergovernmental process under the auspices of the UNECE, based largely on the ILC Draft Articles process
- **1996:** Entry into force of the Convention
- **2003:** Adoption of amendments allowing accession to the Convention by all UN Member States
- **1 March 2016: Operationalization of amendments: All UN Member States can accede to the Convention**

## *Why the global amendment?*

- Decision based on Convention's successes in strengthening TWC and in response to the interest from countries outside UNECE region
- Broaden political support for transboundary cooperation
- Apply principles and provisions worldwide
- Share experiences of Convention
- Learn from other regions
- Jointly develop solutions to common challenges





# Watercourses Convention: global framework, without an institution



## Evolution & Status

- Negotiated, developed as a global framework
  - Adopted on 27 May 1997 by UN General Assembly
  - **Entered into force on 17 August 2014**
- Push for ratifications in the 2000s led to entry into force
  - Workshops, training & advocacy on UNWC role/utility
  - More TB water issues globally = heightened awareness
  - **Nigeria ratified in 2010 (date of effect 17-08-2014)**

## UNWC: A LONG TIME IN THE MAKING

“Following 20 years work, and 15 reports by eminent international jurists, acting as Special Rapporteurs, the [Draft Articles on the Law of the Non-navigational Uses of International Watercourses](#) (1994 ILC Draft Articles) were adopted.”

## CODIFICATION OF CUSTOMARY LAW

The UNWC was developed, negotiated & adopted as a framework agreement under the mandate of the UN General Assembly. It is broadly recognised as a codification of customary international law on international watercourses.

# Legal alignment & synergies: Scope, Substantive & Procedural Provisions Mirrored by other frameworks at regional level

<b>LEGAL PRINCIPLES</b> (3 Core Principles of International Water Law Highlighted Below)	<b>1997 Watercourses Convention</b>	<b>1992 Water Convention</b>	<b>ECOWAS Directive (Draft)</b>	<b>Niger Basin Water Charter</b>	<b>Lake Chad Water Charter</b>
<b>Equitable &amp; Reasonable Utilisation</b>	<b>Arts.5, 6</b>	<b>Art.2(2) (c)</b>	<b>9-12</b>	<b>Arts 4</b>	<b>arts. 10-13</b>
<b>Prevention of transboundary harm</b>	<b>Art.7</b>	<b>Art. 2(1)</b>	<b>Arts.16-18</b>	<b>Art. 5</b>	<b>Arts. 21-27 ; 29; 42-48</b>
<b>Cooperation</b>	<b>Art.8</b>	<b>Art. 2(6)</b>	<b>Arts. 6;</b>	<b>Art. 2</b>	<b>Art.8</b>
<b>Environment/Ecosystems</b>	Arts. 20-23	Art. 2 (d)	Chap. 5	Art.12	Chap. 3
<b>Notification/Consult/negotiate</b>	Art.11-19	Art.10	Chap. 7	Arts. 20-24	Chap. 8
<b>Exchange information &amp; data</b>	Art. 8	Arts 6, 9(2)(c), 9(2)(h), 9(2)(i), Art. 13)	Chap. 8	Art. 19	Chap 10
<b>Dispute Settlement</b>	Arts.30-33	Art.22		Chap. IX	Chap. 15

# Synergies – compatibility – complementarity

- ❑ They are compatible, not contradictory, and in many ways complementary (1969 Vienna Convention on the Law of Treaties - provisions related to treaties on the same matter subject)
  
- ❑ 1997 Watercourses Convention complements the 1992 Water Convention
  - by detailing the factors relevant to equitable and reasonable utilization (article 6).
  - Specifying the procedures for notification and consultation on planned measures (Part III)
  
- ❑ Conversely, the 1992 Water Convention complements the 1997 Watercourses Convention
  - By prescribing the content of specific agreements and tasks of joint bodies (article 9)
  - Detailing the information subject to joint assessment and exchanges (articles 11 and 13)
  
- ❑ Differences between the two conventions on the same subject matter are of greater or lesser stringency or detail rather than a matter of conflicting prescriptions (They can reconcile by way of interpretation).
  - 1997 Watercourses Convention leaves confined groundwater outside its scope, 1992 Water Convention covers all transboundary groundwater, including confined aquifers.
  - The differences are rather a strength since the more detailed provisions in one instrument can inform the implementation of the other



# The Water Convention obligations

## Obligations for *all Parties* (Part I)

= apply to all states

- Licensing of waste-water discharges and monitoring of authorized discharges
- Setting emission limits based on BAT
- Application of best environmental practices
- Minimization of the risk of accidental pollution
- Application of EIA and other assessments
- Exchange of information

## Obligations for *Riparian Parties* (Part II)

= only applies between states sharing a transboundary watercourse or international lake

- ***Conclusion of bilateral and multilateral agreements and creation of joint bodies***
- Joint monitoring and assessment
- Common research and development
- Exchange of information between Riparian Parties
- Consultation
- Warning and alarm systems
- Mutual assistance
- Public information

# Many benefits of acceding to the UN global water conventions

## **SPECIFIC BENEFITS include:**

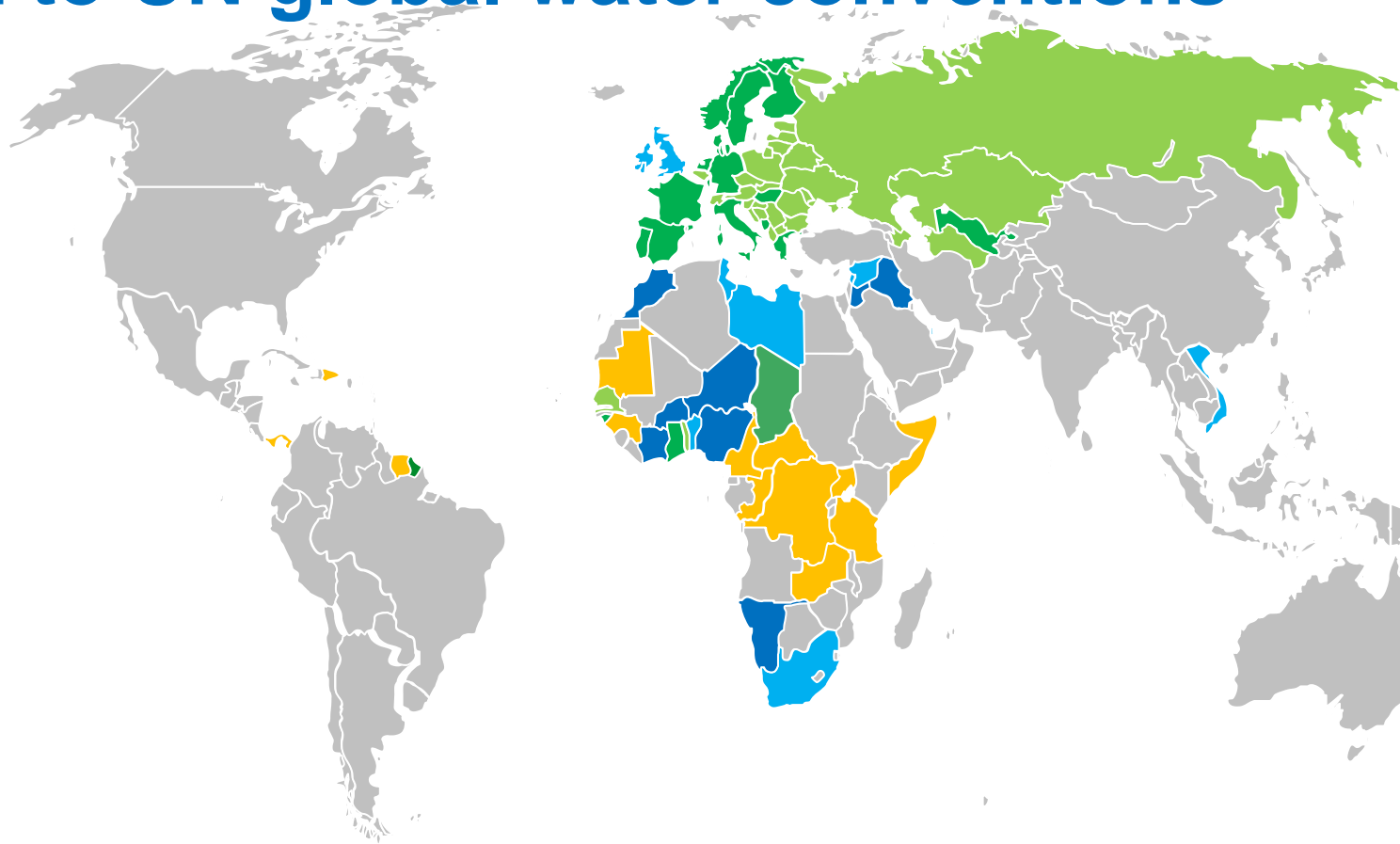
- 1) Having a legal binding framework by which a state can conduct its activities related to transboundary rivers, lakes and aquifers which provides for predictability and transparency.
- 2) Legal frameworks **help** create an enabling stable environment for encouraging investments.

## **ADDITIONAL BENEFITS** of acceding to both, **irrespective of whether neighbours are parties:**


- 1) Being a Party sends a clear signal to non-Parties of the type of legal commitments that a country is willing enter into.
- 2) Recognition by countries and the international community of a country's long-term commitment to transboundary water cooperation.
- 3) Stronger water management at the national level linking to transboundary management.
- 4) Accession process offers a means by which to strengthen national awareness and capacity on transboundary water issues amongst key stakeholders across sectors.



# Accession to UN global water conventions



*“The global opening of the Water Convention, the accession of the first countries from outside the UNECE region -- namely Chad and Senegal -- and the momentum in support of the Convention are promising developments. Along with the Convention on the Law of the Non-Navigational Uses of International Watercourses, the world has the ability to strengthen the rule of law in transboundary cooperation worldwide. **I call on Member States to join both Conventions and to strive for their full implementation.**”*

 Party to the Water Convention (1992) - 46

Party to the Watercourses Convention (1997) - 37

Party to both Conventions - 18

Party to the Watercourse Convention - in process of accession to 1992 WC - 8

Countries in the process of accession to the 1992 WC - 13



# THANK YOU

**Water Convention:**

<https://www.unece.org/env/water/>

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