

Training workshop “From practitioner to practitioner:
how to use the two global Water Conventions to promote cooperation on the ground”, 3-4 July 2023

QUIZ: ANSWERS

Iulia Trombitcaia

Environmental Affairs Officer
Water Convention secretariat



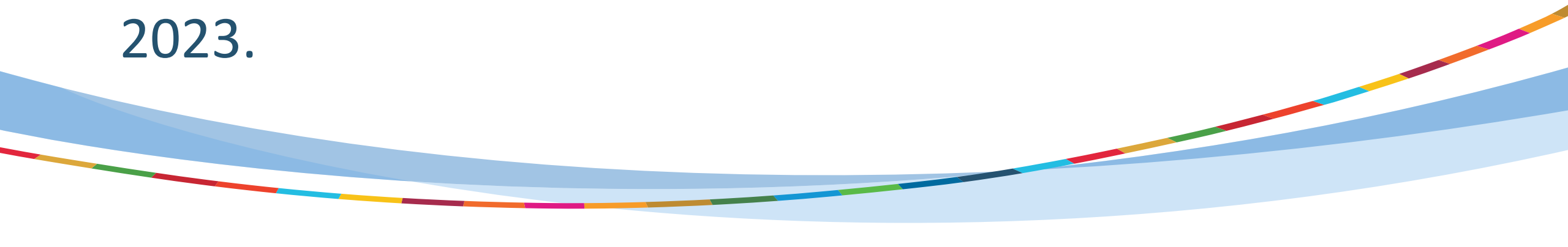
1. How many countries are Parties to the 1992 Water Convention as of 30 June 2023?

ANSWER: 49

Explanation:

The Water Convention has 50 Parties: 49 countries and the European Union.

Chad, Senegal, Ghana, Guinea-Bissau, Togo, Cameroon, Nigeria, Iraq and Namibia acceded in 2018-2023.



2. How many countries are Parties to the 1997 Watercourses Convention as of 30 June 2023?

ANSWER: 37

Explanation:

The 1997 Watercourses Convention entered into force in 2014. Ghana became the 37th party to accede to the 1997 Watercourses Convention in 2020.

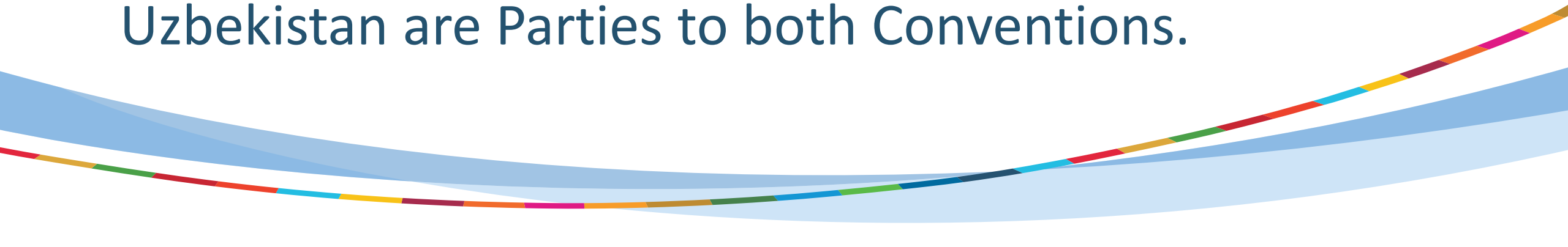


3. How many countries are Parties to both Conventions?

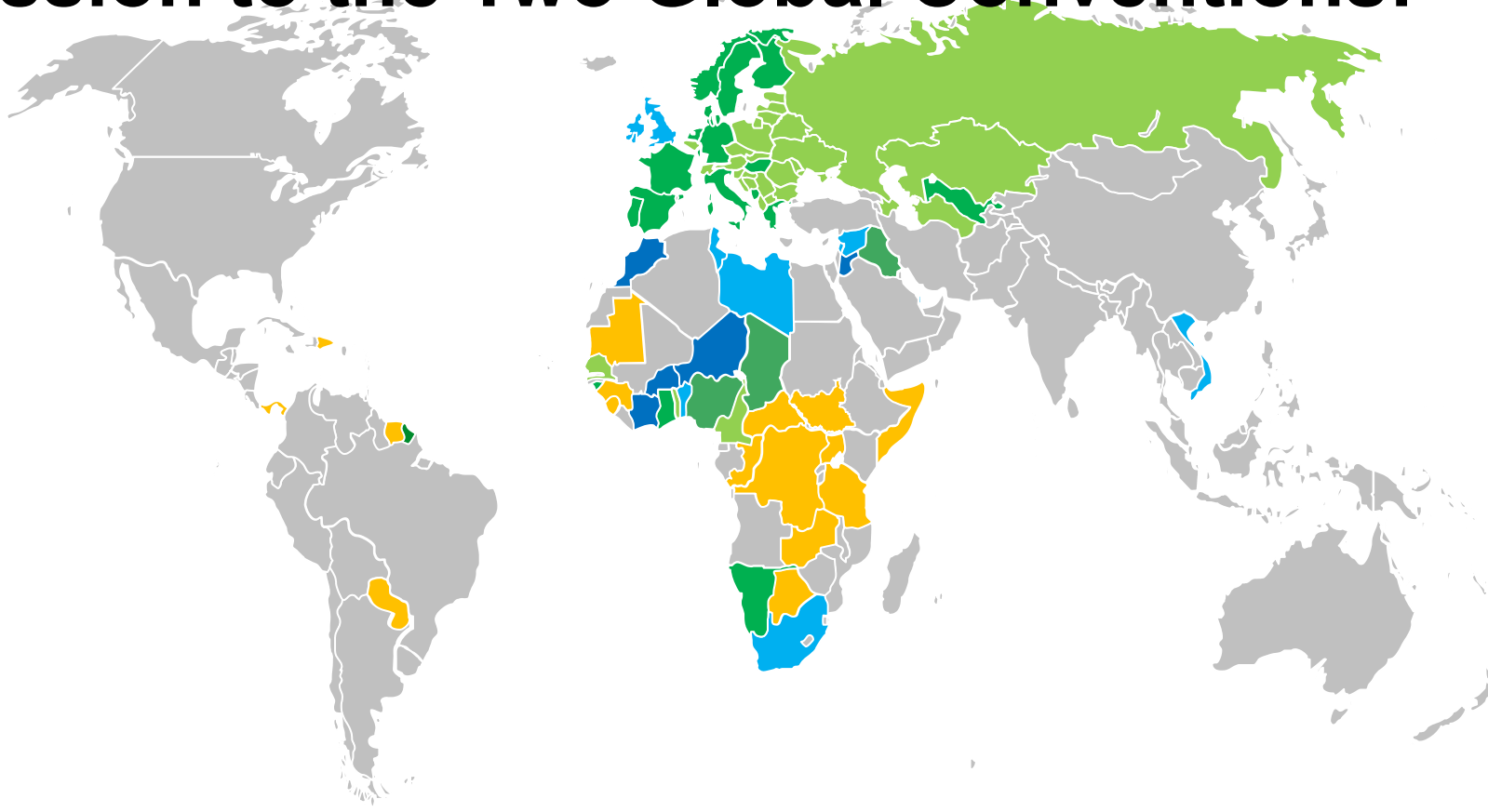
ANSWER: 21

Explanation:

Chad, Denmark, Finland, France, Germany, Ghana, Greece, Guinea-Bissau, Hungary, Italy, Iraq, Luxembourg, Montenegro, Namibia, the Netherlands, Nigeria, Norway, Portugal, Spain, Sweden and Uzbekistan are Parties to both Conventions.



Accession to the Two Global Conventions!



Party to the Water Convention (1992) (1992) - 50	Party to the Watercourses Convention (1997) - 37	Party to both global water Conventions - 21	Parties to the Watercourses Convention - in the process of acceding to the Water Convention - 8	Countries in the process of acceding to the Water Convention -15
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4. What happened on 1 March 2016?

ANSWER: D

Explanation:

As of 1 March 2016, all UN Member States were able to accede to the 1992 Water Convention. This followed two significant events in the global legal framework for governing transboundary rivers, lakes and aquifers:

- 1) The entry into force on 6 February 2013 of the 2003 amendment to the 1992 Water Convention, turning the Water Convention into a global legal instrument and
- 2) The entry into force of the 1997 Watercourses Convention on 17 August 2014.


Both events meant two Conventions operated at the global level.



5. Can countries outside the UNECE region accede to the Water Convention?

ANSWER: C


Explanation: At the 6th session of the Meeting of the Parties in Rome in 2012, Parties adopted a decision on simplifying the procedure for the accession of non-UNECE countries to the Convention. Through Decision VI/3, in 2012 the Meeting of the Parties gave a blanket approval to any future accession request by United Nations Member States that are not members of UNECE. In order to effectively become a Party, the State simply has to deposit its instrument of accession with the Secretary-General of the United Nations in New York. The accession instrument should make reference to Decision VI/3. This decision confirms once again the unanimous desire to allow the accession of non-UNECE countries as soon as possible, without distinction compared to the procedure applicable to UNECE countries.



6. Both conventions oblige states `to take all appropriate measures` to prevent significant harm/ transboundary impact. What does this due diligence obligation entail?

ANSWER: C

Explanation: There is a due diligence duty of prevention, rather than an absolute prohibition on transboundary harm under Art 7 of the 1997 Watercourses Convention and Arts 2(1)-(2) of the 1992 Water Convention. A State's compliance with these articles does not depend on the result itself, but rather on the country's adequate preventive behavior to avoid such a result. Furthermore, countries are required to take only those measures of prevention deemed appropriate according to their capacities. The type of harm countries must avoid is qualified by the term 'significant'. This term excludes mere inconveniences or minor disturbances States are expected to tolerate in conformity with the principle of good neighborhood.




7. Does the scope of the 1997 Watercourses Convention also apply to all sources of groundwater shared between States?

ANSWER: No

Explanation: The 1997 Watercourses Convention applies to groundwater systems but only to the extent that an aquifer is connected hydrologically to a system of surface waters, parts of which are situated in different states (Art. 2 (a)-(b)).

On the contrary, the 1992 Water Convention applies to transboundary groundwaters, including both confined and unconfined aquifers. In accordance with the catchment area approach of the Convention, cooperation under the Convention should cover the entire recharge area of an aquifer, whether confined or unconfined. The scope of application of the Convention also covers groundwaters located exclusively within the territory of one State if they interact with transboundary surface waters.

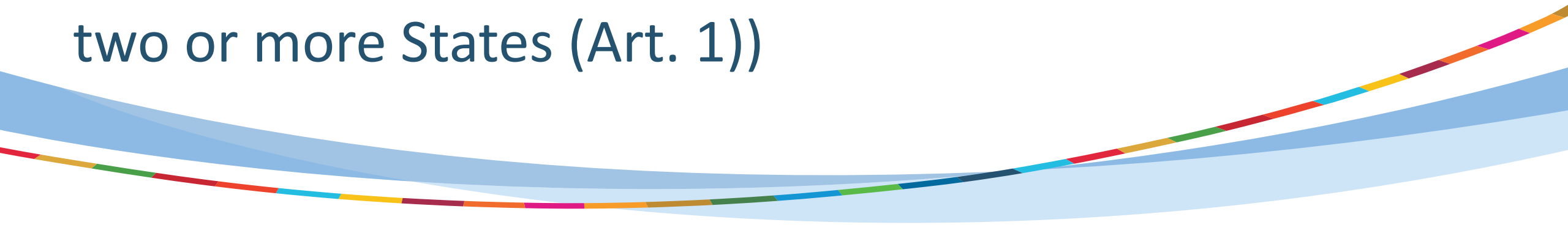


8. Does the scope of the 1992 Water Convention also apply to all sources of groundwater shared between States?

ANSWER: Yes

Explanation:

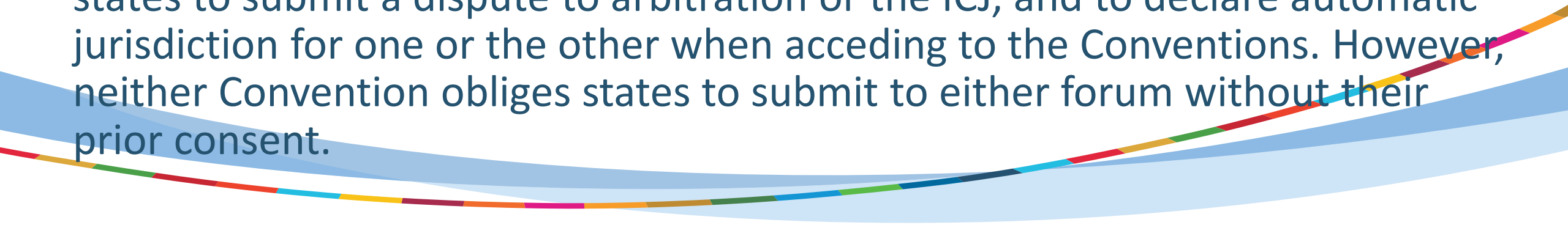
Under the 1992 Water Convention “Transboundary waters” means any surface or ground waters which mark, cross or are located on boundaries between two or more States (Art. 1))



9. Do both Conventions oblige States to submit their disputes to arbitration or the International Court of Justice?

ANSWER: D

Explanation: Both Conventions provide a variety of options for parties to a dispute to seek to resolve the matter in a forum that is most effective for them, including the option to submit to arbitration or the ICJ, but they do not automatically oblige them to do so. Parties can only be bound to a specific forum for dispute resolution which they and the other parties to the matter agree to give jurisdiction to. Article 22 of the 1992 Water Convention and Article 33 of the 1997 Watercourses Convention both provide the option for states to submit a dispute to arbitration or the ICJ, and to declare automatic jurisdiction for one or the other when acceding to the Conventions. However, neither Convention obliges states to submit to either forum without their prior consent.



10. What is the relation between the 1997 Watercourses Convention and the 1992 Water Convention?

ANSWER: C

Explanation:

The Conventions evolved separately and have a few notable content differences, for example in terms of procedures for planned measures and coverage of groundwater. Notwithstanding these, overall, both Conventions are very similar and the differences actually provide detail and additional guidance for the other instrument which makes the two instruments complementary and mutually reinforcing. The Conventions do not contradict each other and there are no plans to merge them into one.




11. What is the last step in the accession process?

ANSWER: A

Explanation:


The basic process involves adoption of the law by parliament at the national level, preparation of the instrument of ratification/accession and then deposition of the duly prepared instrument with UNSG at UNHQ in New York (not Geneva).

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12. Under the 1997 Watercourses Convention, must all watercourse States establish joint management mechanisms?

ANSWER: No

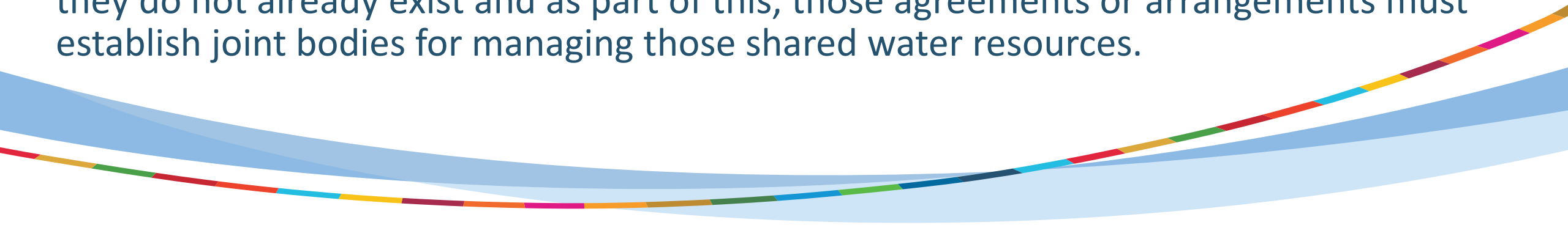
Explanation: Art 24(1) of the 1997 Watercourses Convention states that “Watercourse states shall, at the request of any of them, enter into consultations concerning the management of an international watercourse, which may include the establishment of a joint management mechanism.” Therefore, it is only that consultations are obligatory. Establishing a joint mechanism is not an obligation but a possible option.



13. Under the 1992 Water Convention, must all Riparian Parties establish joint bodies?

ANSWER: Yes

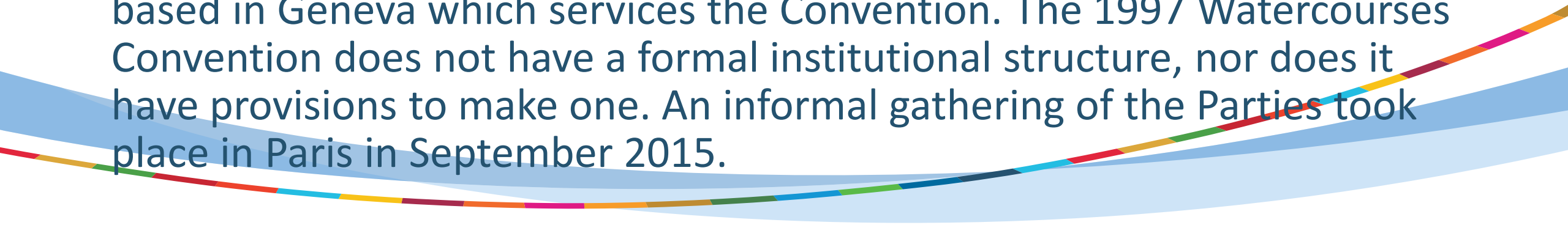
Explanation: Article 9(1) of the 1992 Water Convention states that “The Riparian Parties shall on the basis of equality and reciprocity enter into bilateral or multilateral agreements or other arrangements, where these do not yet exist, or adapt existing ones, where necessary to eliminate the contradictions with the basic principles of this Convention, in order to define their mutual relations and conduct regarding the prevention, control and reduction of transboundary impact...” Article 9(2) further requires that the multilateral agreements or other arrangements must “provide for the establishment of joint bodies”. Therefore, all states that are party to the Convention which share international rivers, lakes and aquifers must enter into agreements where they do not already exist and as part of this, those agreements or arrangements must establish joint bodies for managing those shared water resources.



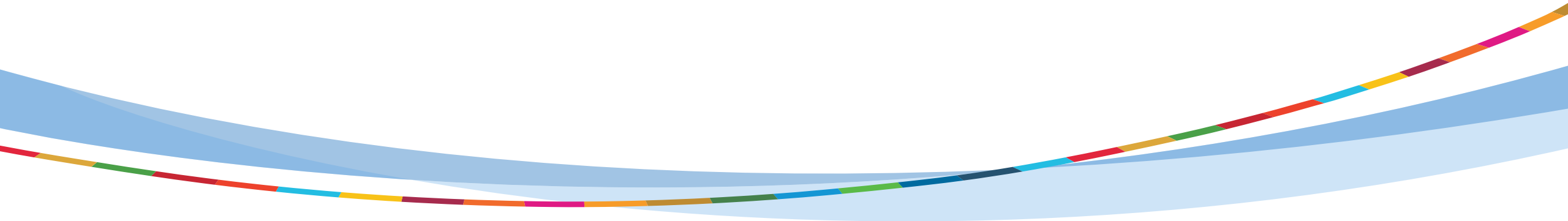
14. Both Conventions have institutional structures with a Meeting of the Parties and bodies under each Convention that assist with their practical implementation. Is this correct?

ANSWER: No

Explanation: The 1992 Water Convention has an institutional structure with over 30 years of practical experience led by a Meeting of the Parties (MoP) which meets every three years to develop the Programme of Work under the Convention. There are also an Implementation Committee, working groups and expert bodies formed under the Convention to address particular thematic topics, and a secretariat based in Geneva which services the Convention. The 1997 Watercourses Convention does not have a formal institutional structure, nor does it have provisions to make one. An informal gathering of the Parties took place in Paris in September 2015.



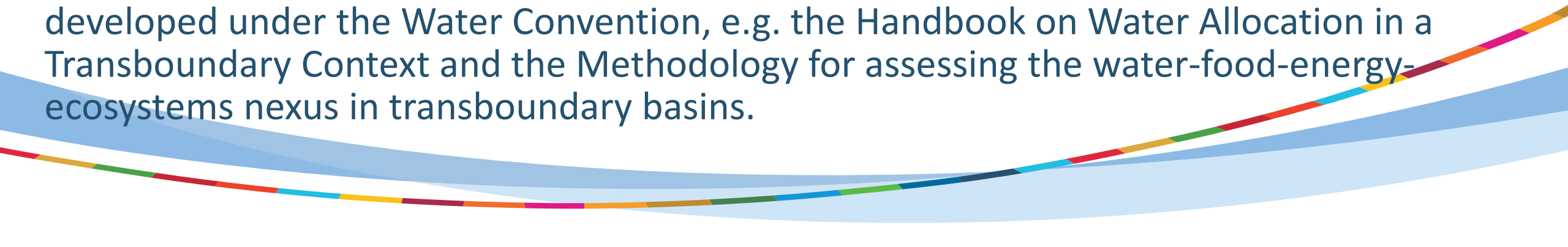
Supplementary questions



15. The 1992 Water Convention is primarily related to water quality and sets high standards that all parties must meet for water quality and monitoring. Is this correct?

ANSWER: No

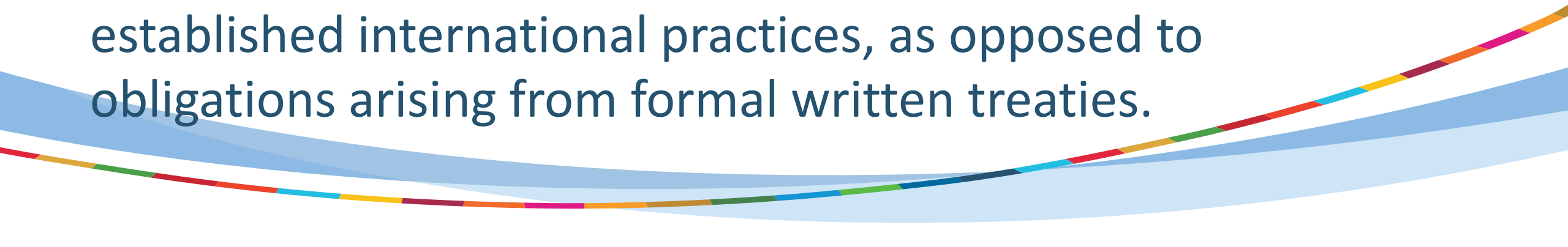
Explanation: The 1992 Water Convention deals with many aspects of transboundary water management, not only water quality. Its over-arching aim is to prevent, control and reduce the transboundary impacts on international rivers, lakes and groundwaters whereby it codifies the main principles of international water law such as no significant harm and equitable and reasonable utilisation. It provides a framework upon which countries can seek to use important principles and processes of water cooperation such as joint monitoring and assessment of transboundary water resources to help them monitor their water quantity and water quality. Several soft-law instruments on these issues have been developed under the Water Convention, e.g. the Handbook on Water Allocation in a Transboundary Context and the Methodology for assessing the water-food-energy-ecosystems nexus in transboundary basins.



16. States who are not Parties to the 1992 Water Convention or the 1997 Watercourses Convention have no obligations under international water law. Is this correct?

ANSWER: No

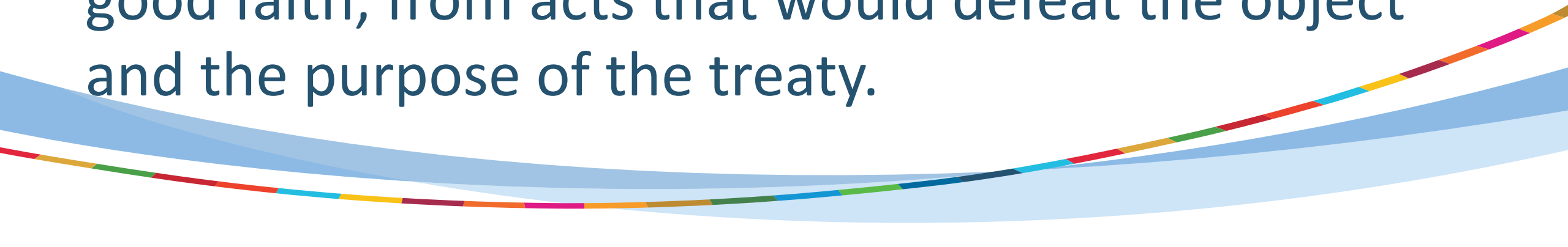
Explanation: States who are not Parties to the 1992 Water Convention or the 1997 Watercourses Convention are still bound by customary international law. Customary international law means “a general practice accepted as law”. It refers to international obligations arising from established international practices, as opposed to obligations arising from formal written treaties.

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17. A State who has signed the 1992 Water Convention or the 1997 Watercourses Convention but has not ratified it

ANSWER: C

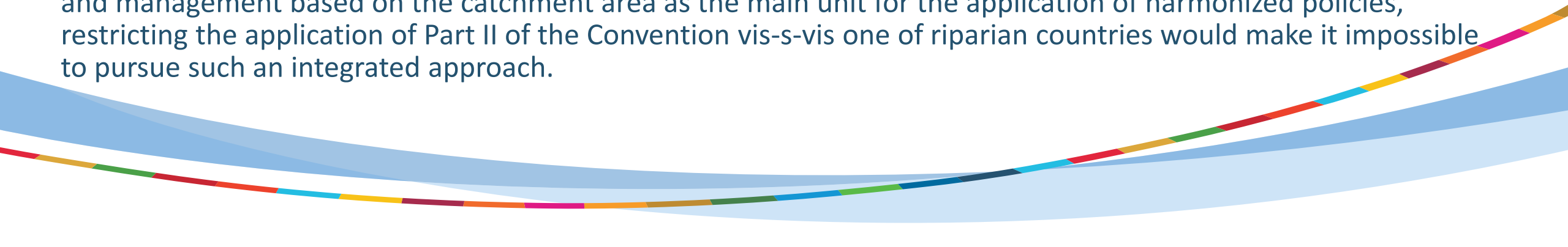
Explanation: Under the general regime of the law of treaties, the signature qualifies the signatory state to proceed to ratification, acceptance or approval. It also creates an obligation to refrain, in good faith, from acts that would defeat the object and the purpose of the treaty.

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18. Can a State upon accession to the 1992 Water Convention make a reservation to not apply the provisions of Part II of the Convention vis-s-vis one of its riparian countries?

ANSWER: No

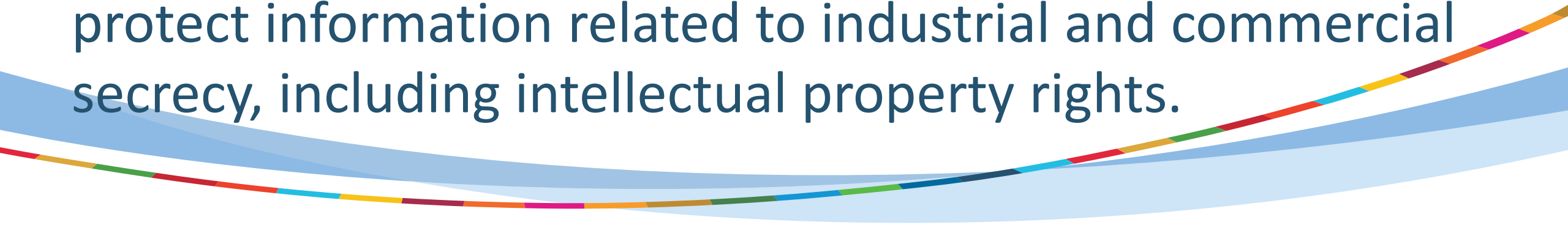
Explanation: The Water Convention is silent on reservations. The general regime of the law of treaties and the 1969 Vienna Convention on the Law of Treaties would thus apply. A State may formulate a reservation when acceding to the Water Convention, but reservations that go against the object and purpose of the Convention would be inadmissible. A reservation to not apply the provisions of Part II of the Convention vis-s-vis one of riparian countries would most likely be considered inadmissible. The general obligation of cooperation under the Convention (Art. 2(6)) reflects the interdependence between Riparian Parties and also recognizes their community of interest in transboundary waters. It prescribes that cooperation shall be made “on the basis of equality and reciprocity”. Equality in this context implies the right, as well as the duty, for each riparian State to be involved in the procedural aspects of cooperation, i.e. the negotiation of watercourse agreements, consultations, monitoring, exchange of data etc. Furthermore, as the Water Convention adopts an integrated approach to water protection and management based on the catchment area as the main unit for the application of harmonized policies, restricting the application of Part II of the Convention vis-s-vis one of riparian countries would make it impossible to pursue such an integrated approach.



19. Under both 1997 Watercourses Convention and 1992 Water Convention a watercourse State (Riparian Party) can restrict exchange of information on the grounds of:

ANSWER: a)


Explanation: Both 1997 Watercourses Convention (Art. 31) and 1992 Water Convention (Art.8) allow Parties to protection information vital to their national security. The 1992 Water Convention (Art.8) also allows Parties to protect information related to industrial and commercial secrecy, including intellectual property rights.

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Question 20. Parties to the 1992 Water Convention

ANSWER: c)

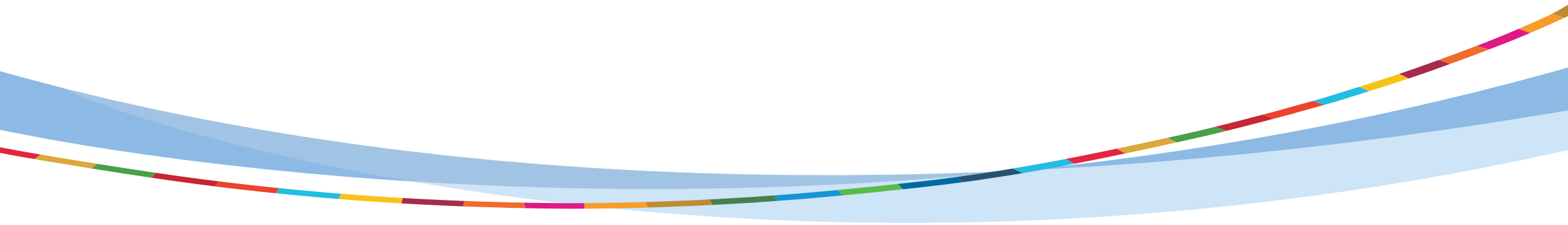
Explanation: The Water Convention does not impose any mandatory financial contributions. Parties contribute to the Convention's trust fund on a voluntary basis only. The trust fund supports the implementation of the Convention's programme of work. All Parties are encouraged to contribute to the Convention's trust fund. Parties are also invited to make in-kind contributions (e.g. provide an expert) to activities envisaged in the programme of work.

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Question 21. Can a country without transboundary waters become a Party to the 1992 Water Convention?

ANSWER: Yes


Explanation: Any United Nations Member State can become a Party.



22. When Parties to the 1992 Water Convention exhaust all efforts to resolve a dispute over their shared waters through negotiations, they must submit such a dispute to the Implementation Committee under the Water Convention. Is this correct?

ANSWER: No


Explanation: There is no obligation for Parties to the Water Convention to submit their disputes or differences to the Implementation Committee. The Committee can be approached by a Party or Parties seeking for its advice. The Committee can also receive self-submissions and Party-to-Party submissions regarding difficulties in implementing the Convention. It can also undertake a 'Committee initiative' when it becomes aware of possible difficulties in implementation and compliance by a Party.



23. Do both Conventions oblige States to provide access to information on the conditions of shared waters to the public?

ANSWER: C

Explanation: Under the 1992 Water Convention (Art.16) the Riparian Parties shall ensure that information on the conditions of transboundary waters, measures taken or planned to be taken to prevent, control and reduce transboundary impact, and the effectiveness of those measures, is made available to the public.



24. Do the terms ‘emergency situations’ as defined under the 1997 Watercourses Convention, or ‘critical situation’ as defined under the 1992 Water Convention, only incorporate natural causes?

ANSWER: No

Explanation: An ‘emergency situation’ under the 1997 Watercourses Convention and a ‘critical situation’ under the 1992 Water Convention can result from natural causes or man-made conduct, including industrial accidents.

