

# The Water Convention: provisions and intergovernmental framework

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## Three framework multilateral instruments

- 1997 Convention on the Law of the Non-navigational Uses of International Watercourses (Watercourses Convention, or New York Convention) - *see side event at lunch time*
  - Adopted by UN General Assembly in 1997 on the basis of 1994 ILC Draft Articles
  - In force since 2014, 36 Parties
  - Recognized as evidence of international customary law
- 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention, or Helsinki Convention): now going global
- Draft Articles on the Law of Transboundary Aquifers - *see side event on 19 November at lunch time*

# History of the 1992 Water Convention

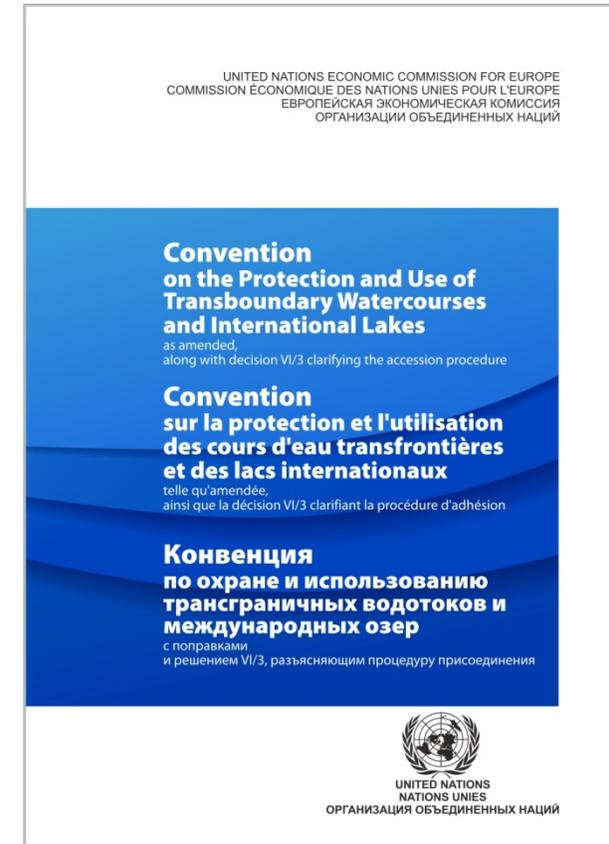
- Negotiated in 1990-1992 through an intergovernmental process under the auspices of UNECE, largely relying on ILC Draft Articles process
- Adopted on 17 March 1992, in force since 6 October 1996
- Protocol on Water and Health entered into force in 2005
- Protocol on Civil Liability since 2003 (not yet in force)
- UNECE Water Convention negotiated originally as regional instrument in the Pan-European region– but what is Europe?
  - Not only European Union, but includes all ex-Soviet Union countries
  - Not a peaceful continent
  - Not a homogeneous continent in terms of economic development
  - Not a water-problem free continent

# Main objectives and principles

Objective: to protect and ensure the quantity, quality and sustainable use of transboundary water resources by facilitating cooperation

## The Convention is based on three main pillars:

- Principle of prevention
- Principle of reasonable and equitable utilization
- Principle of cooperation
  
- Sustainability of resources is the overarching objective



# Obligations under the Convention – General (Part 1)

- Obligation of preventing, controlling and reducing transboundary impacts (due diligence obligation)
- Obligation to ensure that transboundary waters are used in a reasonable and equitable way
- Obligation for riparian to cooperate through the establishment of agreements and joint bodies

## Other provisions:

- Art. 4. **Monitoring**

programmes for monitoring the conditions of transboundary waters

- Art. 5. **Research and development**

on effective techniques for prevention, control and reduction of impact

- Art. 6. **Exchange of information**

the widest exchange of information, as early as possible

- Art. 7. **Responsibility and liability**

support efforts to elaborate rules, criteria and procedures

## “All appropriate measures”

- Legal, administrative, economic, financial and technical measures
- Prior licensing of waste-water discharges by the competent authorities, and monitoring of the authorized discharges based on BAT
- Application of biological treatment or equivalent processes to municipal waste water
- Measures to reduce nutrient inputs from industrial and municipal sources
- Measures and best environmental practices for the reduction of pollution from diffuse sources
- Application of EIA and other means of assessment
- Risk of accidental pollution is minimized



# Obligations under the Convention – Riparian Parties (Part 2)

- Specific obligations for transboundary cooperation
- Not the obligations of conduct, but obligations of result
- Applicable between Riparian Parties
  
- Obligation to conclude specific agreements and establish joint bodies
- Consultation
- Joint monitoring and assessment
- Exchange of information
- Warning and alarm systems
- Mutual assistance



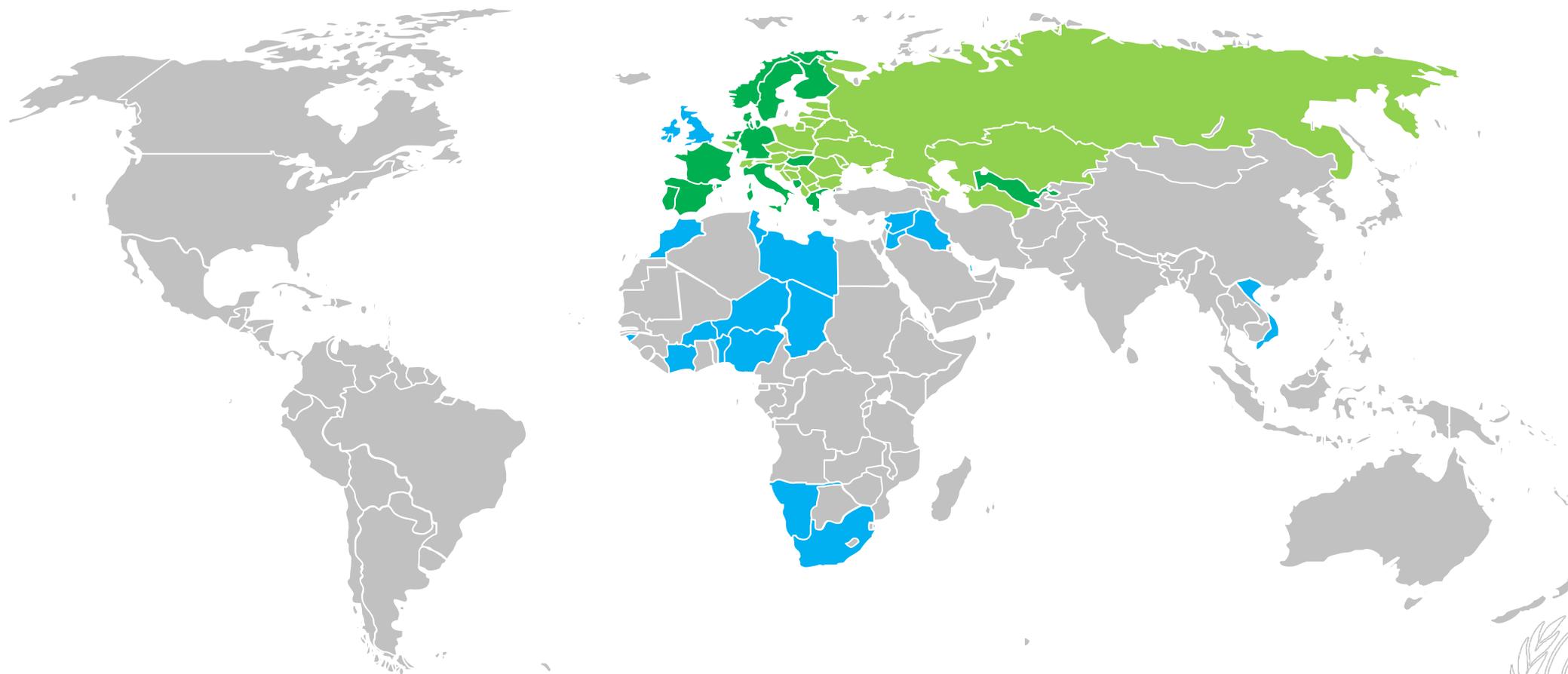
# Status of ratification of the Water Convention

40 countries and the European Union

 Parties

 Non Parties





Party to UNECE Water Convention (1992)

Party to UN Watercourses Convention (1997)

Party to both Conventions



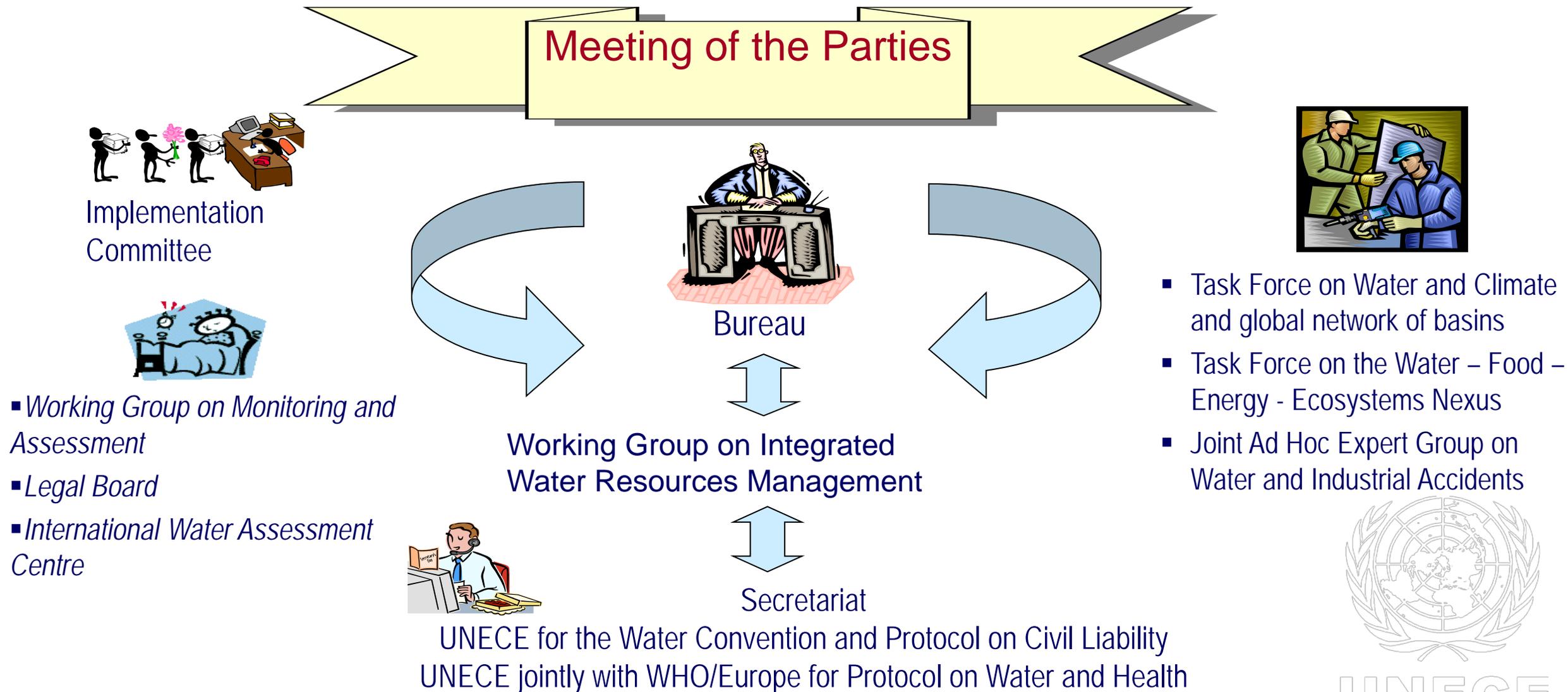
# Amendment of 2003 and Globalization

## Opening up the UNECE Water Convention to all UN Member States, with the aim to:

- ✓ Support transboundary cooperation worldwide through Convention's implementation
  - ✓ share the experiences of the Convention
  - ✓ learn from other regions of the world
  - ✓ build capacity, raise awareness and broaden political support for transboundary cooperation
- Amendments entered into force on 6 February 2013 => Convention is a global instrument
  - More than 60 countries from outside the UNECE-region already participated in activities under the Convention
  - Some of them announced intention to accede
  - Many requests for national and regional capacity-building workshops in support of accession

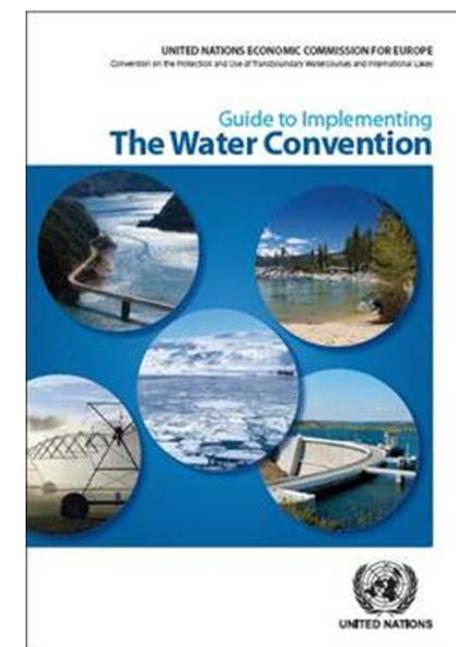


# Institutional structure

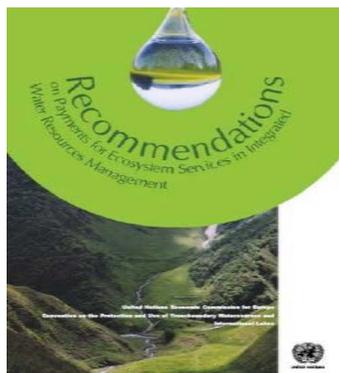


# Soft law development to support implementation

- Water pollution by hazardous substances (1994)
- Water pollution from fertilizers (1995)
- Licensing of wastewater discharges (1996)
- Monitoring & assessment of rivers & lakes (1996), transboundary groundwaters
- Sustainable flood prevention (2000)
- Safety of pipelines (2006)
- Payments for ecosystem services (2007)
- Transboundary flood management (2007)
- Tailing management facilities (2009)
- Water and adaptation to climate change (2009)
- Guide to Implementing the Water Convention (2009/ 2013)
- Transboundary groundwaters (2012)...
- Assessing benefits of cooperation (2015)
- Nexus assessment methodology (2015)

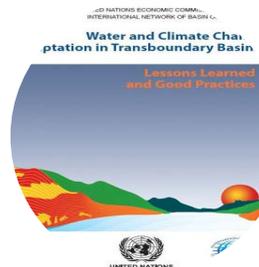


# Programme of work for 2016-2018



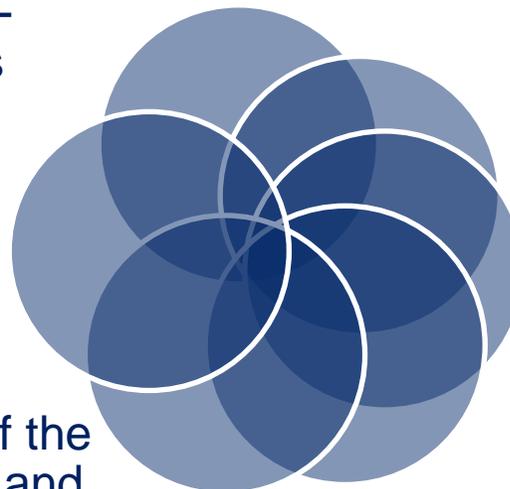
Water-food-energy-ecosystems nexus

Adapting to climate change in transboundary basins



Promotion of the Convention and establishment of strategic partnerships

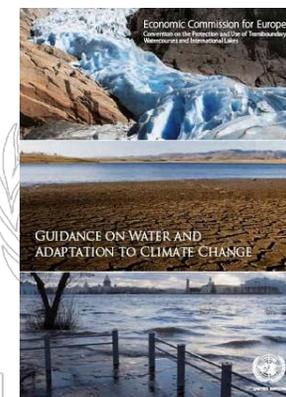
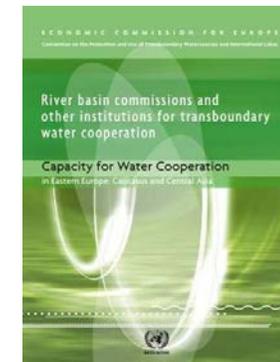
Support to implementation and accession



Quantifying the benefits of transboundary cooperation

Opening of the Convention

EU Water Initiative and National Policy Dialogues



# How can countries outside UNECE region accede to the Convention



- Becoming a Party = joining an institutional regime: MOP, Bureau, Working Groups, Task Forces, Implementation Committee
- Decision at Rome MOP6 => blanket approval, same process as for UNECE countries (as for any other Convention):
  - Interministerial preparations (e.g. setting up of an interministerial committee) + national adoption e.g. by parliament
  - Possibility for support from secretariat and Parties
  - Refer to MOP6 decision in the instrument of ratification to the NY depositary
- When countries outside UNECE region become Parties there are no difference of rights and obligations compared to UNECE countries
- **It is up to each country to decide**



# Conclusions- relevance of the Convention

- Sound legal framework coupled with action to support implementation and implementation committee – rich experience and impact in the last 20 years in Pan-European region
- Catalyst for cooperation, balanced approach for both upstream and downstream countries
- Numerous non-UNECE countries already participated in the Convention's activities, some showed some interest - the Convention can support such requests
- Cooperation with partners such from UN, NGOs etc.
- Convention and its institutional structure continuously evolves and addresses emerging issues that involve conflict potential (dam failure, climate change)
- Non-Parties welcome to participate in all programme areas and to indicate their interest here in Budapest

# Thank you for your attention!

## More information

including guidelines, publications and information on activities under the Convention can be found at:

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

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