



**UNECE**

# **Session 4. *Transboundary Water Governance***

**Dr Isabelle Fauconnier, IUCN Global Water Programme**

**Chantal Demilecamps, UNECE Water Convention Secretariat**

**Dr Nicholas Azza, Independent Consultant**



# Overview

- Defining Water Governance
- Transboundary basins
- Transboundary Water Challenges and associated scales
- International Water Law
- Institutional aspects
- Transboundary water cooperation:  
an evolving process
- Transboundary water cooperation and the SDGs

## *What is Water Governance?*

- *Governance :*

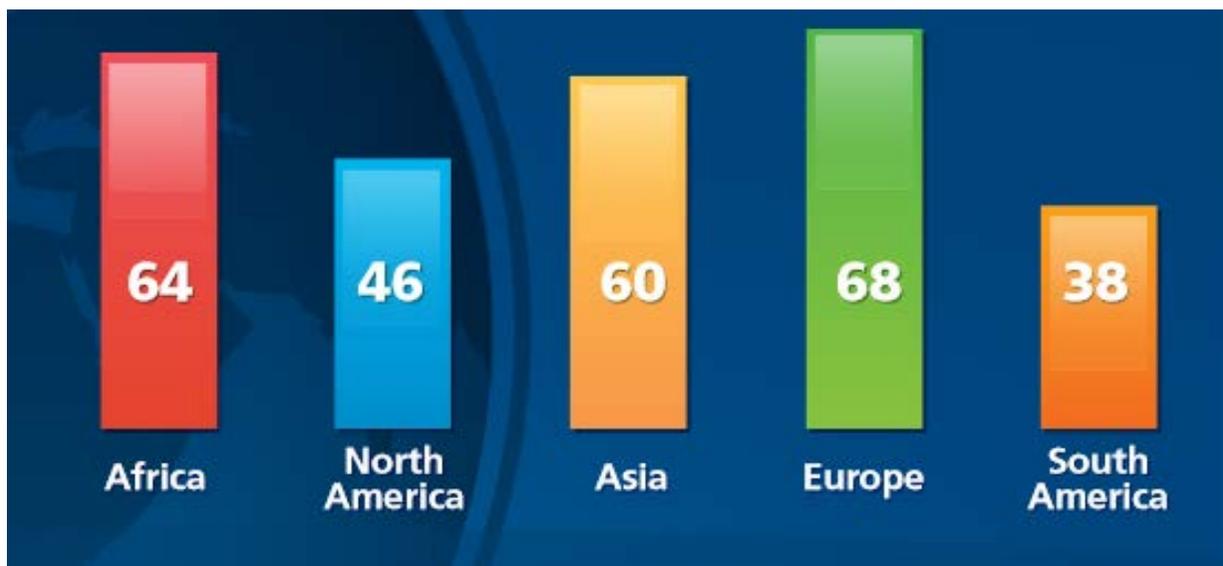
The set of formal, public institutions and regulations, informal networks and social norms, as well as private sector mechanisms such as markets that modify and regulate the way stakeholders interact with water and water-related ecosystems and derive and distribute benefits from them.

Source: Adapted from Regan et al. 2016

- Governance is dynamic, often occurs within, at and beyond the basin scale, and can be influenced by new information, alterations in ecosystem condition and changes in stakeholder composition and needs.

Source: Adapted from Regan et al. 2016

## *Transboundary basins of the world*



- 276 transboundary river basins (TRB) and 200 transboundary aquifers
- 148 countries include territory within one or more TRB
- 39 countries with more than 90% of their territory within 1 or more TRBs
- 21 countries entirely within one or more TRBs

# Why do transboundary basins matter?

**7 BILLION**  
PEOPLE TO FEED TODAY

**9 BILLION**  
IN 2050

= 60% more food needed  
+19% increase of agricultural water consumption  
(including both rainfed and irrigated) by 2050

BETWEEN 1991 AND 2000 OVER  
665,000 PEOPLE DIED IN 2,557  
NATURAL DISASTERS OF WHICH

**90%** WERE WATER  
RELATED EVENTS.

**By 2025,**  
**1800 million**  
people will be living  
in countries or  
regions with absolute  
water scarcity,  
and **two-thirds**  
*of the world population*  
*could be under stress*  
*conditions*

**Adaptation to climate change is mainly  
about better water management.**

# *What transboundary water challenges?*

## **TRANSBOUNDARY POLLUTION**



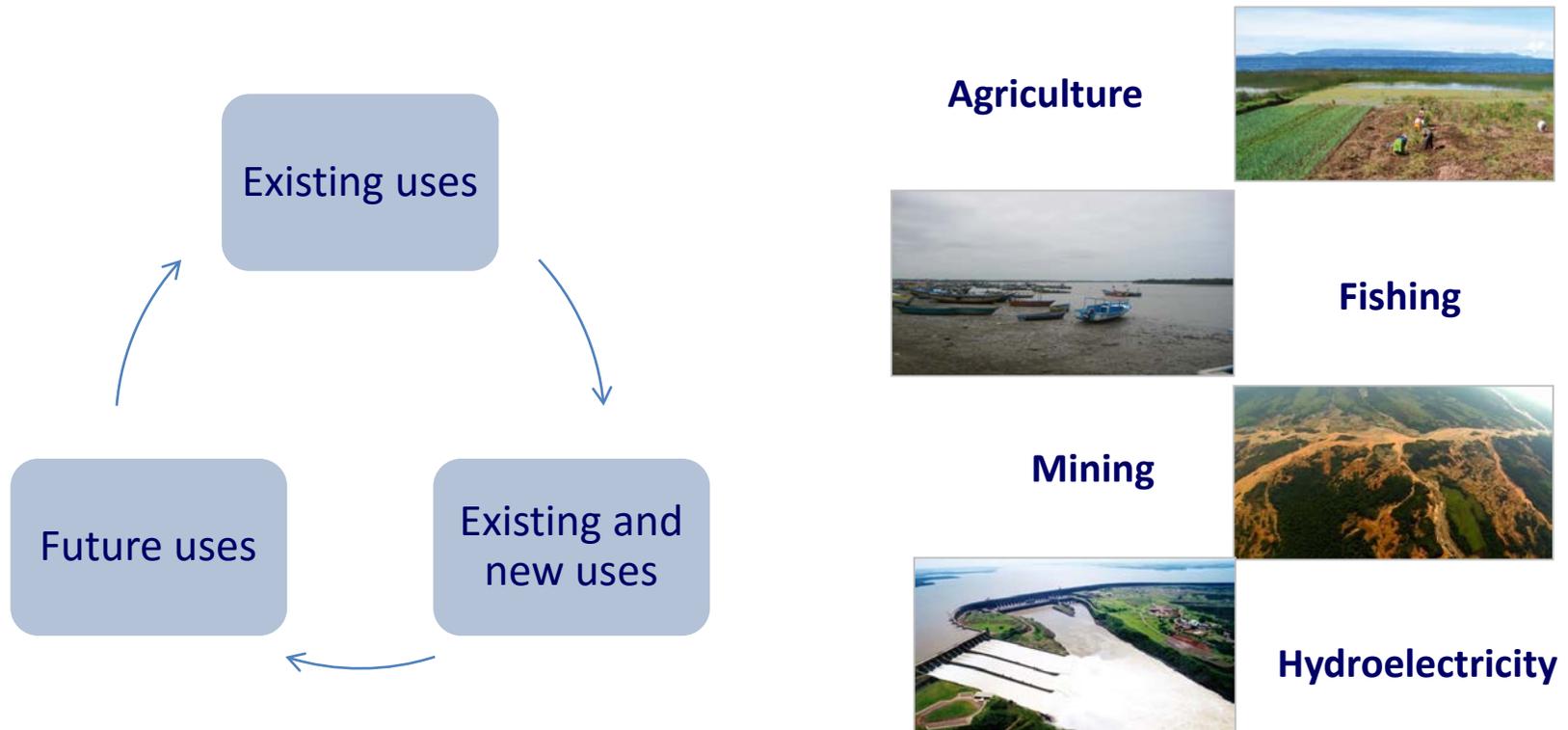
The waste extinguished all life in the Marcal river and reached the Danube, prompting downstream countries (Slovakia, Croatia, Serbia, Romania, Bulgaria, Ukraine) to develop emergency plans in response

## **OVER-ABSTRACTION**



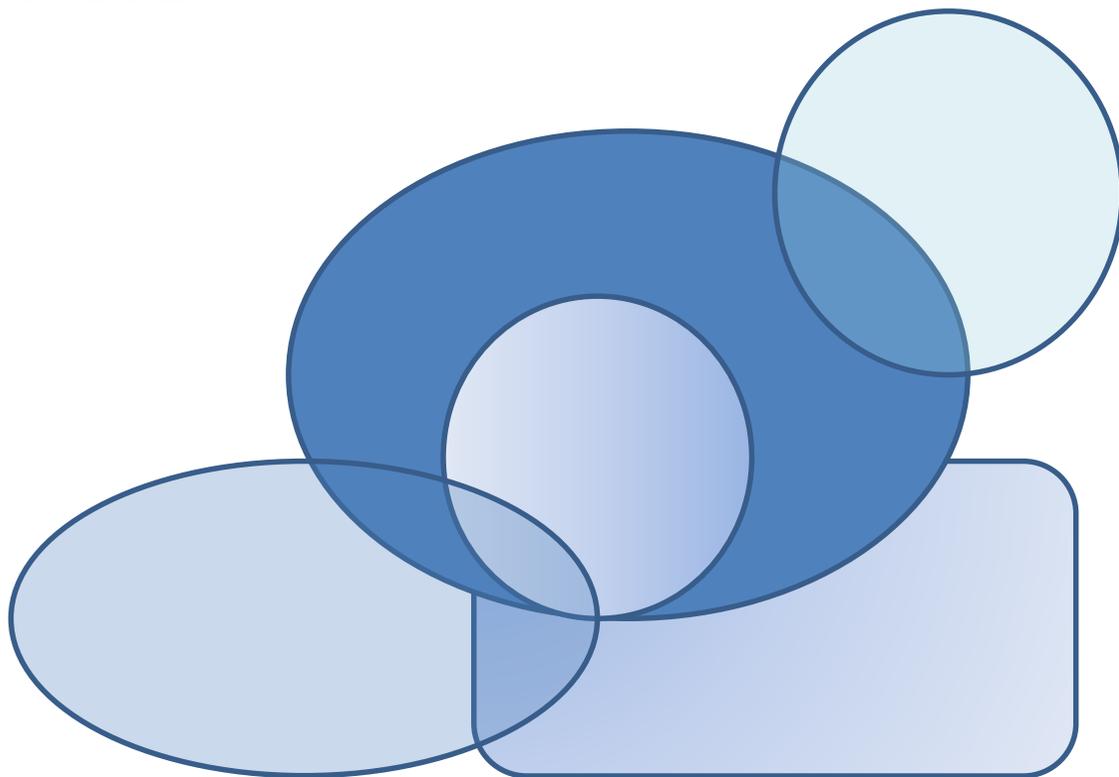
Formerly one of the four largest lakes in the world with an area the Aral Sea has been steadily shrinking since the 1960s after the rivers that fed it were diverted by irrigation projects

# Potential conflictive uses of water



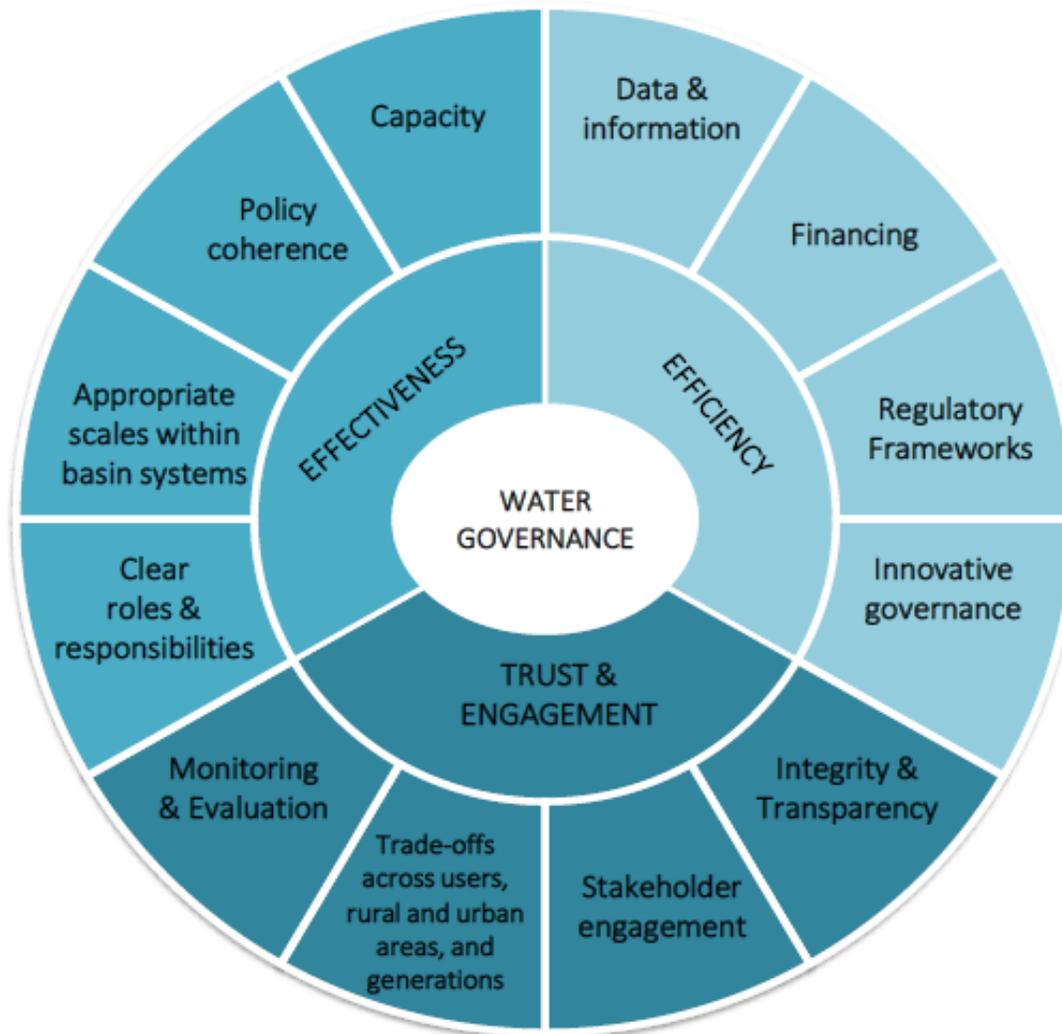
## *What scale for these challenges?*

- Local and sub-basin level
- Basin-level
- Beyond the basin
- State to State
- Regional level



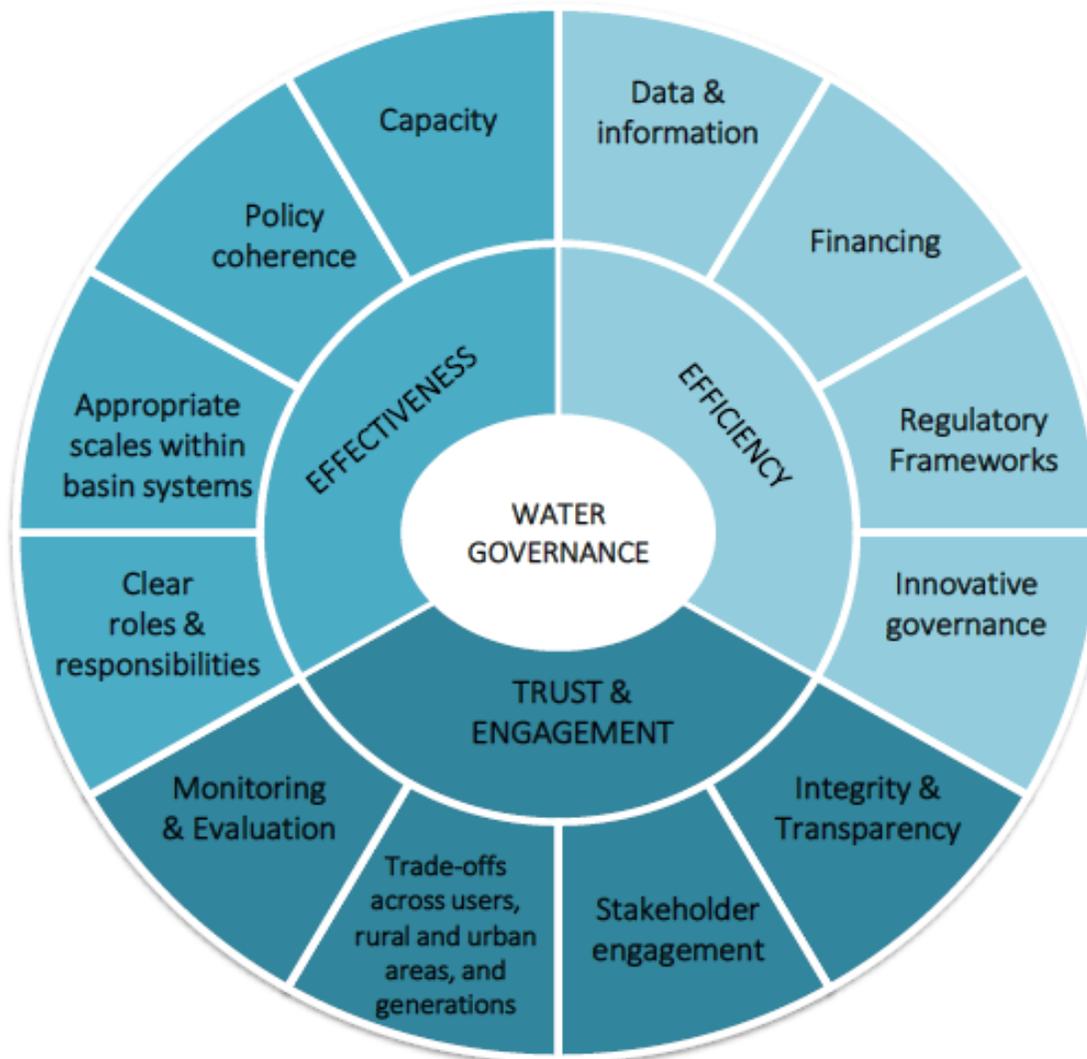
# The OECD Water Governance Principles

Overview of OECD Principles on Water Governance



# How do these work for Transboundary Governance?

## Overview of OECD Principles on Water Governance



## *Multi-level Transboundary Governance*

- International water law
- National legal and institutional frameworks for water
  - Regional level planning and management
  - Basin level planning and management
  - Sub-catchment level planning and management

→ *Water Diplomacy... A process which operates under the authority of sovereign national governments, but which also unlocks cooperation among multiple stakeholders, including at the level of municipalities and provinces*

# *International Water Law*

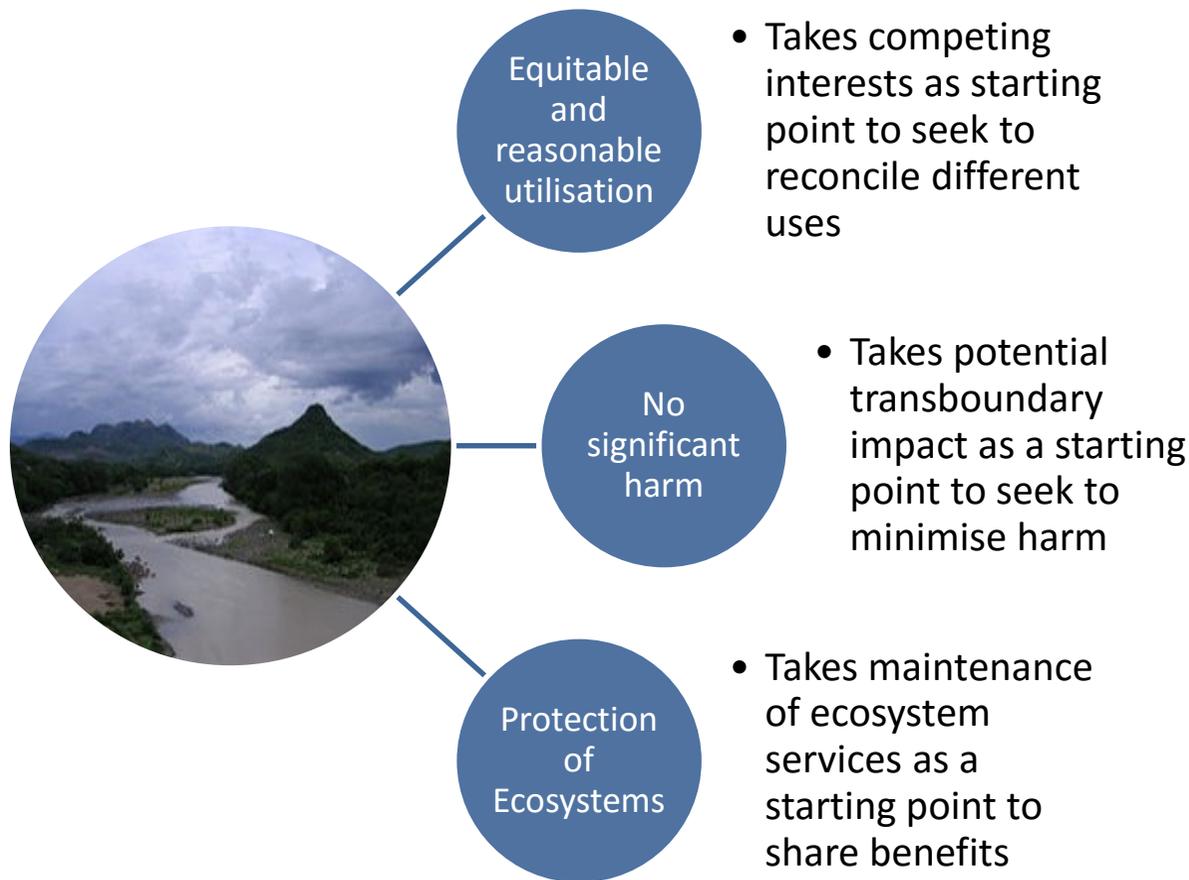
It is the body of principles and norms that regulate the rights and duties of States in the use of transboundary rivers, lakes, and aquifers

- **Global level:**
  - 1997 Convention on the Law of Non-Navigational Uses of International Watercourses
  - 1992 UNECE Helsinki Convention on the protection and use of Transboundary Watercourses and International Lakes
  
- **Regional level:**
  - EU Water Framework Directive
  - SADC Shared Watercourses Protocol
  
- **Basin level:**
  - Amazon
  - Mekong
  - Plata
  - Rhine
  - Danube
  - Others

# Analytical Legal Framework

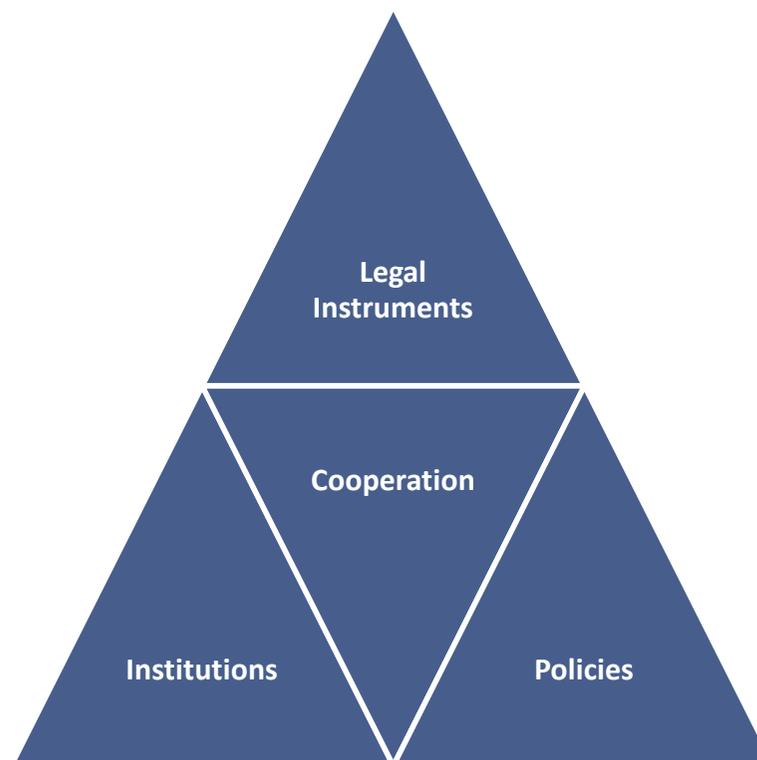
Main areas	Key elements
1. Scope	<ul style="list-style-type: none"> <li>• Legal reach (what waters?)</li> <li>• Definitions (watercourse; uses)</li> <li>• Parties (States; RIEOs)</li> </ul>
2. Substantive Rules	<ul style="list-style-type: none"> <li>• Legal duties &amp; entitlements (equitable and reasonable utilisation; due diligence; protection)</li> <li>• Rules of substance (general or precise)</li> </ul>
3. Procedural Rules	<ul style="list-style-type: none"> <li>• Rules of procedure (duty to cooperate)</li> <li>• Notification / exchange of information</li> </ul>
4. Institutional framework	<ul style="list-style-type: none"> <li>• Joint bodies (RBOs)</li> <li>• Conference of the Parties (MoP; CoP)</li> <li>• Organisations / organs (Ministerial level; other)</li> </ul>
5. Dispute settlement	<ul style="list-style-type: none"> <li>• Dispute avoidance (consultation)</li> <li>• Dispute settlement (Art. 33 UN WC; other)</li> <li>• Compliance verification (reporting; facilitation)</li> </ul>

# *Principles of International Water Law*



# *Institutional Frameworks*

- Entities responsible for the management of waters
- They may take different names:
  - Agencies
  - Commissions
  - Committees
  - Authorities
  - Departments
  - Water User Associations
- May include not only formal organizational arrangements, but less formal meetings between the appropriate agencies or other representatives of the States concerned (ILC)



## *Institutions: Joint management mechanisms*

- Formal organizational arrangements – “joint bodies”
  - Transboundary Committee
  - Bi-national Commission
  - Basin Authority
  - Thematic/stakeholder committees
- Less formal structures
  - regular meetings between appropriate agencies or other entities of the states concerned
  - Multi-Stakeholder and cross-sectoral platforms

## ***Role of institutions/ joint management mechanisms***

- Institutions become indispensable when States aim at achieving equitable utilization and sustainable management of a basin
- Institutions coordinate competitive and concurrent needs between **different actors (States and non-State)**
- Institutions provide the mechanisms for joint management of a basin; the processes and mechanisms used are equally important
- Institutions at different levels have a key role in implementing the global conventions (UNWC and UNECE)

## *What makes an institution 'effective'?*

- Level of authority conferred to the institution
- Level of prior cooperation between the States
- Economic and technical capacity of the States for implementation
- Institutional design, processes and mechanisms used for inter-institutional coordination
- Stakeholder involvement mechanisms

- Placeholder for Nicholas Azza's slides

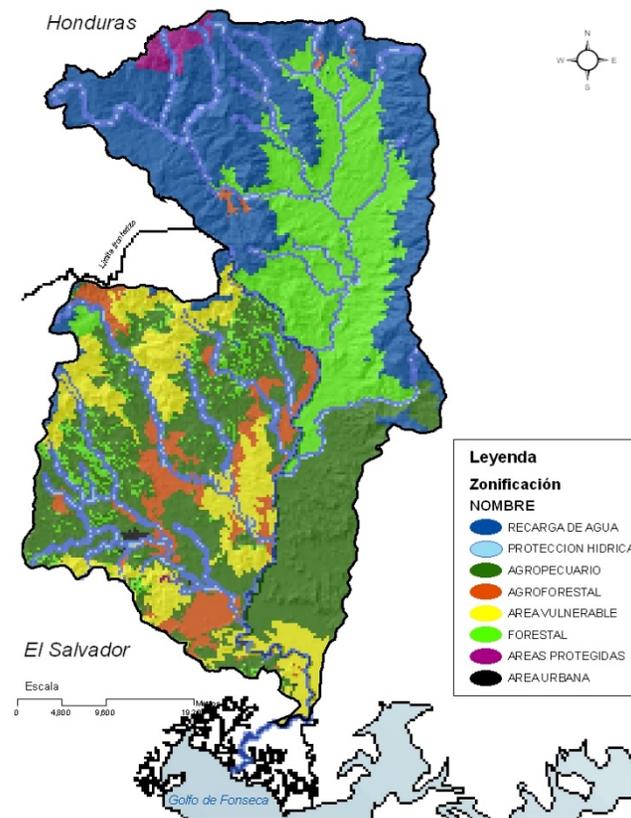
# ***BRIDGE: Experiences from Mesoamerica***

## ***Support and capacity building to binational committees and initiatives***



### **Goascoran Binational Management Group (Honduras-El Salvador)**

- Binational meetings.
- Territorial Development Strategic Plan.: M&E committees
- Project proposals.
- Integrate Local Development Agencies.

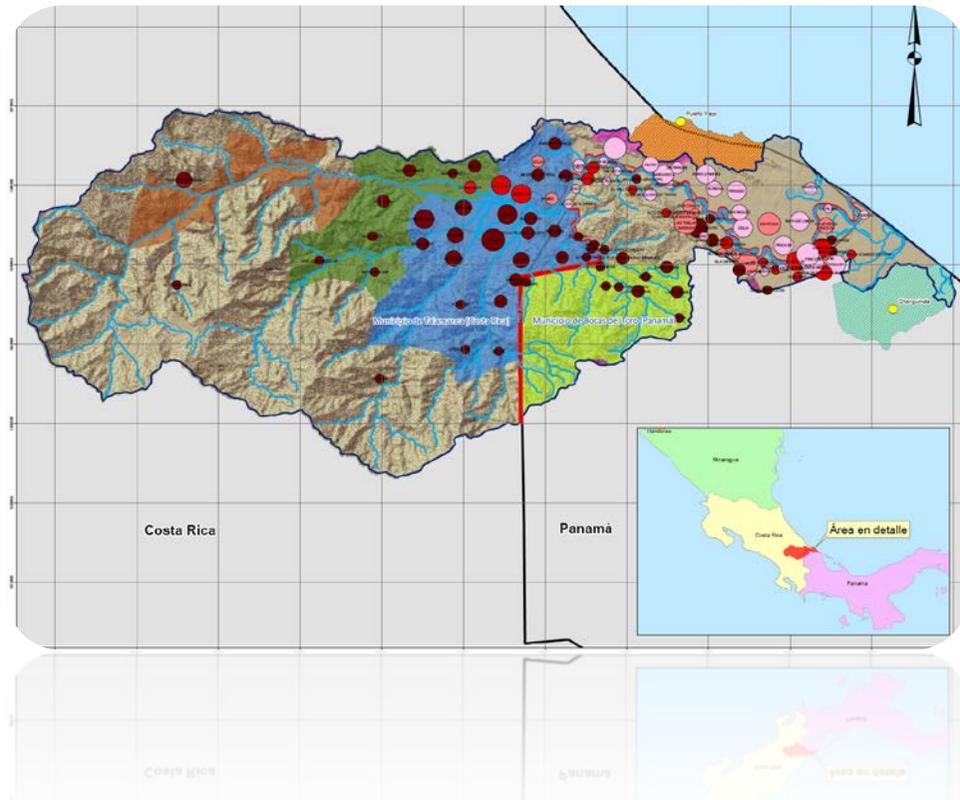


# Support and capacity building to binational institutions



## Sixaola River Binational Commission (Costa Rica – Panama)

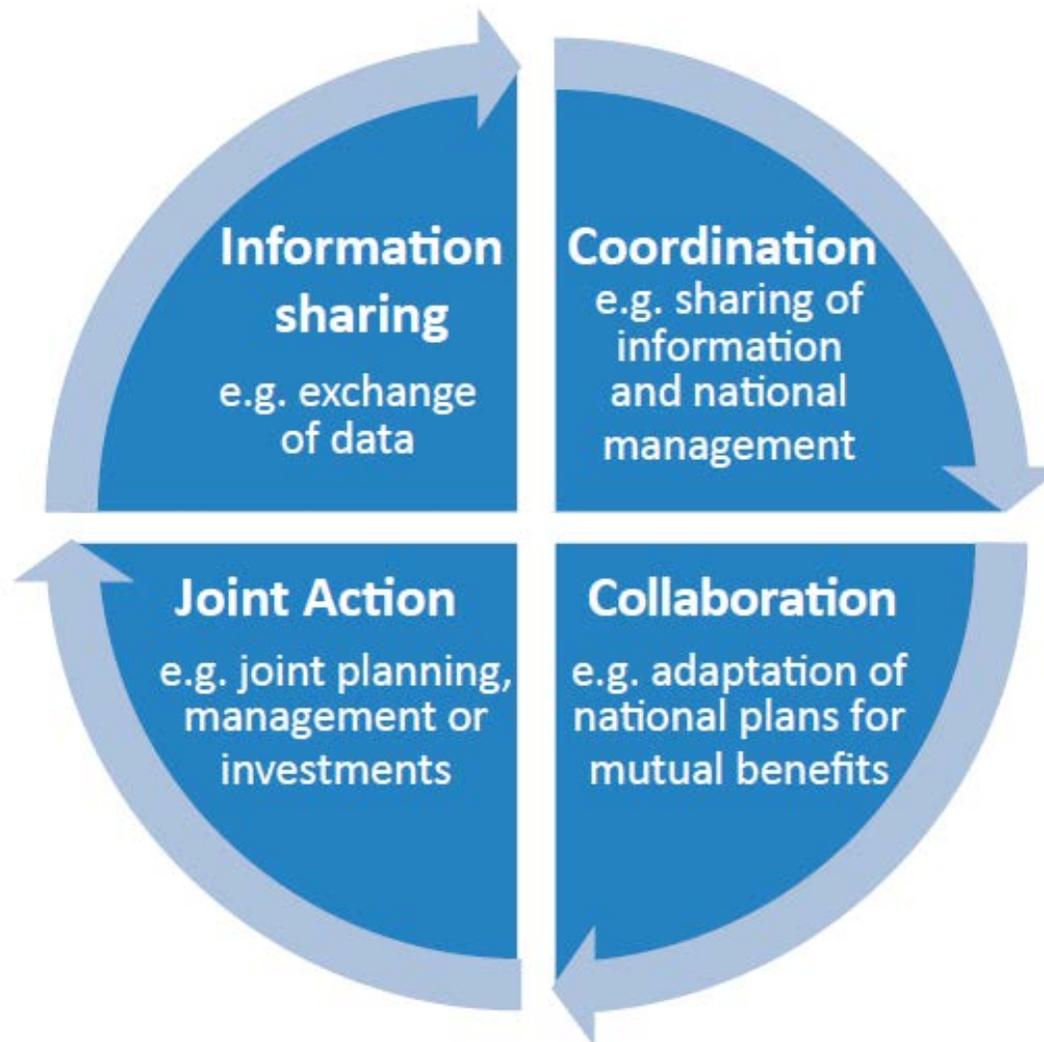
- Permanent Commission / binational Agreement.
- Binational assemblies.
- Civil society and indigenous peoples.
- Bylaws and roadmap.
- Build bridge between policy makers and local interests (participation)



# Transboundary water cooperation: an evolving process



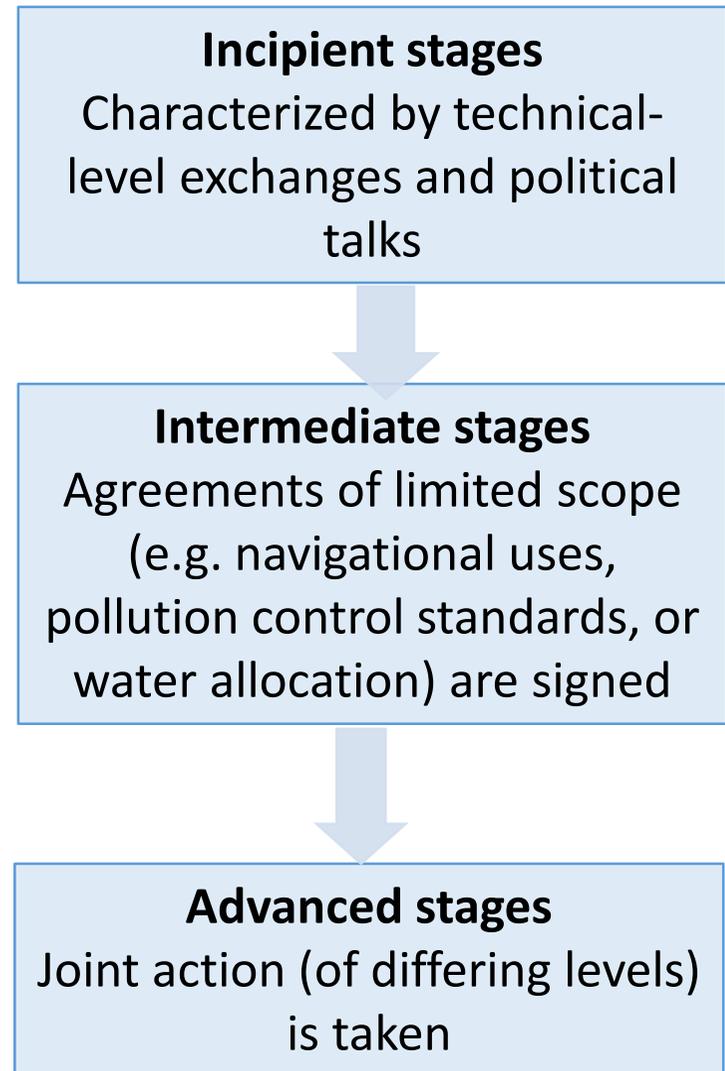
# Transboundary water cooperation: a continuum





# Transboundary water cooperation. a challenging but crucial process

- Long-term, evolving process
- Frequently, the potential benefits of stronger cooperation remain unexploited
- Crucial to understand that there is more to gain from continuing than from withdrawing from cooperation
- Benefits of cooperation likely to evolve over time as cooperation opens up new options to address emerging challenges





# Transboundary water cooperation in the Drin basin

- Political instability, complex hydrology
- Drin River Basin collaboration (started 2006): parallel top-down & bottom-up approach, with strong political will and international assistance, building on existing collaboration schemes developed for transboundary lakes
- Drin dialogue process (2009-2011): consultation process (Ministries, joint Commissions/ Committees in sub-basins, stakeholders, civil society) to develop a Strategic Shared Vision among competent national authorities and stakeholders for the sustainable management of the Drin basin



- MoU for the management of the Drin Basin (Nov. 2011)
- Action Plan for the implementation of the MoU

# Transboundary water cooperation in the Sava Basin

- Post-conflict cooperation and confidence building
- Challenges: Use of water resources (development and protection) and management of water resources (national → transboundary)
- Legal and institutional framework progressively developed: Framework Agreement on the Sava River Basin (2002); ISRBC (2005); Secretariat (2006)
- Broadening scope of cooperation:
  - Management plans (river basin, flood risk, sediment, climate change)
  - Integrated systems (information, forecasting, warning)
  - Economic activities (navigation, river tourism)
  - Harmonization of regulation (national, EU)
  - Protocols to the FASRB





# Transboundary water governance in the Nile Basin – an Overview

# Problems with previous cooperation

- Were non-inclusive; failed to establish basin-wide cooperation.
- Were limited to technical cooperation and made no attempt to address the issue of equitable water use.
- Did not pursue a holistic approach in which issues such as environment, socio-economic development, and legal and institutional frameworks, are a central part of the discourse.
- Did not address the fundamental issue of equitable water allocation.
- Remained highly technical in its focus and did not provide a formal platform for political engagement on Nile cooperation
- Did not provide for balanced participation; was seen by some Nile riparians to be directly controlled by, and serving mainly the interests of, the downstream
- There was asymmetry in influence, with Egypt perceived to continue dominating the process.

# Creation of the NBI

- Created using minutes of Council of Ministers
- The minutes:
  - Endorsed the Nile Basin Transitional Institutional Structure – Nile-COM, Nile-TAC, Secretariat
  - Created the Subsidiary Action Programs recommended by Nile-TAC – gave rise to sub-basin organisations
  - Proposed funding arrangement – country contributions and donations
  - Instructed the Nile-TAC to follow up funding from Development Partners through the International Consortium for Cooperation on the Nile
  - Adopted policy guidelines for the Nile Basin Strategic Action Program
  - Adopted a shared vision objective for the NBI
  - Dissolved TECCONILE, transferred all assets to NBI
  - Appointed first Executive Director of the NBI
  - Instructed the TAC to develop a Public Communication Strategy



# Transboundary water cooperation and the SDGs

# SDG Indicator 6.5.2

- **Target 6.5:** By 2030, implement integrated water resources management at all levels, including through transboundary cooperation as appropriate
- **Indicator 6.5.2:** Proportion of transboundary basin area with an operational arrangement for water cooperation
- Complements indicator 6.5.1 which measures advancement of Integrated Water Resources Management (IWRM)
- Custodian agencies: UNECE and UNESCO

# Template for reporting

## I. Calculation of **SDG indicator 6.5.2**

## II. **Details for each transboundary basin**, river, lake or aquifer

Agreements and scope (geographic, uses, topics of cooperation)

Joint bodies, their tasks and activities

Action plan & strategies, data exchange, joint monitoring and assessment, reduction of transboundary impacts, mutual assistance, stakeholder involvements

Difficulties and achievements

## III. **Transboundary water management at the national level**

Legislation, measures taken to reduce pollution, measures to enhance water efficiency, ecosystem approach, groundwater, EIA,

## IV. Main **challenges and achievements**



# Criteria for operational cooperation arrangement

- Existence of a joint body, joint mechanism or commission for transboundary cooperation;
- Regularity (at least once per year) of formal communication in form of meetings (either at the political or technical level);
- Existence of joint or coordinated water management plan(s), or of joint objectives;
- Regular exchange of information and data (at least once per year)

If any of the conditions is not met, the cooperation arrangement cannot be considered operational.