

An aerial photograph of Victoria Falls, showing the massive waterfall cascading over a rocky edge. A bridge with a white metal truss structure spans the river below the falls. A road with a white truck and other vehicles is visible on the left side of the bridge. The surrounding area is lush green forest. The text "Hydro-Diplomacy for Water, Peace and Security" is overlaid in yellow at the top.

Hydro-Diplomacy for Water, Peace and Security

Beyond Shared Water
Management

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Presentation to the Khyber Pakhtunkhwa province delegation



GWH's Hydrodiplomacy

- According to the GWH, hydrodiplomacy, also known as water diplomacy, is a **strategic tool** for **reconciling conflicting interests** including and **beyond water** , based on the **increasing global recognition** of the **water-peace** nexus/paradigm. We view water diplomacy as one form of **preventive diplomacy** that adopts a **multidisciplinary** approach and **innovative tools**, that uses **water as a vehicle for peace** and a **bridge** that connects the **development and peace** agendas.
- Peace, according to us , is not the absence of armed conflict but rather the prevalence of sustainable development.

New innovative mechanisms of hydro-diplomacy- WHY?

- «classical hydro diplomacy for conflict resolution like mediation and negotiation tools need to shift to a set of instruments and tools, belonging to science, economy, society, to develop mutually beneficial regional integrated development projects in the shared basins”, Dursun Yildiz, January 2019
- Need a paradigm shift and institutionalisation of cooperation, through a comprehensive horizontal commitment to values of cooperation . Scott M. , 2018
- Climate change, evolving and changing geopolitical contexts
- Limited technical cooperation does not automatically spill over into the political, diplomatic and confidence building spheres necessary to develop and agree on a peace process and eventual settlement.
- To increase the potential of water as a tool for peacebuilding and conflict resolution.

CHAPTER 3

THE PANEL RECOMMENDS

- We strongly recommend to all States sharing transboundary water resources (rivers and lakes, as well as aquifers) to conclude transboundary water agreements. Where such agreements already exist, we recommend their strengthening along the lines of the principles and norms of International Water Law.
- States should adhere to the principles of International Water Law and promote their full implementation. The Panel calls for wide accession by States to the 1997 UN Watercourses Convention and the 1992 UNECE Water Convention, now open for accession to all UN Member States
- We also encourage the use of UNECE Water Convention's cooperation mechanisms, in particular resort by countries and civil society to the Convention's Implementation Committee States.

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Furthermore, we recommend intensified work on supplemental instruments to the two UN Conventions, including "soft law instruments" such as guidelines and procedures facilitating transboundary water cooperation, in particular with respect to the allocation of water, hydropower development and irrigation.

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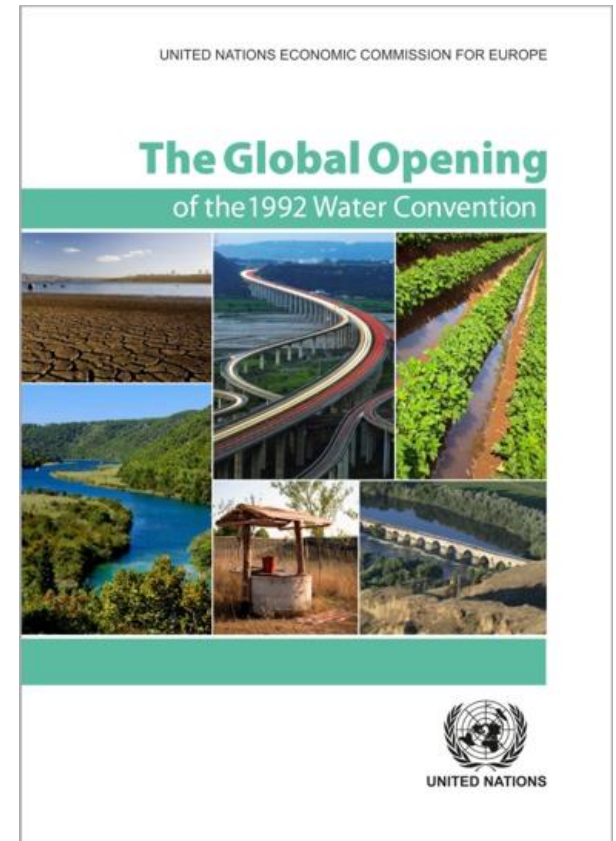
The UN General Assembly should encourage States to strengthen their international water cooperation and to avail themselves of the advantages provided by the conventions embodying international water law. The General Assembly should also consider ways to develop effective institutional and financial mechanisms to support transboundary water cooperation.

The role of civil society organizations in promoting transboundary water cooperation, and in the monitoring and implementation of international water law should be supported.

The Convention on Transboundary Watercourses and International Lakes (UNECE Water Convention)

Origins of the Convention

- The Convention was adopted under the aegis of UNECE (United Nations Economic Commission for Europe): UN regional economic organisations (56 Member States)
- In the 1980s, the activities of the UNECE increasingly dealt with questions of transboundary pollution (for example Declaration of policy on prevention and control of water pollution (1980), Decision on the international cooperation on shared water resources (1982))



Historical Context and Scope

Historical context

- Dissolution of the USSR at the end of the Cold War
- Willingness to strengthen the cooperation between Western and Eastern Europe through shared water resources
- The Convention was adopted in Helsinki, on 17 March 1992 and entered into force on 6 October 1996 (43 Member States today)

The scope of application of the Convention

« "Transboundary waters" means any surface or ground waters which mark, cross or are located on boundaries between two or more States... »

Art.1.1

Historical Context and Scope

- **Transboundary waters do not only include water bodies (such as watercourses, lakes or groundwaters) but also cover entire river basins**
- **A river basin covers both the water and the land area surrounding the water basin**
- **Other elements of the environment like the air, the fauna and flora, are also part of the river basin considering that they interact with the transboundary waters**

Guide for the application of the Convention, 2013

Global Convention

- **Amendment to Articles 25 and 26 of the Convention (2003): the Convention is open for signature to all Member States of the United Nations**
- **The amendment entered into force in September 2015**
- **The Convention is a framework agreement complemented by 4 annexes and 2 protocols**

■ **Protocol on water and health of 1999**
(26 Member States)

- Promotion of the human right to water and sanitation

■ **Protocol on civil liability for damage caused by the transboundary effects of industrial accidents on transboundary watercourses** to the UNECE Water Convention and to the 1992 Convention on the transboundary effects of industrial accidents of 2003 (1 Member State)

- Fair and prompt compensation for the damage caused by the transboundary effects of industrial accidents on transboundary water resources

Annex I: Definition of the term “best available technology”

Annex II: Guidelines for developing best environmental practices

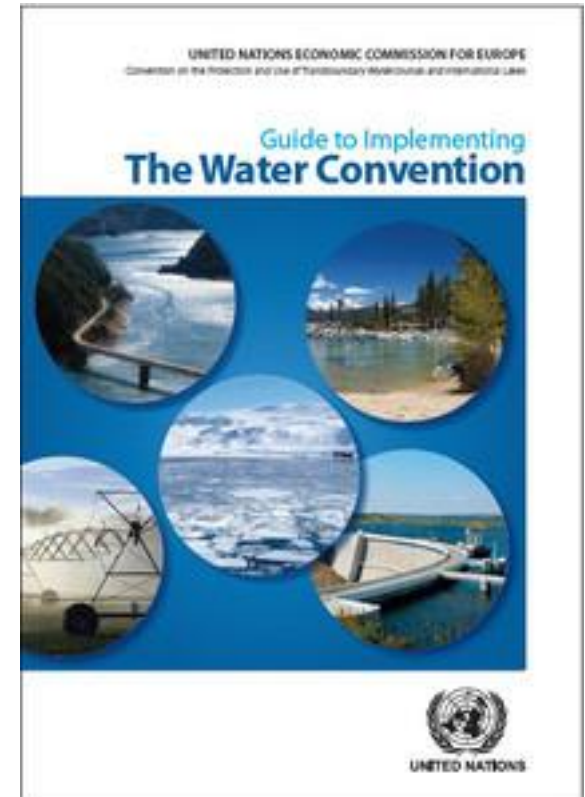
Annex III: Guidelines for developing water-quality objectives and criteria

Annex IV: Arbitration

Goals, principles and obligations of the 1992 UNECE Water Convention

The protection of aquatic ecosystem

- Preventing, reducing and controlling pollution (art.2 (a))
- Conservation and protection of the environment of water resources (art. 2 (b))
- The reasonable and equitable use of transboundary water resources (art. 2 (c))
- Rehabilitation of aquatic ecosystems (art. 2 (d))



Preventing transboundary impact

« "Transboundary impact" means any significant adverse effect on the environment resulting from a change in the conditions of transboundary waters **caused by a human activity**....Such effects on the environment **include effects on human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interaction among these factors**; they also include effects on the **cultural heritage or socio-economic conditions** resulting from alterations to those factors » (art.1.2)

Principles of UNECE

The Parties shall be guided by the following principles:

The precautionary principle

« The precautionary principle, by virtue of which action to **avoid the potential transboundary impact** of the release of hazardous substances shall not be postponed on the ground that **scientific research has not fully proved a causal link** between those substances, on the one hand, and the potential transboundary impact, on the other hand » (art.2. 5 (a))

The polluter-pays principle

« The polluter-pays principle, by virtue of which costs of pollution prevention, control and reduction measures **shall be borne by the polluter** » (art.2.5 (b))

The principle of sustainable development

« Water resources shall be managed so that the **needs of the present generation are met without compromising the ability of future generations to meet their own needs** » (art.2.5 (c))

Obligations applicable to all contracting Parties

- Each Party shall set emission limits for discharges...based on the **best available technology** (art.3.2)
- **These limits are specifically applicable to individual industrial sectors or industries from which hazardous substances derive** (art.3.2)
- Each Party shall define, where appropriate, **water-quality objectives and adopt water-quality criteria for the purpose of preventing, controlling and reducing transboundary impact** (art.3.3)
- “The term “**best available technology**” is taken to mean the **latest stage of development of processes, facilities or methods of operation** which indicate the practical suitability of a particular measure for limiting discharges, emissions and waste” (annexe I)
- “**Best environmental practices** for a particular source will change with time in the light of technological advances, economic and social factors, as well as in the light of changes in scientific knowledge and understanding” (annexe II)
- 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” (art.9.1)

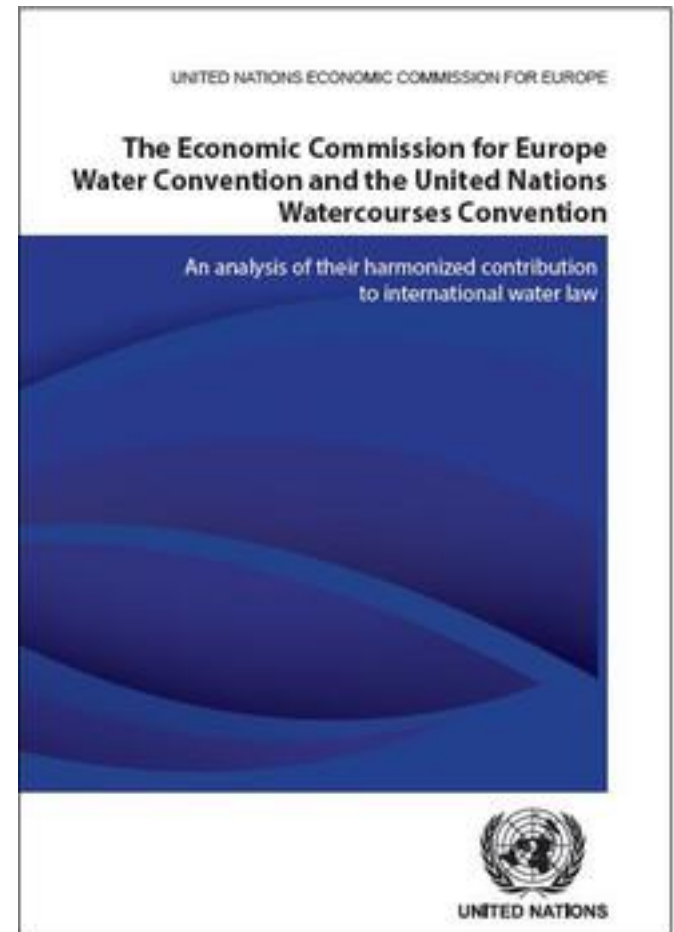
Obligations applicable to all contracting Parties

- The agreements or arrangements mentioned in paragraph 1 of this article shall provide for the establishment of joint bodies
- The tasks of these joint bodies include: “to collect, compile and evaluate data in order to identify pollution sources likely to cause transboundary impact... to elaborate concerted programmes to monitor water quality.. to establish warning and alarm procedures.. to serve as a forum for the exchange of information” (art.9.2)
- Consultations shall be held between the Riparian Parties on the basis of reciprocity, good faith and good neighbourliness (art.10)
- Exchange of information between riparian parties (art.13)
- Public information: « 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... The Riparian Parties shall ensure that this information shall be available to the public at all reasonable times for inspection free of charge » (art. 16)

Institutional framework

- The **Meeting of the Parties** (MoP) : every three years
- The MoP can adopt amendments to the Convention
- The MoP can establish subsidiary organs such as the **Implementation Committee**, the **Working Group on Integrated Water Resources Management** (IWRM)
- **Task Force on Water and Climate**: analysis of the questions related to the adaptation of water resources management policies

Comparison between the 1992 UNECE Water Convention and the 1997 UN Watercourses Convention



Similarities

- The 1992 UNECE Water Convention and the 1997 UN Watercourses Convention both set out principles and rules on the use, management and protection of international water resources
- They both are framework conventions
- They both provide a normative framework to guide the development of regional and sub-regional agreements that take into account the specificities of each basin or sub-basin
- Both Conventions include the principle of equitable and reasonable utilization of international watercourses and the obligation not to cause significant harm

Differences

- Contrary to the 1997 UN Watercourses Convention, the 1992 UNECE Water Convention covers groundwaters that are not connected with surface water
- Specificities of the 1992 UNECE Water Convention
 - Cooperation duties: adoption of bilateral or multilateral agreements and establishment of joint institutional mechanisms
 - Protection of the environment (environmental tasks of joint mechanisms)
- The 1992 UNECE Water Convention put in place an institutional framework (i.e. the Meeting of the Parties)
Art. 9 of the UNECE Water Convention
- The 1997 UN Watercourses Convention establishes more detailed on the procedure of notification of planned measures, and is more thorough with regards to dispute settlement (Fact-Finding Commission)
- The Conventions complement one another :
“One norm assists in the interpretation of another [...] for instance when one norm helps applying, specifying, updating or modifying another. In this kind of situation, both norms are applied jointly”

Report of the International Law Commission, Study Group on Fragmentation of international law: difficulties arising from the diversification and expansion of international law, 2006, p. 408

Value of Conventions to Pakistan- Khyber Pakhtunkhwa province, and Kabul River Basin

- The two global Conventions can strengthen the **global governance of transboundary water resources**: they are **a reference framework for the negotiation of specific agreements**- potential bilateral treaty with Afghanistan on the Kabul River Basin
- **Complementarity of the two Conventions**. The norms of one instrument can help specifying the provisions of another instrument
- Importance of the **institutional framework** of the 1992 UNECE Water Convention to adapt this instrument to the needs of the Parties
- The 1960 Indus Water Treaty has provided the platform for the 2010 arbitration on Kishenganga river initiated by Pakistan, with regard to India's plans to develop a hydroelectric project
- The convention (s) provide the needed framework to tackle the challenges of data sharing, quality assurance, trust building, and overall water security



Thank you for your attention

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