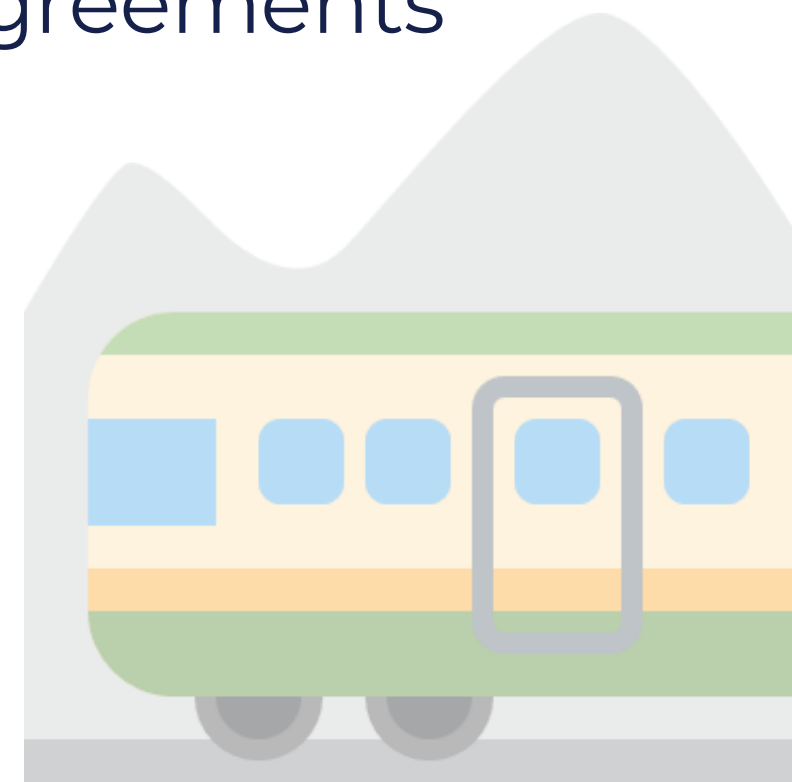




# Transboundary freshwater security governance train

Interactive Online Session:  
Transboundary Water Agreements

19th January 2021



# Event Moderator



**Dr. Yumiko Yasuda**

## Senior Network and Transboundary Water Cooperation Specialist, GWP

- Yumiko leads GWP's thematic work on transboundary water, and is the lead faculty of the MOOC on Transboundary Freshwater Security, designed and directed the production of the course.
- Her area of expertise lies in the analysis of water and environmental governance, water diplomacy, political economy analysis surrounding natural resources management, with a focus on transboundary rivers and non-state actors' engagements in natural resources management.
- Dr. Yasuda obtained her PhD degree from the Centre for Water Law, Policy and Science at the University of Dundee, MA in environmental policy from the Tufts University, and MSc in environmental science from Tsukuba University. Her research on the Mekong has culminated in the publication of a book entitled "Rules, Norms and NGO Advocacy Strategies: Hydropower Development on the Mekong River" by Routledge in 2015.

**Fun fact! Yumiko performed stand-up comedy in Scotland.**



**The biggest achievement in life:  
Still working on it!**



# House Keeping Rules

- 1. This online session will be recorded.**
- 2. Please always mute your audio during plenary session unless you are given a floor to speak.**
- 3. The event will not only present new knowledge, but will welcome your input in the interactive part, so we count on your presence throughout the whole session.**



# Event Chairs

---



**Professor Patricia Wouters**

Director, International Water Law  
Academy, Wuhan University



**Dr. David J Devlaeminck**

Lecturer, School of Law,  
Chongqing University



# Founding Director, Wuhan International Water Law Academy (CIBOS) University of Wuhan

- Professor Wouters has close to 30 years experience in the field of international law that governs transboundary waters. Her legal education includes BA and LLB at the University of Ottawa, Canada; LLM, University of Berkeley, California; DES, PhD, Graduate Institute of International Studies/University of Geneva, Switzerland.
- Professor Wouters has published and consulted broadly on international water law, including for the UN, World Bank, regional bodies and national governments, across most regions of the world. She was founding director of the University Dundee UNESCO Centre for Water Law and Policy (Scotland), and established the China International Water Law group at Xiamen Law School, where she was appointed under the Chinese Thousand Talent programme (2012).

“ **Fun fact! Patricia has a dual nationality - Canadian and Belgian, and lives mostly in Scotland (commuting to Wuhan).**

**The biggest achievement in life:  
My healthy family!**



**Professor Patricia Wouters**



## Lecturer, School of Law, Chongqing University

- Dr. Devlaeminck is an emerging young scholar in the law of international watercourses. He completed a BA in Philosophy at the University of Guelph, Canada; an MA in Philosophy at McMaster University, Canada; the Water Without Borders Graduate Certificate Programme at the United Nations University - Institute of Water, Environment and Health, Canada; and a PhD in International Law from Xiamen University, China.
- He conducts teaching and research on international environmental law with a focus on the law of international watercourses. He has published in various international journals and his monograph, *Reciprocity and China's Transboundary Waters: The Law of International Watercourses*, was recently published with Routledge.



**David J Devlaeminck**

**Fun fact! David is a bit of an adventurous eater, willing to try anything (from sandworms to cicada) at least once.** ”

**The biggest achievement in life:  
After moving to China in 2014, he now speaks Mandarin (although it's a work in progress)!**



# Transboundary Water Agreements

- What?
- Why?
- How?

Legal focus / TBW cooperation



# Transboundary Water Agreements

## Legal Analytical Framework: TB waters

Key Elements	Details
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 utilization; 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 as bridge)</li><li>• Notification / exchange of information</li></ul>
4. Institutional Mechanisms	<ul style="list-style-type: none"><li>• Joint bodies (RBOs)</li><li>• Conference of the Parties (MoP)</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>





# Speakers

---

- **Dr. Bernadette Adjei**, Chief Legal Officer, Water Resources Commission of Ghana
- **Péter Kovács**, Water Director of Hungary, Ministry of Interior
- **Dr. Dinara Ziganshina**, Scientific-Information Centre ICWC, Uzbekistan



# Chief Legal Officer, Water Resources Commission of Ghana

- Dr. Bernadette Araba Adjei is a lawyer and a development studies expert. She holds a PhD in Development Studies from the University of Ghana, an LLM in Environmental Law from the University of Nottingham, UK and an LLB from the University of Ghana. She has undertaken a number of courses in International Surface and Groundwater Law from the University of Dundee, University of Geneva and UNITAR.
- Dr. Adjei contributed to drafting a Code of Conduct for the equitable uses of the Volta River in West Africa, then was involved in the INECE Enforcement Networks programmes and published on enforcement networks for Ghana. Together with the UNECE Drafting Group she is developing a checklist for the establishment of transboundary water joint bodies globally.
- Dr. Adjei has 15 years working experience in the water sector in Ghana as a Chief Legal Officer for the Water Resources Commission. Bernadette specializes in transboundary water governance, consulting on development of institutional frameworks for transboundary cooperation in West Africa.



**Dr. Bernadette Araba Adjei**

**“ Fun fact! Bernadette loves the rain and it’s no wonder she works with water!**

**Her life goal is a good balance – family and work – and she is living it!**



# Head, River Basin Management and Water Protection unit, Ministry of Interior, Hungary

- Mr. Kovács holds a Dipl. Ing. in Civil Engineering from the Leningrad Technical University, Russia, and a diploma in Environmental Protection and Health from IHE Delft, now UNESCO-IHE, The Netherlands.
- Mr. Kovács is currently Head of River Basin Management and Water Protection unit in the Ministry of Interior, Hungary & Head of Delegation to the International Commission for the Protection of the Danube River (ICPDR).
- Péter Kovács was a Chair of the UNECE Water Convention from 2015-18 and continues to serve as Vice-Chair. He is responsible for implementation of over 30 bilateral Memorandums of Understanding on Water Management Cooperation with non-neighbouring countries.

“ **Fun fact! Péter always wears funny ties, usually with cartoon characters.**

**His biggest accomplishment personally is his family, while professionally - the global opening of the Water Convention under his chairmanship.**



**Péter Kovács**



# Scientific Information Center of Interstate Commission for Water Coordination in Central Asia



**Dr. Dinara Ziganshina**

- Dr. Ziganshina has about 20 years' experience working as a legal and policy expert in water resources management at national and transboundary levels.
- In addition to her position at SIC ICWC, she also an Associate Professor at the Tashkent Institute of Irrigation and Agricultural Mechanization Engineers and a vice chair of the Implementation Committee under the UN ECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes.

**Fun fact! The bravest thing I've ever done was 41 km non-stop Pitlochry bicycle trip around Loch Tummel.**



**The biggest achievement in life:  
Peace of mind.**



# Dr. Bernadette Adjei

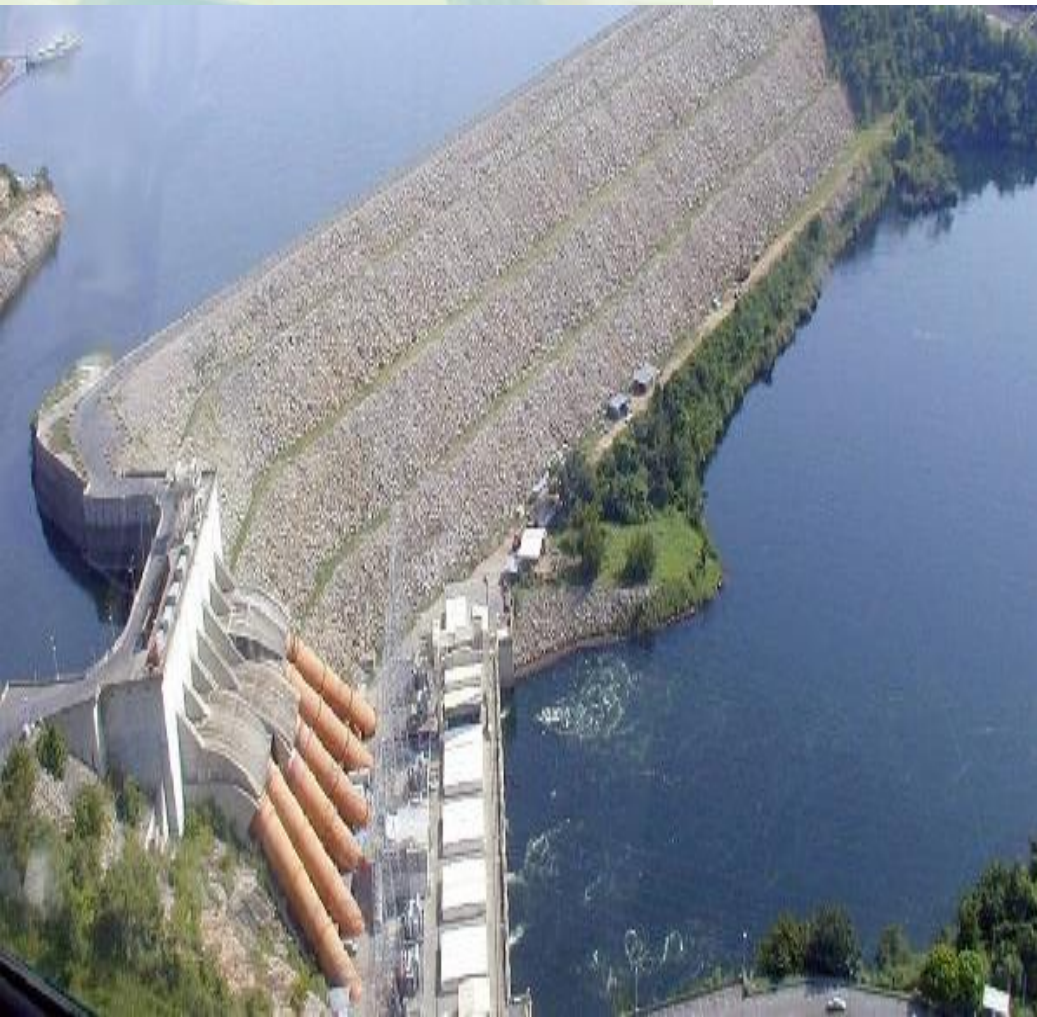
## Chief Legal Officer, Water Resources Commission of Ghana

### Outline

- Why is a transboundary water agreement important?
- Best practice where no agreements exist?
- Recommendations and Conclusions



# Why is a transboundary water agreement important?



- A tool for cooperation – international law and state sovereignty/diplomacy (Article 2 of the UN Charter)
- Enables riparian states manage, use and share a jointly owned resource
  - Planning – approval at joint body level
  - Notification processes, international EIA
  - Benefits sharing
  - Dispute settlement
- The *ecological nature* of a transboundary watercourse – joint management important
  - Upstream/downstream dynamics
  - Climate change

# Best practice where no agreements exist?



- Customary international law, principles and declarations (cooperation, no harm rules, SDGs 6, 6.4., 6.5)
- Scale up bi-lateral arrangements (e.g. joint technical bodies - Gh-BF)
  - Data sharing
  - Infrastructure development (now part of VBA processes)
  - Benefits sharing – joint water supply projects
- Work through regional bodies (ECOWAS, UNECE)
- Projects (IUCN - PAGEV) – local transboundary committees

# Conclusions and Recommendations

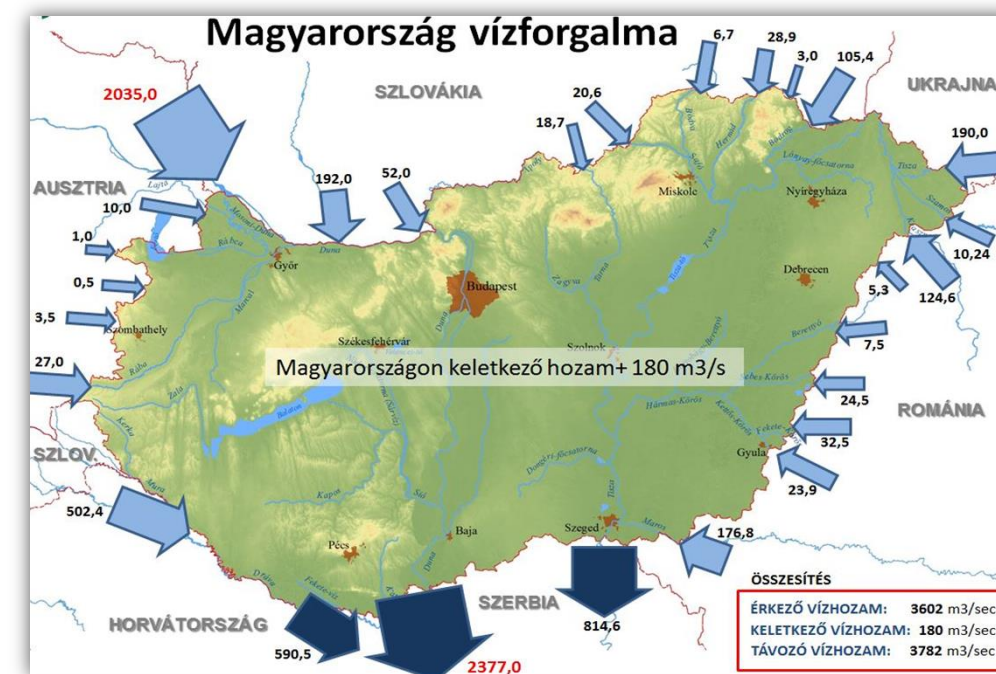
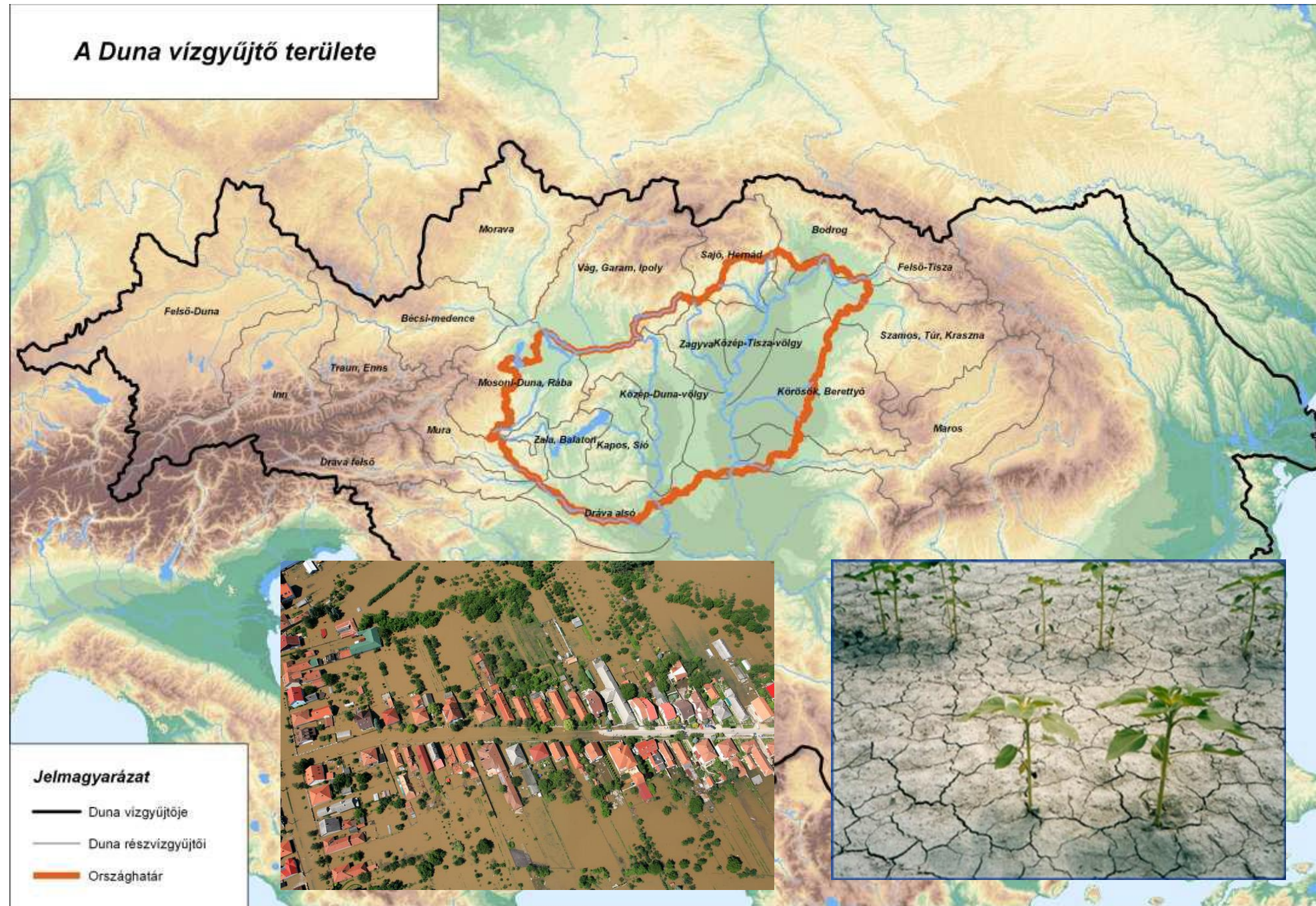
- Upstream/Downstream state dynamics
- River basin as an ecological whole – era of climate change
- Joint projects and benefit sharing for developing countries





# Transboundary Water Cooperation

Péter Kovács, Hungary, ICPDR, UNECE Water Convention



# Levels of transboundary cooperation

- **Bilateral co-operation**
  - Transboundary (neighboring countries)
  - With other countries
- **Multilateral co-operation**
  - International Conventions
    - » (Helsinki, Danube Convention, etc.)
- **European (Union) level co-operation**
  - Common working platform
  - Harmonized legislation
- **Global level water co-operation**



# Danube River Protection Convention

## 29 June 1994, Sofia (Bulgaria)



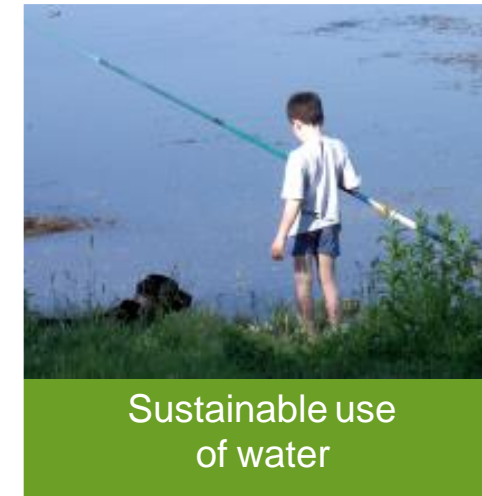
Protection of water & ecological resources



Reduce nutrients & hazardous substances

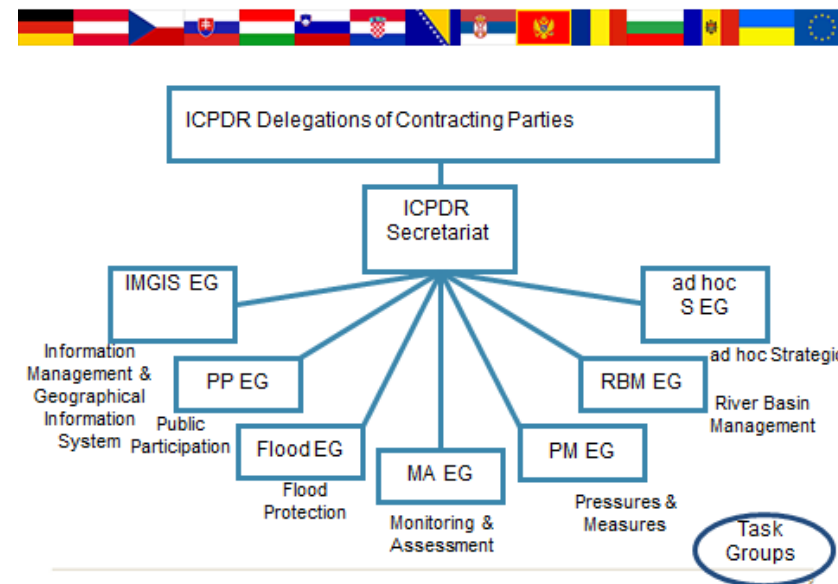
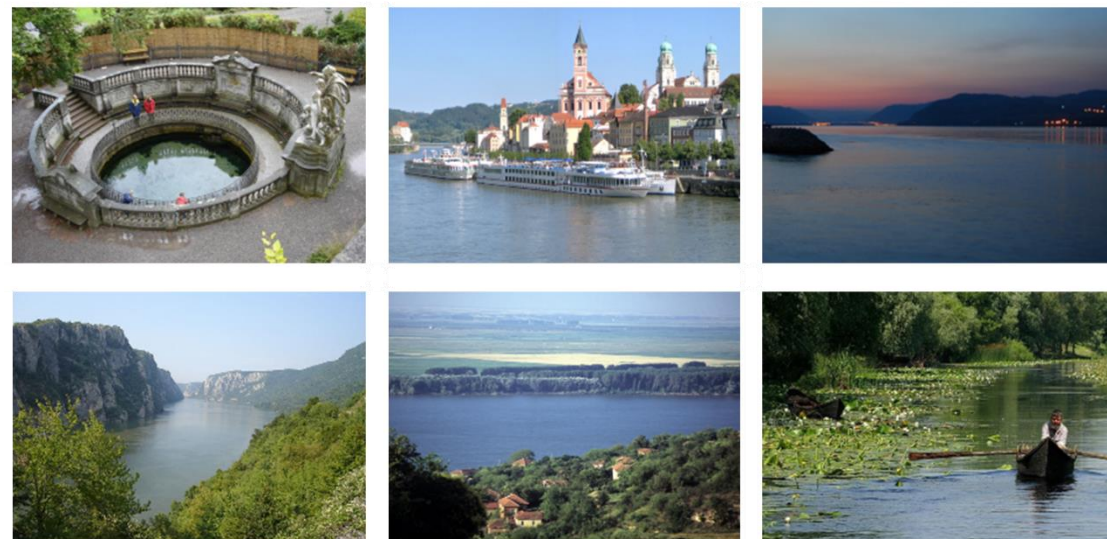


Manage floods & ice hazards



Sustainable use of water

ICPDR coordinates basin-wide implementation of EU Water Framework Directive & EU Floods Directive



# UNECE Water Convention

Strengthening transboundary water cooperation through:

A legal framework based on cooperation principles

An institutional framework with possibility to adapt to evolving challenges

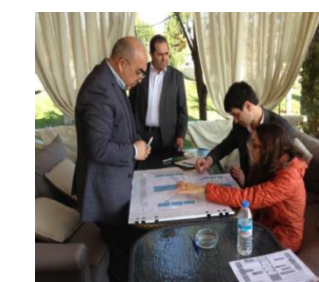
Projects & capacity building to support accession and implementation

## Checklist on the development of legal frameworks for transboundary water cooperation - to serve as an agreement/arrangement builder

- ❖ 6 thematic modules
- ❖ Building blocks: provisions/issues that countries may consider including within each module
- ❖ Key aspects, help define content of building blocks
- ❖ Supporting resources, assist in further developing the content

Country representatives using the tool during negotiations will **assess/negotiate** whether building blocks are relevant to their context

- 1) Indicate **advantages** of including building blocs and key aspects
- 2) Provide **examples** from existing instruments, including the two Conventions





# Transboundary waters in Central Asia

Dinara Ziganshina, PhD

SIC ICWC in Central Asia; Associate Professor, TIAME



- **The largest basin – the Aral Sea** shared by Afghanistan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan. Two main rivers: Syrdarya & Amudarya
- **Other basins:**
  - *Chu and Talas* (Kazakhstan, Kyrgyzstan),
  - the *Ob* (China, Kazakhstan, Mongolia and Russia), including its first order tributary the *Irtys* (China, Kazakhstan and Russia) and second-order tributaries such as the *Tobol* and the *Ishim* (Kazakhstan and Russia),
  - the *Ili* (Kazakhstan and China),
  - the *Ural* (Kazakhstan and China),
  - the *Tejen/Harirud* (Afghanistan, Turkmenistan and Iran) and
  - the *Murgab* (Afghanistan and Turkmenistan).



# Numerous treaties at multiple scales

- **Global** multilateral agreements on water, biodiversity, wetlands, climate desertification
- **UN Economic Commission for Europe** conventions on water, impact assessments, industrial accidents, access to information and public participation
- **Commonwealth of Independent States** agreements on water and environmental cooperation
- Agreements among **Central Asian Republics** on water, environment, energy, hydrometeorology, etc
- Agreements between **Soviet Union and Afghanistan** on borders
- **Bilateral** agreements on water management and interstate infrastructure



# Key features of transboundary treaties in the Aral Sea Basin

- Signed immediately after gaining independence in 1992 by the initiative of the countries to fix the status quo and ensure stability in river flow regulation
- **Scope:** Do not include all riparians; limited regulation of groundwater, ecosystems
- **Substantive norms:** no explicit provisions on equitable and reasonable use; the no-harm rule imposes significant restrictions on the activities within the territories of states; general provisions on the environmental protection
- **Procedural norms:** no details on information exchange, no direct reference to regular consultations, no detailed provisions for planned measures ('joint consideration')
- **Joint bodies** exist, Kyrgyzstan suspended its membership in IFAS in 2016
- **Compliance** review & dispute settlement provisions absent or **weak**





# Lessons learned

- Treaties **as a response to a crisis** (political transformation), less success in treaty making to prevent situations from becoming a crisis
- Transboundary treaties established **a community of water professionals** - ICWC and its bodies – that helped to preserve peace and run daily water management. Less success in establishing a wider multisectoral community for sustainable transboundary water governance in the basin
- **Global and pan-regional treaties** cannot substitute watercourse specific arrangements in Central Asia but they can address issues not covered by existing treaties, supplement imprecise provisions with more detailed obligations, provide for a platform to negotiate future agreements, contribute to the peaceful settlement of conflicts



# Panel Discussion

What are the main differences between the UNECE Water Convention and the UN Watercourses Convention?

How can we apply the global water conventions at a regional level, when not all States are Parties to them?

How are transboundary water agreements implemented at the domestic level?

What makes a transboundary water agreement effective?

Can transboundary agreements reduce the risk of conflict?  
How do they settle disputes when they arise?

Do transboundary agreements work differently for upstream and downstream States?



# Breakout Groups

- Participants are invited to continue the discussion in 5 Breakout Groups. The discussion will last for up to 20 minutes.
- Facilitators will lead an open discussion on transboundary water agreements and then report back on key points. During the discussion, we invite you to consider the following questions:
  - Is there a transboundary water agreement in your region?
  - Does this transboundary water agreement help facilitate cooperation?
  - How can these agreements be made more effective?

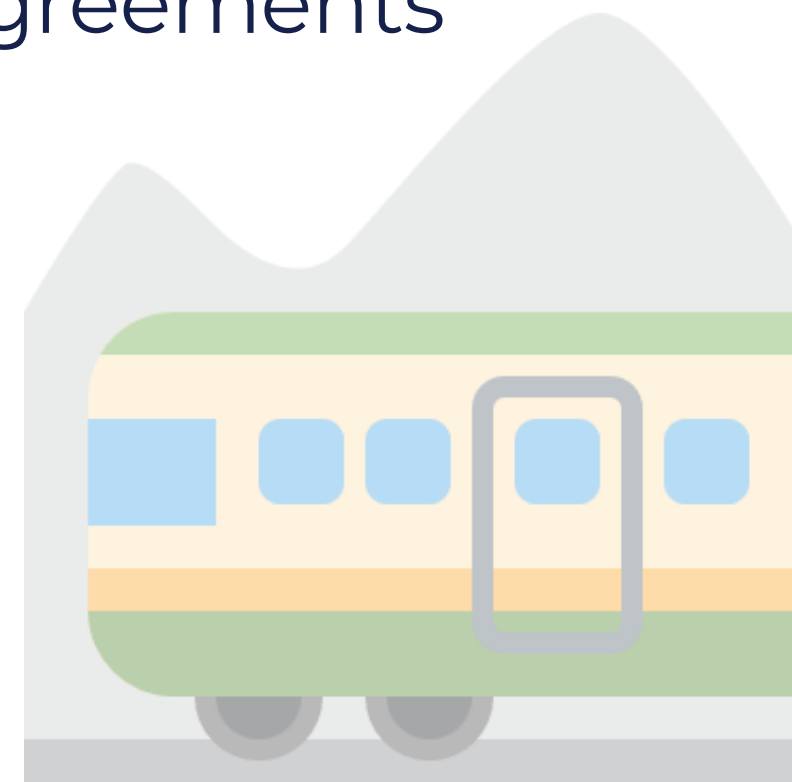




Thanks to all the  
speakers  
& participants!

Interactive Online Session:  
Transboundary Water Agreements

19th January 2021



# Sign up for the MOOC!

## GOVERNANCE FOR TRANSBOUNDARY FRESHWATER SECURITY

MASSIVE OPEN ONLINE COURSE  
GEF IW:LEARN

REGISTER, LEARN, SHARE!

PRODUCED BY



MODULE  
COORDINATORS



SIWI



Northumbria  
University  
NEWCASTLE

UNITED NATIONS  
UNIVERSITY  
UNU-INWEH  
Institute for Water,  
Environment and Health

UNECE

#WaterCooperation  
#TransboundaryLearn

## Modules

1. Introduction to transboundary water cooperation and water security
2. Water diplomacy and negotiation skills
3. International water law
4. Institutions
5. Management tools and mechanisms
6. Finance for transboundary water security

## Sign up at:

- <https://www.edx.org/course/governance-for-transboundary-freshwater-security>

## More information from:

- <https://www.gwp.org/en/learn/capacity-building/governance-for-transboundary-freshwater-security--a-massive-open-online-course-mooc/>



# IWL Series

Session Topic	Date
<b>Session 1 – Transboundary Water Agreements:</b> What is a transboundary water agreement and why is it important? Are there examples of best practice that can help where no agreements exist?	19 January
<b>Session 2 – IWL &amp; Protection of Ecosystems:</b> Would a stronger focus on protecting ecosystems of international watercourses help avoid potential conflicts or address existing disputes?	16 February
<b>Session 3 – IWL, Transboundary Water Cooperation and the Role of Institutions:</b> How is transboundary water cooperation facilitated in international law? What legal processes contribute to hydro diplomacy on the ground? What options do States have when they disagree over how a transboundary watercourse should be utilised and/or protected?	16 March
<b>Session 4 - IWL &amp; Climate Change:</b> What strategies are there to help countries adapt to / tackle climate change within a transboundary context? What are the legal challenges and how can national, regional and global legal requirements be addressed?	20 April
<b>Session 5 – IWL &amp; Infrastructure Projects:</b> What are the legal rules and procedures for building major infrastructure? How does international water law, human rights and international investment law combine to deal with these issues?	18 May
<b>Session 6 – IWL &amp; Groundwater:</b> How is transboundary groundwater governed – what are the legal rules that apply and how to implement these in practice? Focus on existing best practice and key challenges.	15 June



**SAVE THE DATE**  
**See you next time!**

Interactive Online Session:  
**IWL & Protection of Ecosystems**

16th February 2021

Would a stronger focus on protecting ecosystems of international watercourses help avoid potential conflicts or address existing disputes?

