



**WATER CHALLENGES IN THE  
IGAD REGION : TOWARDS NEW  
LEGAL FRAMEWORKS FOR  
REGIONAL COOPERATION**

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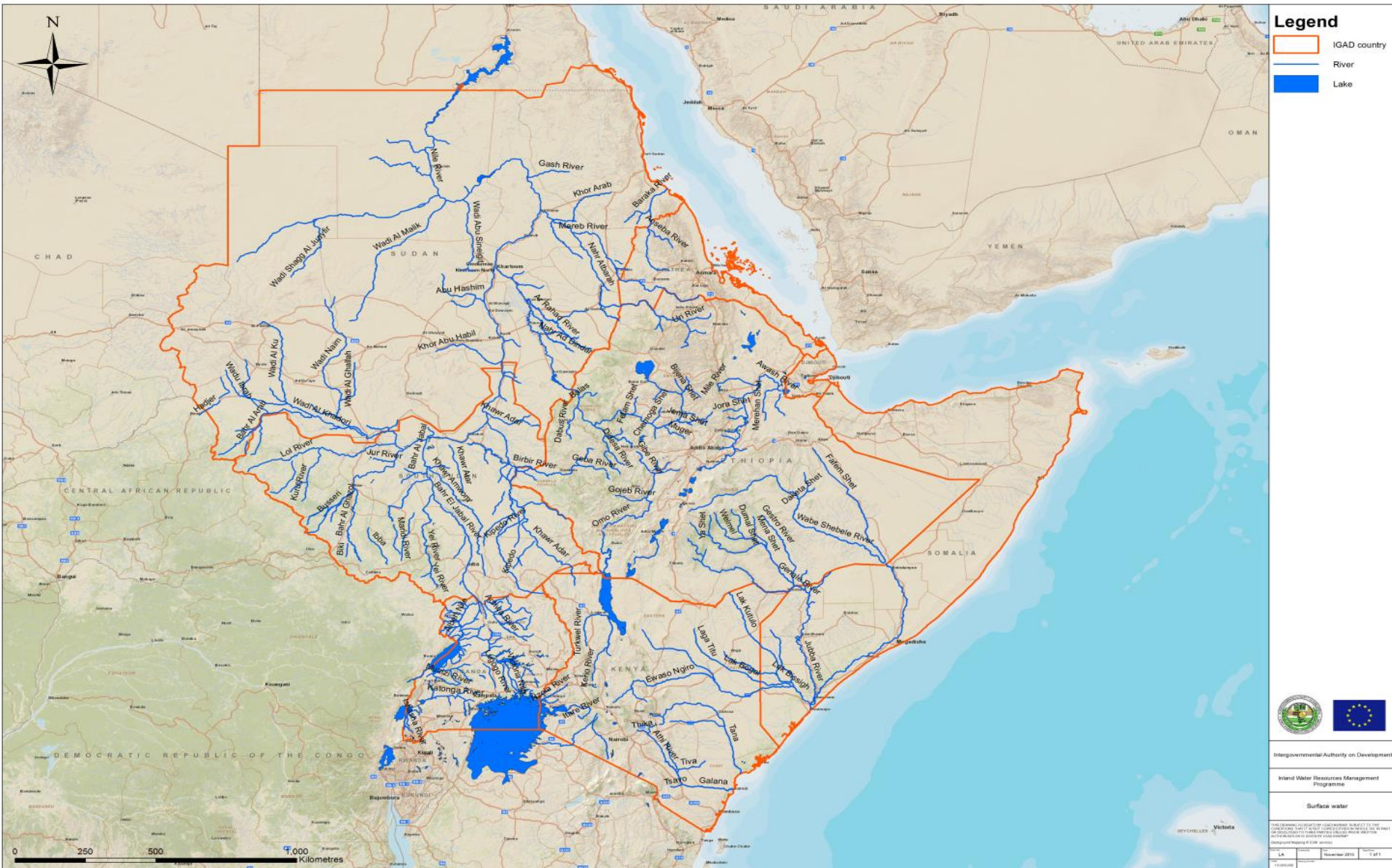
# What is IGAD ?

- 1986: 'Intergovernmental Authority on Drought and Development' (IGADD)
  - drought-related problems affecting the Greater Horn of Africa.
- 1996: 'Intergovernmental Authority on Development' (IGAD) with expanded mandate
  - current mission: *'to assist and complement the efforts of the member states to achieve, through increased cooperation, food security and environmental protection; promotion and maintenance of peace and security and humanitarian affairs, and, economic cooperation and integration'* (Agreement establishing IGAD).
- Member countries: Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan, Uganda (*all Nile basin states except Djibouti & Somalia*)
- 2000s: water resources (transboundary) on the agenda
- 2012: IGAD Water Programme (INWRMP)

# Why an IGAD regional policy and legal framework for WR management ?

- Many transboundary/shared water resources
- Uneven water distribution (different climatic conditions, but over 60% of the region is arid) -> competition for available resources
- Different levels of socio-economic development
- Need for development (& infrastructure)
- Recognition of water as development engine
- Different national approaches to water resources management
- Different stages of development of national policy, legal and institutional frameworks
- ***Therefore need for common approach***

# Surface (transboundary) water resources



# Transboundary aquifers



# Regional policy and legal frameworks: examples elsewhere in Africa

- **SADC: regional integration**

- 1992: SADC Treaty
- 1995: Protocol on Shared Watercourse Systems
- 1998: SADC Regional Strategic Action Plan (RSAP) for Integrated Water Resources Development & Management
- 2000: Revised Protocol
- 2005: Regional Water Policy
- 2006: Regional Water Strategy
- Watercourses agreements & commissions, authorities, boards (some earlier than Protocol)

- **EAC: regional integration; common market**

- 1999: EAC Treaty (Kenya, Tanzania, Uganda + Rwanda & Burundi in 2007)
- 2001: start of Lake Victoria Development Programme
- 2003: Protocol on Sustainable Development of Lake Victoria
  - Establishment of LVBC
- Present: Regional Water Policy

# SADC institutional framework

- Ministerial Committee
- Technical Committee
- Water sector coordinating unit
- Watercourse commissions, authorities and boards (OKACOM, LIMCOM, ZAMCOM, ORASECOM, etc.)

# ADVANTAGES

- Better knowledge of the shared resources
- Improved dialogue and cooperation
- Common approaches to WR management and planning, within a basin context
- Harmonized national policy and legal frameworks
- THUS
  - Demands may be met based on defined (& agreed) criteria -> equitable utilization
  - Improved access to water and sanitation
  - Better water quality
  - Satisfaction of environment protection needs
  - Conflicts prevented



# Framework development process at IGAD

- 2012: Start of IGAD Water Programme (INWRMP)
- Result area 2: improvement of policy & legal frameworks
- Main output: draft regional policy & legal framework
- Regional Water Resources Policy
  - Based on regional synthesis of national policy & legal frameworks
  - Draws lessons from int'l water law, similar regional policy & legal frameworks & existing basin agreements in the region (NRBCF)
  - National & Regional Workshops (stakeholder participation)
  - **Endorsed by water ministers of member states 21 January 2015**
- **Draft Regional Water Resources Protocol**
  - **Informed by Policy**
  - **Does not reinvent the wheel either**
  - **Being further discussed under separate funding (INWRMP ended March 2015)**
  - Negotiation Committee established
  - Must be approved by Assembly (heads of state & govt) upon recommendation of Council of Ministers
- Assistance provided to MS, upon request, to update national legislation
  - for instance, new draft Water Law for Somalia

# POLICY : MAIN CONTENT

- Brief situational analysis (context)
- Vision
- Objectives
- Scope
- Guiding principles
- Statements
  - Regional cooperation (*General*)
  - Development & poverty reduction (*on water-using sectors*)
  - Protection & preservation (*W quality & environment*)
  - Security from water-related disasters
  - Information management
  - Climate change
  - WR development & management (core principles)
  - Institutional framework
  - Stakeholder participation & capacity building
  - Financing

# DRAFT REGIONAL PROTOCOL

- Art. 17 of IGAD Agreement
- Objectives: same as Policy
- Overall
  - to promote closer cooperation in the equitable, sustainable and coordinated utilization, protection, conservation and management of transboundary/shared water resources in the IGAD region.
- Specific
  - to promote and facilitate the establishment of agreements on, and institutional arrangements for, the management of transboundary/shared water resources in the IGAD region;
  - to promote the approximation/harmonization of policies and legislation on the use, development, protection, conservation and management of transboundary/shared water resources, and of the resources related thereto;
  - to promote research, technology development, awareness creation and capacity building in the development and management of transboundary/shared water resources.

# Nature of provisions

- Many taken from
  - UN Watercourses Convention
  - Draft Articles on Transboundary Aquifers
    - f.i., provisions on river basin or aquifer agreements
    - ....notification of planned measures
    - GW-specific provisions
- Informed by Agreement on Nile RB Cooperative Framework
- But consider the situation on the ground (also Djibouti & Somalia)
- Substantive rules
  - Equitable & reasonable utilization
  - No significant harm
- And procedural rules
  - Exchange of information
  - Notification of planned measures
- Though, more specific as to the duties of member states

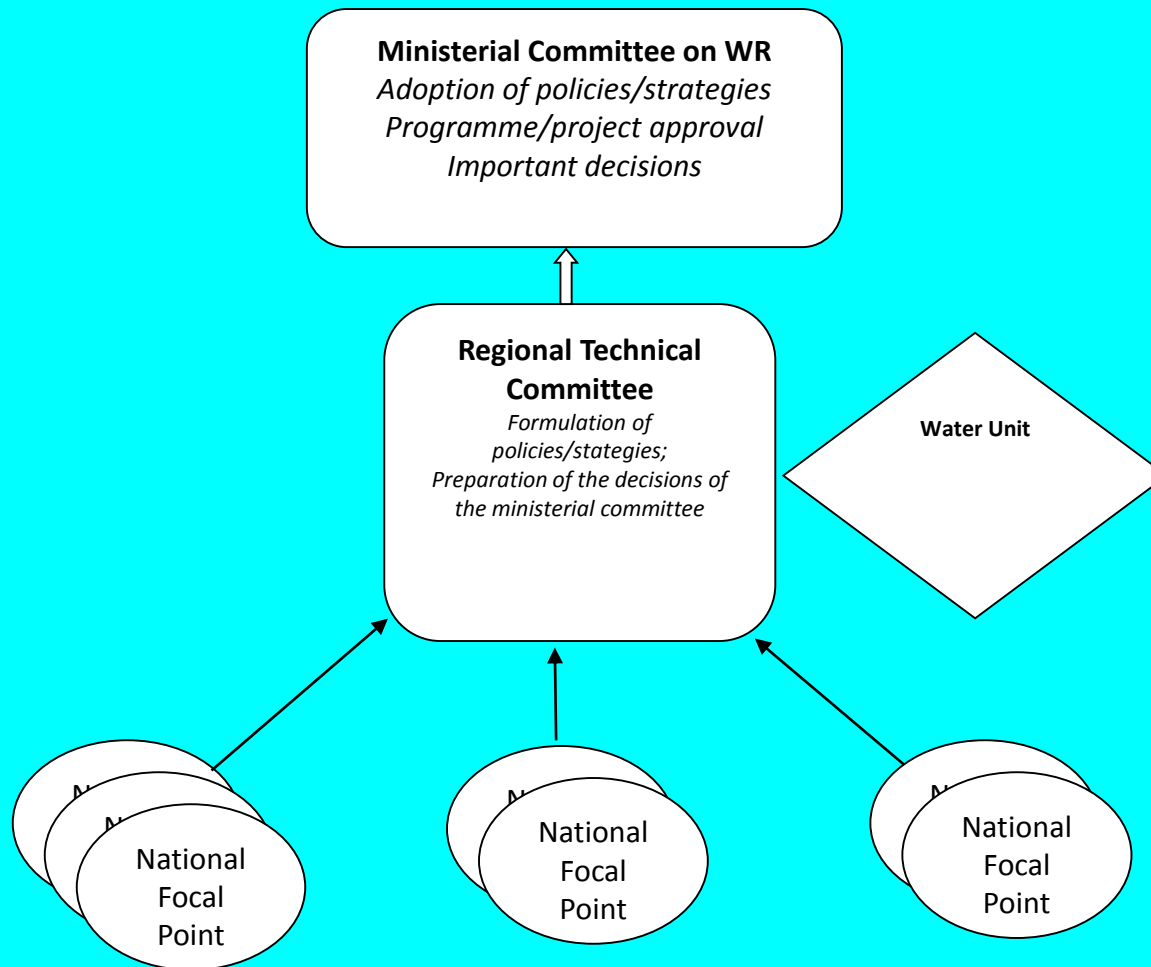
# Situation-tailored provisions

- Resource monitoring
  - Transboundary
  - National
- Public participation
  - In decision making relating to policies, plans and measures
  - In project design, planning and implementation
- EIA
- Explicit duty to approximate policies & legislation
- Awareness raising

# Institutional framework (Policy & Protocol)

- At IGAD level (regional)
- Institutional mechanisms for
  - transboundary/shared surface water resources (river basins, lakes, etc.)
  - Transboundary aquifers  
(*commissions, committees, authorities, etc.*)

# IGAD institutional set up for WR



# Ministerial Committee

- provide policy directions for regional cooperation in the management of transboundary/shared water resources, and to the approximation/harmonisation of water-related policies, strategies, legislation, programmes and projects;
- review and provide guidance on regional water-sector policies and strategies;
- endorse regional water resources programmes;
- oversee and monitor the implementation of the IGAD Regional Water Resources Policy and Protocol;
- spearhead the mobilization of domestic and external resources for water-related programmes, projects and activities.



# Regional Technical Advisory Committee

- advise the Ministerial Council on matters of MC competence;
- provide strategic guidance with regard to the implementation of regional water programmes;
- advise the Water Unit on:
  - strengthening of WRM information systems and networks in IGAD region;
  - regional priorities for water resources development and management;
  - implementation of IGAD water programmes and projects, including their alignment with national, regional and global strategies and priorities;
  - the introduction and implementation of capacity building and awareness creation programmes and strategies on water resources issues;
- facilitate the implementation of national activities connected to the above in the respective countries.

# Water Unit

- support IGAD MS in the development and implementation of regional water-related policies and legal frameworks;
- support IGAD MS in the development and implementation of bi- or multinational projects and programmes concerning their transboundary/shared WR;
- upon the request of MS, assist in the development of national policies and legal frameworks, and of national water resources projects and programmes;
- facilitate the generation and sharing of water resources data and information;
- promote capacity development;
- support and coordinate awareness raising campaigns;
- promote and facilitate research and technological development;
- organize a Water Dialogue Forum once every two years;
- Prepare meetings of the Ministerial Council and of the TAC;
- coordinate implementation of IGAD Regional WR Policy & Protocol.

# Policy & legal framework implementation

Regional policy



Regional protocol



River basin/aquifer agreements



National policy and legal frameworks  
*(harmonized)*