

UN Watercourses Convention

User's Guide Fact Sheet Series: Number 11

UN Watercourses Convention and Other Water-Related Agreements

Introduction to the Convention and other agreements

The UN Watercourses Convention preserves the contractual freedom of watercourse States in terms of any existing and future watercourse agreements. In this sense, **the Convention does not affect the rights and duties of states that become parties to it arising from existing freshwater-related agreements (Art 3 (1))**. Nor does the Convention impose an explicit duty on States to adopt basin-specific treaties compatible with its provisions where none exists. The convention thus upholds the validity of existing agreements, without foreclosing the right of co-riparians to agree on amendments or on entirely new agreements.

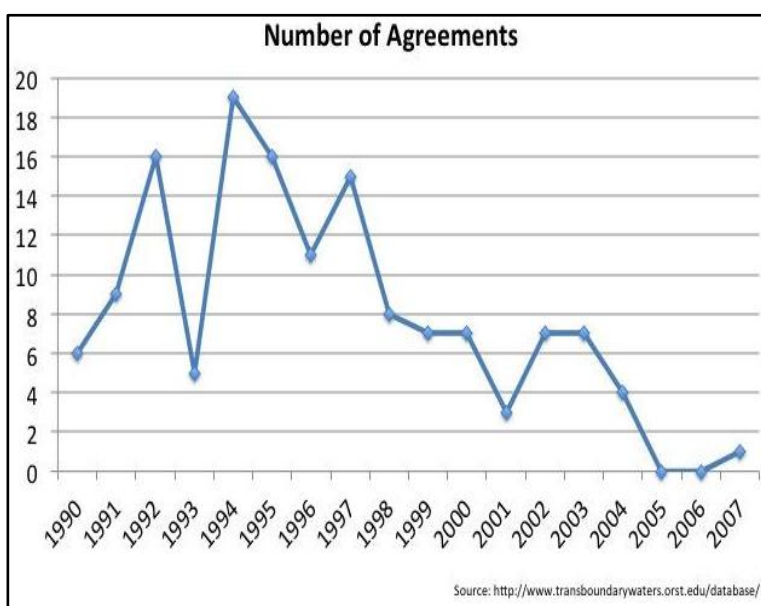
Relationship with existing and future watercourse agreements

Article 3(2) of the UN Watercourses Convention does however encourage States to consider harmonizing existing agreements with its basic provisions. It also only *encourages* States to adopt *new* agreements that *apply and adjust* the Convention to the characteristics and uses of a particular watercourse (Arts 3 (2)-(3)). **Even specific sections or articles that deal with transboundary water management which are contained within international agreements that do not wholly concern transboundary watercourses may still co-exist with the Convention.** Consequently, for example, the transboundary water agreements between Israel and Jordan as part of the 1994 Treaty of Peace, would not be affected by the Convention unless the parties agree to do so explicitly by mutual consent.

Additionally, the Convention essentially safeguards the rights of co-riparian States not parties to existing agreements (Art 3(6)). It does so by codifying customary law regarding third party States; whereby it creates a binding duty of a procedural nature for States to consult with its co-riparians if a State considers it necessary to adjust and apply the Convention to a given agreement (Art 3(5)). Thus, **ratifying the Convention aids States with existing agreements and should not in any way lead to the outright invalidation of such legal regimes.**

For future agreements, States are simply encouraged to use the Convention as a baseline for entering into agreements with co-riparians, yet are not obliged to do so.

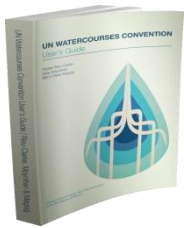
Number of Transboundary Freshwater Agreements Since 1990



How does this approach compare to regional conventions?

The UN Watercourses Convention approach to existing and future agreements can be contrasted with the 1992 UNECE Water Convention, which provides in its Article 9.1 that: ***“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, in order to define their mutual relations and conduct regarding the prevention, control and reduction of transboundary impact”***. Consequently, States who are party to the UNECE Water Convention are obliged to enter into water sharing agreements with other co-riparian States.

This contrasts with both the UN Watercourses Convention and the Southern Africa Development Community Revised Protocol on Shared Watercourses (SADC Revised Protocol), respectively. **The Convention does not oblige contracting States to enter into agreements, or adapt existing ones.** Rather, it merely encourages States to do so.



Visit our on-line resource at www.unwatercoursesconvention.org

This fact sheet is based on the *UN Watercourses Convention User's Guide*:

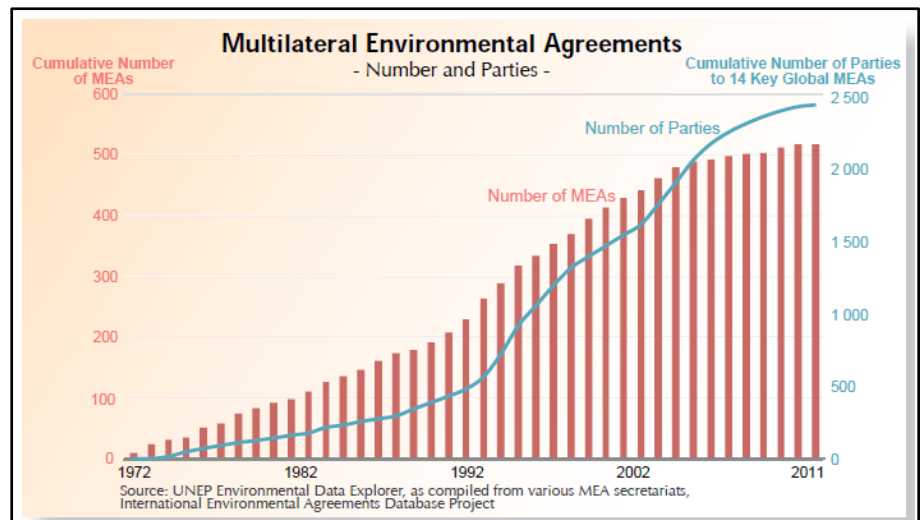
- Electronic version available on-line at: www.dundee.ac.uk/water
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The SADC Revised Protocol is similar in this regard in that contracting States are encouraged to enter into agreements, but not obligated. However, **Article 6 of the SADC Revised Protocol obliges States to strictly apply the provisions of the Revised Protocol when entering into watercourse agreements with little scope for adjustment**; whereas the Convention states that watercourse agreements may 'adjust' the provisions to suit the context where necessary.

Relationship with Multilateral Environmental Agreements (MEAs)

Upon its entry into force, the UN Watercourses Convention will be but one global legal agreement within a vast and complex international law regime. In particular, **a large number of MEAs have been agreed since the 1990s and are currently in force, many of which encompass or touch upon water-related matters**. Indeed, the number of States ratifying MEAs has been steadily increasing over time, demonstrating their importance.



Source: UNEP, *Measuring Progress: Environmental Goals and Gaps*, 2012, at 28

A considerable amount of studies have been conducted into the theory of **inter-linkages** (overlaps amongst related laws and policies), **synergies** (compatibilities between these laws and policies to enhance their efficiency) and **coordination** (integration from an institutional and/or legal standpoint to strengthen implementation) within and between MEAs. The overall aim of this research is to increase the effectiveness of MEAs and related agreements.

Research into the relationship between water-related MEAs and transboundary freshwater agreements such as the UN Watercourses Convention and UNECE Water Convention has to-date been limited. Hence, the theory and current practice of MEA synergies and inter-linkages will be pertinent aspects to consider in regards to the UN Watercourses Convention's entry into force to ensure integration with these global institutional frameworks for transboundary watercourses. Certainly, **the Convention and other regional agreements, such as the UNECE Water Convention, share identifiable common elements with many of the key global MEAs, such as the 1992 Convention on Biological Diversity (CBD), but further investigation is required.**

ADDITIONAL RESOURCES

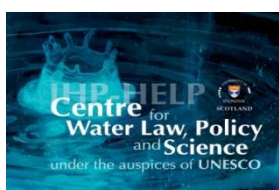
FURTHER READING

Rieu-Clarke, A., Moynihan, R. and Magsig, B., *UN Watercourses Convention – User's Guide* (CWLPS 2012), at 88 – 99

Brels, S., Coates, D., & Loures, F. *Transboundary Water Resources Management: The Role of International Watercourse Agreements in Implementation of the CBD* (2008) CBD Technical Series No.40; Secretariat of the Convention on Biological Diversity.

RELATED UN WATERCOURSES CONVENTION SECTIONS

Art 3 – Watercourse agreements



This fact sheet series, online resource and User's Guide have been produced through generous financial support from the **Norwegian Ministry of Foreign Affairs**, and in partnership with **WWF**. Since 2006, WWF has promoted the UN Watercourses Convention through a global initiative that encompasses a wide range of partners and activities. For further details visit: http://wwf.panda.org/what_we_do/how_we_work/policy/conventions/water_conventions/un_watercourses_convention/

