



UN WATERCOURSES CONVENTION: APPLICABILITY AND RELEVANCE IN WEST AFRICA

Dr. Amidou Garane
Consultant
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EXECUTIVE SUMMARY

The United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses (“UN Convention”)¹ is a global instrument that promotes the equitable and sustainable development and management of river basins shared by two or more states. The UN General Assembly adopted the convention in 1997 by an overwhelming majority. With 16 parties at this time,² the convention requires the deposit of 19 additional instruments of ratification or accession for its entry into force.³ The Global Water Partnership-West Africa, Green Cross, the UNESCO Centre for Water Law, Policy and Science, and WWF have embarked on an initiative to promote the entry into force of the UN Convention by facilitating dialogue and raising awareness among governments, UN bodies, NGOs, and other actors. As part of this initiative, the above organizations have commissioned regional assessments that analyze the benefits and implications for basin countries of adopting the convention, in light of existing watercourse agreements or arrangements or of their absence. This paper focuses on the following **West African states: Benin, Burkina Faso, Côte d'Ivoire, The Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, and Togo.**

No West African state has become a party to the UN Convention. The Ivory Coast *is a signatory*, but never completed the ratification process. During the convention’s adoption at the UN General Assembly, Burkina Faso, Ivory Coast, Liberia, Nigeria, and Sierra Leone *voted in favor*. Ghana and Mali *abstained from voting*. Benin, Guinea, Mauritania, Niger, and Senegal *were absent* during the voting procedures. No West African state voted against the convention. The voting records contain no reference to the position of three other states in the region: Togo, The Gambia, and Guinea Bissau, which most likely had no representative participating in the session of the UN General Assembly that adopted the convention.⁴ The study concludes that the UN Convention is of relevance to West Africa because, if states were to widely adopt it and implement it in the region:

- The convention would govern basins not covered by water management treaties and, where appropriate, promote and underpin the adoption of interstate agreements and arrangements as instruments for the peaceful management of watercourses and for the implementation of the convention’s substantive rules and principles.
- The convention would supplement and aid in the interpretation and application of existing treaties, most of which do not contain key principles and rules of international water law. In some cases, the convention might progressively spur the revision of such agreements.

¹ United Nations Convention on the Law of Non-Navigational Uses of International Watercourses, UN Doc. A/51/869, 21 May 1997, *reprinted in* 36 INT’L LEGAL MAT’LS 700 (“UN Convention”).

² See WWF website, www.panda.org/freshwater/unconventions, for the current ratification status.

³ UN Convention, *supra* note 1, Article 36(1).

⁴ See UNITED NATIONS GENERAL ASSEMBLY, 51st Session, 99th Plenary Meeting, U.N. Doc. A/51/PV.99, at 2, 7-8 (21 May 1997) (“UN Convention Voting Records”).

- The convention would pave the way for the adoption of a regional protocol governing international water systems among the Members of the Economic Community of West African States (ECOWAS), following the example of the Southern Africa Development Community (SADC).⁵ The convention would still serve as a common framework for cooperation with non-member states bordering the region and to which such a protocol would not apply.

The UN Convention can thus govern, reinforce, foment, and inform interstate cooperation on the peaceful management and sustainable use of international watercourses in West Africa. Widespread support for the UN Convention among states in the region is thus of great importance.

INTRODUCTION

The purpose of this study is to assess the relevance of the UN Convention for improving transboundary water cooperation among West African states. Africa has around sixty transboundary watersheds that cover nearly 40% of the continent and drain the territories of almost all African countries.⁶ In West Africa, particularly, international watercourses spread across the region:

Although covering less than a quarter of the surface of the African continent, the region includes 25 trans-boundary river basins..., a little less than half of the some 60 watercourses in the whole of Africa.... Thus, except for Cape Verde, *each country of the region shares at least one watercourse*. The countries generally have a factor of dependence higher than 40%: the factor of dependence represents the total share of renewable water resources of the country produced outside its borders.... [C]ountries like Niger and Mauritania have factors of dependence of about 90%.⁷

International watercourses, like all shared natural resources, must be managed in the interest of all the watercourse countries and their populations.⁸ All international watercourse states have the same rights and obligations in the use and protection of the shared resource and no state can deny the other potential users the exercise of that right. For cooperation between watercourse states to develop, it is important to demonstrate that closer collaboration at the basin level can result in benefits to all states that outweigh the costs from non-cooperation.⁹ Co-operation not only prevents conflict but also ensures optimal and sustainable use of a resource. In other words, “co-operation implies actions to reduce to the minimum the harmful consequences of competing claims, while optimizing the potential benefits of shared solutions.”¹⁰

⁵ See Protocol on Shared Watercourse Systems in the Southern African Development Community Region, 7 Aug. 2000, 40 I.L.M. 321 (in force 22 Sep. 2003).

⁶ L. Oyebandé, RIVER/LAKE BASIN ORGANISATION MODELS: AN AFRICAN PERSPECTIVE in *La Gouvernance de l'Eau en Afrique de l'Ouest : Droit et Politique de l'Environnement* n° 50, at 162 (Madiodio et al. eds. 2004).

⁷ Madiodio Niasse, *Prévenir les conflits et promouvoir la coopération dans la gestion des fleuves transfrontaliers en Afrique de l'ouest* in VERTIGO – LA REVUE EN SCIENCES DE L'ENVIRONNEMENT, Vol 5, No 1, at 2 (May 2004) (*emphasis added*).

⁸ See PCIJ, *Jurisdiction territoriale de la Commission internationale de l'Oder*, arrêt n° 16, 1929, PCIJ, Series A, n° 23, 26-27, developing the idea of a common interest among basin state in shared water resources.

⁹ UNDP, *World Report on Human Development: Beyond Shortage: Power, Poverty, and Global Water Crisis* 218 (2006).

¹⁰ *Id.*

On the other hand, shared water resources can spark or aggravate interstate conflicts, often latent but also declared. It is always difficult for states to reconcile the requirements of national sovereignty with those of international solidarity, especially for a resource as strategic as water.¹¹ West Africa is no exception, where watercourse management conflicts have often arisen: for example, the crises around the Senegal River between Senegal and Mauritania in 1988 and, in 2000, over a project of fossil valleys rehabilitation. Other examples include the water crisis on the Volta River between Burkina Faso and Ghana in 1998, as well as the disagreements between Benin and Niger since 1960 regarding the Island of Lété. These examples demonstrate the challenge of achieving and sustaining cooperation between watercourse states.¹²

In the near future, the effects of climate change on freshwater will add up to greater water demand and reduced water supplies. In such a scenario, competition and disputes over international watercourses are likely to increase, as states become eager to secure their various uses of shared water resources for national purposes. Ultimately, however, “shared water management can be an advantage towards peace *or* war, but it is *policy which will decide what direction to give it.*”¹³

This conclusion is of particular concern in West Africa, where no sufficient or appropriate guiding legal frameworks exist among basin states for the management of international watercourses. Watercourse states have adopted agreements on the use and management of West Africa’s major transboundary watersheds: Gambia, Niger, Senegal, Volta, and Lake Chad basins. Nonetheless, many such agreements or arrangements do not address important aspects of international water law.¹⁴ In addition, among West Africa’s 28 transboundary river basins, there are no legal arrangements among the respective riparian states for 20 of such basins.¹⁵

States in the region have been concerned about this quantitative and qualitative insufficiency of watercourse arrangements or agreements. While regional and sub-regional initiatives have contributed to addressing this challenge, the UN Convention would reinforce and spur those initiatives with its universally agreed principles and rules that lay the foundations for the progressive development of law in the field.

Against this background, this study begins with a brief overview of the UN Convention. The following section compares the various West African watercourse agreements and the convention, with a view to identifying points of convergence and divergence and assessing how they may supplement each other. Finally, the study investigates the possible reasons that could explain why West African states have not become parties to the convention. This investigation draws from the

¹¹ J. Sohnle, *Le droit international des ressources en eau douce: solidarité contre souveraineté*, La Documentation Française (2002).

¹² Niasse, *supra* note 7, at 5-6.

¹³ UNDP, *supra* note 9, at 203.

¹⁴ See *infra* section 2, examining the major agreements adopted among West African states and assessing the added value of the UN Convention to support their implementation.

¹⁵ See UNEP, Atlas of International Freshwater Agreements 27 (2002).

position of states during the convention's drafting and adoption, as well as from interviews with government officials to inform the development of this study.¹⁶ Those interviews included questions relating to the relevance and applicability of the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (UNECE Water Convention) in West Africa, which is discussed in the last section of the study. The next subsections discuss both the lack of awareness about, and the growing interest in, the convention by West African states. Finally, the study presents some outcomes of ongoing initiatives to promote the convention and raise awareness among ECOWAS Member States.

Preliminary findings of this study were presented to West African states and other stakeholders, at the 3rd Session of the Technical Committee of Experts of the Permanent Framework of Coordination and Monitoring of IWRM in West Africa (Ouagadougou, 6-7 December 2006); and at the IWRM Training Session, during the IWRM International Training Programme (Ouagadougou, 12-30 March 2007). The presentations generated interest in the UN Convention and were followed by a number of exchanges for further clarifications requested by participants.¹⁷

1. OVERVIEW OF THE UN CONVENTION

The UN General Assembly adopted the UN Convention in 1997, after more than three decades of discussions and negotiations, with “the conviction that a framework convention [would] ensure the utilization, development, conservation, management, and protection of international watercourses and the promotion of the optimal and sustainable utilization thereof for present and future generations.”¹⁸ As we shall see below, the UN Convention codifies and develops customary law governing international watercourses.

1.1 FRAMEWORK CHARACTER AND SCOPE OF THE UN CONVENTION

The UN Convention establishes universal principles and rules, encouraging states to enter into and implement watercourse agreements that adapt its provisions to the particular situations of each basin.¹⁹ The convention thus recognizes that each watershed and each group of basin states reflect geographical, historical, and cultural factors that cannot be governed solely by a global framework. *The convention does not affect the validity of existing agreements.* Therefore, the provisions of such agreements *prevail in the event of conflict with the UN Convention.* States, however, should consider harmonizing those agreements with the convention, as necessary and appropriate to address their

¹⁶ See *infra* Annex 2-3, for a summary of the answers given during interviews and a list of individuals contacted.

¹⁷ See WRCU, Executive Summary of the 3rd Meeting of the PFCM Technical Experts Committee (6-7 Dec. 2006).

¹⁸ UN Convention, *supra* note 1, Preamble.

¹⁹ *Id.* Article 3(3).

needs and circumstances. The convention would thus apply in West Africa as an umbrella agreement in the many transboundary basins lacking a cooperation framework or subject to treaties that fail to incorporate and fully implement the convention's provisions.

In addition, the UN Convention promotes a basin-wide approach to the management of international watercourses by establishing the right of each watercourse state to “participate in the negotiation of and to become a party to any watercourse agreement that applies to the entire international watercourse, as well as to participate in any relevant consultations.”²⁰ Moreover, “a watercourse state whose use of an international watercourse may be affected to a significant extent by the implementation of a proposed watercourse agreement that applies only to a part of the watercourse or to a particular project, programme or use is entitled to participate in consultations on such an agreement and, where appropriate, in the negotiation thereof in good faith with a view to becoming a party thereto, to the extent that its use is thereby affected.”²¹

As for its scope, the UN Convention defines a watercourse as “a system of surface waters and groundwaters constituting by virtue of their physical relationship a unitary whole and normally flowing into a common terminus.”²² This definition excludes aquifers not connected to an international watercourse from the convention's scope. The convention, however, recognizes the links within the hydrological cycle by including under its scope the main river, its tributaries, and any connected lakes and groundwater systems. The convention also lays the foundation for integrated river basin management in a transboundary context. It does so by establishing obligations and rights related to both water quantity and quality and by requiring states to aim for the sustainable development of international watercourses and to protect their ecosystems, which implies an integrated approach to water and land use management.²³

1.2 SUBSTANTIVE RULES AND PRINCIPLES

There are two fundamental principles applicable to international watercourses: the principle of equitable and reasonable use and participation and the obligation to prevent significant transboundary harm (or “no-harm rule”). Article 5 of the UN Convention incorporates the former, requiring states to use and develop an international watercourse “in an equitable and sustainable manner...with a view to attaining optimal and sustainable utilization thereof and benefits therefrom, taking into account the interests of watercourse states concerned, consistent with the adequate protection of the watercourse.” The convention further requires that states “participate in the use, development and protection of an international watercourse in an equitable and reasonable

²⁰ *Id.* Article 4(1).

²¹ *Id.* Article 4 (2).

²² *Id.* Article 2(a).

²³ *Id.* Articles 5-7, 20-21.

manner.”²⁴ Relevant factors and circumstances must be taken into account in order to determine when a use is equitable and reasonable, *inter alia*:

- geographical, hydrographic, hydrological, climatic, ecological or other natural factors;
- economic and social needs of States of the concerned watercourse;
- population dependent on the waters in each watercourse State;
- effects of the use or uses of the watercourse in a watercourse State on other watercourse States;
- current and potential uses of the watercourse;
- conservation, protection, development and economics in the use of water resources as well as the costs of actions taken for this purpose; and
- the existence of alternatives with comparable value, likely to replace a current or considered use.²⁵

In the absence of agreement or custom to the contrary, the convention determines that no use has priority over others. States, however, are required to pay special attention to meeting vital human needs.²⁶ The convention also mandates states to enter into good-faith consultations and negotiations, where necessary to ensure their compliance with the principle of reasonable and equitable use.

The no-harm rule imposes on states the obligation to take all appropriate measures not to cause significant harm to other watercourse states.²⁷ Hence, states must ensure that appropriate measures are in place to prevent activities carried out within their territory from having adverse effects on the territory of other watercourse states. For example, a basin state must implement effective procedures to monitor activities undertaken within its territory. Industrial pollution, the modification of hydrological systems, and reductions in river flow are some examples of detrimental effects on shared water resources with potentially transboundary repercussions.

As codified under the UN Convention, the no-harm rule requires that states, when utilizing or permitting the utilization of an international watercourse, act with due diligence to avoid harming their co-watercourse states. The no-harm rule does not refer to any transboundary impact, but only to *significant* harm, excluding minor disturbances or inconveniences, which states commonly tolerate from one another. Article 7(2) of the UN Convention applies when significant transboundary harm occurs despite a state’s diligent preventive efforts in the management and use of an international watercourse. In this case, the responsible state must take, in consultation with the affected state, all appropriate measures to eliminate or mitigate the damage and, if needed, discuss compensation.

²⁴ *Id.* Article 5(2).

²⁵ *Id.* Article 6.

²⁶ *Id.* Article 10.

²⁷ *Id.* Article 7.

1.3 PROCEDURAL RULES

Procedural rules enable the implementation of the substantive principles examined above. Such rules include the general obligation of co-operation between watercourse states, the exchange of information and data, as well as special procedures applicable in the cases of planned measures and emergencies. The general obligation of co-operation applies to all watercourse states and derives from basic principles of international law, such as sovereign equality, territorial integrity, mutual benefit, and good faith. In order for states to implement this obligation more efficiently, the UN Convention encourages states to set up institutions for joint water management.²⁸ Cooperation in regards to watercourse management is more challenging when there are serious obstacles to direct contacts between watercourse states. Even in this case, the obligation of cooperation applies, by means of any indirect procedure acceptable to the states concerned.²⁹

Another procedural duty relates to the regular exchange of available data and information, including data of a hydrological, meteorological, hydrological, and ecological nature, as well as related forecasts and data concerning water quality. If a state requests data and information that is unavailable, it must bear the normal cost of collection and processing. Relevant information and data must be collected and processed in a suitable way to facilitate use by the other watercourse states concerned. Data and information vital for national defense and security are not subject to the obligation of data and information exchange. The state in question, however, must cooperate in good faith to provide as much information as the circumstances will allow.³⁰

Special rules of procedure apply in the event of planned measures, involving notification, consultation and negotiation among the watercourse states concerned.³¹ All planned measures that are likely to have significant adverse effects on other states must be subject to prior notification to the potentially affected states. Such notification must be made in “effective time,” in order to avoid the *fait accompli*. The notification must also contain an indication of the measures considered and any technical data and information available, including the respective environmental impact study. This information must enable the recipient state to assess the possible adverse effects of the considered measure. Under the convention, the period for reply by the recipient state is of six months—a period considered reasonable for enabling the adequate assessment of the content of the notification. Such period can be extended on request by the notified state for additional six months.

During the period for reply, the notifying state must provide upon request all data and additional information available. Also during consultations, the notifying state must abstain from

²⁸ *Id.* Article 8(2).

²⁹ *Id.* Article 30.

³⁰ *Id.* Article 9.

³¹ *Id.* Articles 11-19.

implementing or from allowing the implementation of the measures under consideration without the approval of the recipient state. If the recipient state accepts the notification expressly or does not react to the notification within the timeline prescribed, the notifying state can implement the measures under consideration in compliance with the convention's substantive provisions, in particular the principle of equitable and reasonable use and the no-harm rule. Moreover, any conditions proposed by the recipient state and accepted by the notifying state must be observed.

If the recipient state finds that the measure is not in conformity with the UN Convention and responds negatively to the notification within the timeframe required, the states involved must enter into consultations and, if necessary in light of true disagreement, negotiations. In so doing, states must endeavor to arrive at an equitable resolution of the situation. During a maximum period of six months for such consultations and negotiations, the notifying state must not undertake any action for implementing the considered measure, unless otherwise agreed among the states concerned. After this period, if no agreement is achieved, the notifying state may proceed with the implementation of the planned measure in question, taking into account its substantive obligations under the convention.

In the absence of a notification, a state that has reasonable grounds for thinking that another state is planning measures capable of causing significant transboundary impact can request the latter to apply the convention's procedural rules examined above.

In the event of extreme urgency, a state is entitled to implement immediately any measures needed to address the situation. The implementing state must justify the emergency on the basis of health protection, public safety or other significant interests.

1.4 ENVIRONMENTAL PROTECTION OF INTERNATIONAL WATERCOURSES

The UN Convention also governs the environmental protection and conservation of international watercourses. States must act individually or, if needed, jointly, to protect and preserve the ecosystems of international watercourses. States must also act appropriately to avoid, abate, and control watercourse pollution. In addition, states must take all measures necessary to prevent the introduction of exotic species into international watercourses that may result in negative impacts on aquatic ecosystems and significantly affect other watercourse states. Moreover, watercourses states must take all measures needed to protect the marine environment as it may be affected through its connections with river systems.

States must also provide for the protection of watercourses against detrimental situations, such as silting, erosion, saltwater intrusion, drought, desertification, and waterborne diseases. Finally, states must protect international watercourses against the effects of emergencies. These are

situations of natural or human origin and that cause or pose an imminent threat of causing serious damage to the watercourse or to its ecosystem. In such circumstances, states must provide for emergency notification, without reasonable delay, to states likely to be affected by the emergency, as well as to the relevant basin organizations. Such notification must contain all information relating to the emergency, allowing the threatened states to have the best understanding of the phenomenon for ensuring the protection of their respective territories and populations.³²

1.5 CONFLICT RESOLUTION MECHANISMS

The UN Convention establishes a flexible dispute settlement procedure.³³ States must initially attempt to solve their differences through direct negotiations. If negotiations fail, the convention makes available for parties both political mechanisms (e.g., good offices of a third party, mediation, or conciliation) and juridical means (arbitration or submission to the International Court of Justice).

If, within six months from the request for negotiations, the parties cannot solve their disagreement through any of those means of peaceful settlement, any of the states concerned can trigger an international investigation. A fact-finding commission is then assembled for this purpose. Upon request, the parties must provide the commission with all information necessary for enabling the accurate assessment of the facts of the case. Parties must also facilitate the access of commission members to their respective territories and the inspection of installations and equipment. The commission submits its final report for the parties to the dispute to consider it in good faith. Such a report should contain justified conclusions and recommendations for the achievement of an equitable solution to the disagreement.

The UN Convention also provides for an arbitration procedure.³⁴ In resolving the dispute, the arbitral tribunal may apply both the UN Convention and general international law. The arbitration court lays down its own rules of procedure. On request of one of the parties, the arbitration court may recommend the temporary adoption of protective measures until its final decision. The parties must supply all the necessary information to the arbitral tribunal and enable it to hear witnesses and experts. The final arbitral award is binding on the parties to the dispute and, unless states agree at outset on an appellate procedure, without appeal.

³² *Id.* Articles 20-23, 27-28.

³³ *Id.* Article 33.

³⁴ *Id.* Annex.

2. COMPARATIVE LEGAL ANALYSIS BETWEEN WEST AFRICAN WATERCOURSE AGREEMENTS OR ARRANGEMENTS AND THE UN CONVENTION

This section contains an analysis of watercourse agreements and arrangements in place in West Africa. The aim is to assess if and how the UN Convention might add value to those agreements and arrangements. The analysis reveals a disparity among such instruments in the consideration of international rules governing the use and protection of transboundary water systems. This disparity is largely due to the different years of adoption of each of the instruments at hand and their respective scope. As a whole, such instruments fail to incorporate or incorporate only partially some of the most relevant substantive and procedural rules of the convention.

2.1 NIGER RIVER BASIN

The main international regulatory framework for the Niger Basin³⁵ is the *Revised Convention pertaining to the Creation of the Niger Basin Authority (NBA)*³⁶ (“*NBA Convention*”), adopted among all basin states except for Algeria, with a non-active part of the basin, and Sierra Leone, with a minor portion thereof. Under this treaty, the NBA endeavors to harmonize and coordinates the national policies for the development of the Niger basin, prepares and implements integrated basin development plans, and promotes, designs, and executes common interest structures and projects.

Although the NBA Convention represents a crucial step in the process of cooperation among the Niger basin states, it focuses mainly on the design of the institutional mechanism and fails to incorporate important substantive principles and procedural rules. The NBA Convention contains no reference to the principle of equitable and reasonable use and does not address quantitative water management with respect to water allocation among users. As for the no-harm rule, the NBA Convention refers to harm prevention only with respect to pollution and to any negative modification of the biological characteristics of fauna and flora.³⁷ The scope of the duty seems narrower than the obligation contained in Article 7 of the UN Convention requiring states to take all appropriate measures to prevent significant transboundary harm in general. In addition, the NBA Convention lacks a requirement for regular exchange of information, provides very little in terms of environmental protection, and does not address harmful conditions or emergencies.

³⁵ See also Act Regarding Navigation and Economic Cooperation between the States of the Niger Basin Article 4, Cameroon-Chad-Cote D'Ivoire-Dahomey-Guinea-Mali-Niger-Nigeria-Upper Volta, 26 Oct. 1963, available at <http://ocid.nacse.org/qml/research/tfdd/toTFDDdocs/120ENG.htm>.

³⁶ Revised Convention pertaining to the Creation of the Niger Basin Authority, Benin-Burkina Faso-Cameroon-Chad-Cote D'Ivoire-Guinea-Mali-Niger-Nigeria, 29 Oct. 1987 (“*NBA Convention*”), available at <http://ocid.nacse.org/qml/research/tfdd/toTFDDdocs/350FRE.htm>. The NBA Convention superseded previous agreements creating an institutional mechanism for the Niger basin. *Id.* Article 1(2) & 21.

³⁷ *Id.* Article 4(3).

In terms of procedural rules, the NBA Convention requires states to inform the NBA about any proposed basin developments,³⁸ but has no provisions governing consultations and negotiations that should follow the initial notification.

Regarding the settlement of disputes, disagreements are subject to direct negotiations between the parties. If this fails, any of the parties involved may refer the dispute to the Authority of Heads of State and Government—the NBA supreme decision-making body, which decides the case in last instance. Hence, the NBA Convention establishes neither diplomatic settlement mechanisms using third parties (good offices, conciliation, mediation, international investigation), nor judicial means (arbitration and legal settlement). In this sense, the NBA Convention provides no guidance to states in those situations in which the parties involved in a dispute prefer to agree on an alternative dispute settlement mechanism before submitting the case to the NBA in last instance. The disputes settlement mechanisms under the UN Convention gain particular importance in this scenario.

In 2004, certain gaps of the NBA Convention were somewhat addressed when the NBA Member States adopted the Paris Declaration,³⁹ which incorporates principles of management and good governance for the joint sustainable development of the basin. The declaration incorporates, but does not guide the application of the principle of reasonable and equitable use. Moreover, the declaration establishes sustainability, ecosystem protection and restoration, and satisfaction of human needs as key objectives to be considered and pursued in the management and utilization of the Niger basin. The declaration does not refer to pollution and invasive species control or to the preservation of the marine environment as it may be affected through the basin's discharge. There is a general requirement of notification in the case of situations potentially capable of causing transboundary impact, but no other detailed rules applicable to harmful conditions and emergencies. In addition, the declaration provides for a users' right to have access to relevant information, but is silent on a general states' obligation to exchange information, just as the NBA Convention. Finally, the declaration's call on states to resort to all possible means of dispute prevention and settlement reinforces the potential role of the UN Convention to complement the NBA Convention.

The Niger basin states have also adopted bilateral agreements that they implement under the umbrella of the NBA Convention. For example, a 1988 Agreement between Niger and Mali⁴⁰ establishes a Permanent Technical Advisory Committee whose mandate centers on information exchange, generation, and assessment. In 1990, Nigeria and Niger adopted a framework agreement

³⁸ *Id.* Article 4(3).

³⁹ Déclaration de Paris: Principe de Gestion et de Bonne Gouvernance pour un Développement Durable et Partagé du Bassin du Niger, Conférence des Chefs d'Etat de l'Autorité du bassin du Niger (Paris, 26 April 2004) (on file with author).

⁴⁰ Protocol of the Agreement between the Republic of Niger and the Republic of Mali relative to Cooperation in the Utilization of Resources in Water of the Niger River, 12 July 1988, *available at* <http://ocid.nacse.org/qml/research/tfdd/toTFDDdocs/357FRE.pdf>.

for the development, conservation, and improvement of their common water resources.⁴¹ This agreement incorporates reasonable and equitable utilization as its fundamental principle and creates a joint commission to monitor and promote its implementation. Because these agreements are only bilateral, they do not apply to the entire Niger basin and, therefore, cannot address the regulatory gaps identified in the NBA Convention, as discussed above.

2.2 SENEGAL RIVER BASIN

The Senegal River Development Organization (OMVS) is the institutional framework for cooperation in the basin and is governed by a number of agreements, including:

- *Convention pertaining to the Creation of the Organization for the Management of the Senegal River (“OMVS Convention”)*;⁴²
- *Convention relating to the Statute of the Senegal river (“Senegal River Convention”)*;⁴³ and
- *Charter of the Waters of the Senegal River (“Senegal Water Charter”)*;⁴⁴

Originally, only Mauritania, Mali, and Senegal were parties to the OMVS Convention and to the Senegal River Convention. Guinea, the fourth basin country and with headwaters located within its territory, has recently joined the OMVS as well.⁴⁵ The OMVS Convention focuses on institutional aspects and does not incorporate the principle of reasonable and equitable utilization or any rules governing access to water rights. Yet, the convention creates a commission under the OMVS in charge of defining the principles and criteria for allocating water rights among states and among different sectors. In implementing this duty, therefore, the commission might benefit from the guiding principles and procedures established by the UN Convention. In regards to dispute settlement, parties must resort initially to conciliation and mediation, then to mechanisms of dispute settlement in the African Union and, in last instance, to the International Court of Justice.

The Senegal River Convention reflects the fact that it was adopted almost four decades ago. The convention does not incorporate the principle of equitable and reasonable utilization and lacks any detailed provisions on environmental protection. Furthermore, the Senegal River Convention neither addresses harmful conditions and emergencies, nor establishes a general duty on data-

⁴¹ Agreement between the Federal Republic of Nigeria and the Republic of Niger concerning the Equitable Sharing in the Development, Conservation and Use of their Common Water Resources, 18 July 1990, *available at* <http://ocid.nacse.org/qml/research/tfdd/toTFDDdocs/182ENG.htm>.

⁴² Convention pertaining to the Creation of the Organization for the Management of the Senegal River, Guinea-Mali-Mauritania-Senegal, 11 Mar. 1972, *available at* <http://ocid.nacse.org/qml/research/tfdd/toTFDDdocs/265FRE.htm>.

⁴³ Convention relating to the Statute of the Senegal River, Guinea-Mali-Mauritania-Senegal, 11 Mar. 1972, *available at* <http://ocid.nacse.org/qml/research/tfdd/toTFDDdocs/261FRE.htm>.

⁴⁴ Charter of the Senegal River, 28 May 2002, Mali – Mauritanie – Sénégal, *available at* http://www.lexana.org/traites/omvs_200205.pdf.

⁴⁵ Visit the OMVS website for more information, <http://www.omvs-soe.org/indexp.htm>.

sharing. In regards to transboundary impacts, the Senegal River Convention requires parties to discuss and reach consensus before implementing planned measures that may affect significantly the river, its beneficial uses, sanitary conditions, or the biota. As mentioned above, the UN Convention does not condition the implementation of major planned measures to consensus among all basin states. Due the subsidiary character of the UN Convention,⁴⁶ however, the requirement of the Senegal River Convention would prevail even if all its parties decided to accede to the former convention. As for procedural rules, the Senegal River Convention codifies the duty of notification in the event of planned measures, but does not contain any other detailed procedural rules and timelines regarding the implementation of planned measures. Hence, the UN Convention could supplement the Senegal River Convention by clarifying the application of the principle of equitable and reasonable use, providing for environmental protection, requiring states to exchange data regularly, governing emergencies and harmful conditions, and detailing rules of notification, consultation, and negotiation in the event of planned measures.

Within the framework of the aforementioned conventions, the Senegal Water Charter establishes principles for water allocation and benefit-sharing, guidance for the evaluation and approval of planned measures, rules providing for environmental protection, and conditions for public participation in stock management.⁴⁷ *The Preamble of the Senegal Water Charter recognizes the need for states to comply with international water law, particularly as codified by the UN Convention as a major source inspiring the formation of the legal regime applicable to international watercourses.* In conformity with the UN Convention, water allocation under the charter is subject to the rule of equitable and reasonable use, the obligation to preserve the environment, and the duty to negotiate in the event of conflict.⁴⁸ The charter also incorporates and details the notification duty regarding major planned measures. The particularity here is that the notification is communicated to other watercourse states through the OMVS. Finally, the Senegal Water Charter incorporates the same methods of dispute settlement as the two preceding Senegal basin conventions. The charter thus represents a commendable step in the interstate cooperation process on the use and protection of the Senegal basin.

Nevertheless, the charter fails to incorporate important provisions of the UN Convention. For example, the charter's definition of "catchment area of the river" does not seem to include aquifers.⁴⁹ Moreover, the charter fails to incorporate the principle of reasonable and equitable participation as a framework for benefit-sharing and provides little guidance for transboundary water allocation. In addition, the charter does not contain a general obligation on significant transboundary harm prevention, does not codify and detail a data-sharing obligation, and is silent on

⁴⁶ See UN Convention, *supra* note 1, Article 3(1).

⁴⁷ Senegal Water Charter, *supra* note 44, Article 2.

⁴⁸ *Id.* Article 4.

⁴⁹ *Id.* Article 1(17).

timelines limiting the period for parties to achieve an agreement on planned measures. Finally, there are no provisions on fact-finding procedures, which could otherwise apply in the absence of an agreement through other settlement mechanisms within a certain period.

2.3 GAMBIA RIVER BASIN

There are two main agreements governing the Gambia basin: the *Convention relating to the Status of the River Gambia* (“*Gambia River Convention*”)⁵⁰ and the *Convention relating to the Creation of the Gambia River Basin Development Organization* (“*OMVG Convention*”).⁵¹ The OMVG is the international body in charge of implementing the Gambia River Convention.⁵²

The Gambia River Convention, however, is considerably outdated and arguably gives special weight to navigation to the detriment of other types of water uses. The UN Convention could thus supplement the Gambia River Convention in many aspects. For example, the Gambia River Convention does not seem to apply to groundwater connected to the basin’s surface waters and fails to incorporate substantive obligations related to harm prevention and equitable use. In addition, the convention does not codify and detail a data-sharing obligation and contains no provisions on environmental protection. Furthermore, the Gambia River Convention does not detail procedural rules applicable to planned measures. However, unlike the UN Convention, the former requires the approval of other states as a condition for the implementation of such measures.⁵³ If ratified by all states that are parties to the Gambia River Convention, the UN Convention would not affect that “consensus” requirement of that existing watercourse agreement.⁵⁴

Regarding dispute settlement, if parties to the Gambia River Convention fail to reach an agreement through conciliation or mediation, the mechanisms of the African Union apply. As a last resort, parties can bring the case before the International Court of Justice. The Gambia River Convention fails to address cases in which no consensus is reached on planned measures. For this reason, the UN Convention’s fact-finding procedures could be relevant when states failed to reach agreement through other dispute settlement mechanisms within a certain period.

The OMVG Convention contains mainly rules dealing with the institutional structure of the basin body it creates. Nonetheless, the convention raises at least one important substantive issue.

⁵⁰ Convention relating to the Status of the River Gambia, 30 June 1978, Gambia-Guinea-Senegal (“*Gambia River Convention*”), available at <http://ocid.nacse.org/qml/research/tfdd/toTFDDdocs/263ENG.htm>.

⁵¹ Convention relating to the Creation of the Gambia River Basin Development Organization, 30 June 1978, Gambia-Guinea-Senegal (“*OMVG Convention*”), available at <http://ocid.nacse.org/qml/research/tfdd/toTFDDdocs/160ENG.htm>. The OMVG was later joined by Guinea-Bissau, based on Article 21 of the OMVG Convention. For more information about the OMVG, visit <http://www.gouv.sn/integration/omvg.html>.

⁵² See Gambia River Convention, *supra* note 50, Articles 11-12.

⁵³ *Id.* Article 4.

⁵⁴ See UN Convention, *supra* note 1, Article 3(1).

The OMVG Convention establishes a mandate for the Permanent Water Commission to allocate water rights only in regards to agricultural, industrial and transportation water uses. In so doing, the convention ignores that allocation decisions should also take into account environmental flows necessary for maintaining in-stream water uses, in addition to other types of water utilization.⁵⁵

2.4 LAKE CHAD BASIN

The Lake Chad Basin Commission is in charge of implementing the *Convention and Statutes relating to the Development of the Chad Basin* (“*Lake Chad Convention and Statutes*”).⁵⁶ The commission has jurisdiction over the active hydrographic basin, within the territories of Cameroon, Niger, Nigeria, Central African Republic, and Chad.

Both the convention and the statutes focus strongly on the development of the basin and show little concern with its environmental protection. For example, although underground waters are mentioned for purposes of use and exploitation, the definition of the “Chad basin” simply refers to a map attached to the treaty and is not clear about whether it includes aquifers or not for purposes of integrated basin management.⁵⁷ In addition, the convention and statutes do not contain any of the substantive rules codified by the UN Convention and addressing, e.g., a data-sharing obligation, environmental protection, or emergency situations and harmful conditions.

As for procedural rules, notification and prior consultation for planned measures within the basin are to be implemented through the Lake Chad Basin Commission (LCBC).⁵⁸ The Lake Chad Convention and Statutes, however, do not detail the procedures for this consultation to take place. Hence, the UN Convention’s procedural and substantive rules, which are far more developed than the ones contained in the Lake Chad Convention and Statutes, could contribute significantly to enhancing the governance regime in place for that basin.

Finally, disputes arising from the application and interpretation of the Lake Chad Convention, and which cannot be resolved by the LCBC, fall under the jurisdiction of the African Union.⁵⁹ The Lake Chad Convention and Statutes are silent on fact-finding procedures, which could usefully apply in the absence of agreement through other mechanisms within a certain period.

⁵⁵ OMVG Convention, *supra* note 51, Article 19.

⁵⁶ Convention and Statutes relating to the Development of the Lake Chad Basin, 22 May 1964, Cameroon-Chad-Niger-Nigeria (“*Lake Chad Convention*” & “*Lake Chad Statutes*”), *available at* <http://ocid.nacse.org/qml/research/tfdd/toTFDDdocs/128ENG.htm>.

Articles 8-17 of the Lake Chad Convention and Statutes create the Lake Chad Basin Commission (LCBC). Although the agreement was originally adopted only among four riparian states, the Central African Republic joined the commission in 1994. Sudan also participates as an observer in the commission’s activities, but has not yet ratified the Lake Chad Convention and Statutes. German Ministry for Economic Cooperation and Development (BMZ), *Transboundary Water Management in Africa: Challenges for Development Cooperation* 67 (Waltina Scheumann & Susanne Neubert eds. 2006). Algeria and Lybia are also basin states, but have not joined the existing international cooperation regime.

⁵⁷ See Lake Chad Statutes, *supra* note 56, Articles 2, 4.

⁵⁸ *Id.* Lake Chad Statutes, Article 5.

⁵⁹ *Id.* Lake Chad Convention, Article 7.

2.5 VOLTA RIVER BASIN

The six basin countries in the Volta watershed have recently adopted the *Convention on the Statute of the Volta River and Setting up the Volta Basin Authority* (“*Volta River Convention*”),⁶⁰ which requires ratification by all states for entry into force. In addition to determining the mandate of the Volta Basin Authority, the Volta River Convention reflects modern developments in international water and environmental law, as codified by the UN Convention. In this sense, the two conventions are in harmony with each other. Both conventions incorporate the principles of equitable and reasonable use and participation, the no-harm rule, and the duties of regular information exchange, of notification on planned measures and emergencies, and of ecosystem protection.

Nonetheless, in some important aspects the UN Convention is more detailed than the Volta River Convention. For example, the latter fails to require reasonable and equitable participation in the protection of the Volta basin, provides no guidance for the application of its substantive rules, and does not explicitly require states to consult in good faith when necessary for the sound application of those rules. In addition, the Volta Basin Convention does not qualify the no-harm rule and is silent on the consequences of significant transboundary harm. Furthermore, the convention at hand incorporates, but does not clarify the scope and nature of the obligations related to information exchange, to ecosystem protection, and to measures for addressing emergencies.⁶¹

Another aspect of concern is the absence of any provisions in the Volta Basin Convention applicable to natural or human-induced conditions that may be harmful to the basin’s resources, such as desertification and water-borne diseases. The convention is also silent in regards to pollution prevention and control, to the introduction of invasive species, and to the hydrological links of the basin with the marine environment. Finally, the convention fails to incorporate the principle of non-discrimination.⁶²

In regards to procedural rules, the Volta Basin Convention charges the Volta Basin Authority with a mandate for reviewing and approving major planned measures before countries can proceed with their implementation. In order to deliver on this task, the authority will have to adopt rules detailing procedures, requirements, and timelines so that parties know in advance the potential duration and scope of the approval process. In so doing, the authority could draw from the UN Convention as a starting point for future interstate negotiations on the drafting of such rules.

⁶⁰ Convention on the Statute of the Volta River and Setting up the Volta Basin Authority, 19 Jan. 2007 (on file with author) (not in force).

⁶¹ *Id.* Article 4.

⁶² See UN Convention, *supra* note 1, Article 32, establishing that “Unless the watercourse States concerned have agreed otherwise for the protection of the interests of persons, natural or juridical, who have suffered or are under a serious threat of suffering significant transboundary harm as a result of activities related to an international watercourse, a watercourse State shall not discriminate on the basis of nationality or residence or place where the injury occurred, in granting to such persons, in accordance with its legal system, access to judicial or other procedures, or a right to claim compensation or other relief in respect of significant harm caused by such activities carried on in its territory.”

In the case of disputes, parties to the Volta Basin Convention must initially attempt amicable settlement through the authority, resorting to either conciliation or mediation. In the absence of agreement, parties are to refer their issues to the Economic Community of West African States (ECOWAS) or the African Union. As a last resort, parties can submit their dispute to the International Court of Justice. The UN Convention could thus directly supplement the Volta River Convention with timelines limiting the period for parties to achieve an agreement in disputes submitted to third-parties, as well as with fact-finding procedures.

Another instrument applicable to the watershed at hand is the *Code of Conduct for Sustainable and Equitable Management of the Volta Basin Water Resources* (“*Volta Basin Code of Conduct*”),⁶³ adopted between Burkina Faso and Ghana. The code establishes a consultation mechanism within the framework of the key principles recognized by the two countries as applicable to the management of the basin. Unlike the previous instruments, the code incorporates and clarifies all the basic principles and rules of the UN Convention. The two limitations of the Volta Basin Code of Conduct are its non-binding nature and its applicability to only two of the six Volta basin countries.

2.6 KOLIBA-KORUBAL RIVER BASIN

The only governance mechanism applicable here is the *Protocol of the Agreement on the Management of the Koliba-Korubal River* (“*Corubal River Agreement*”).⁶⁴ This agreement states as its general objective the promotion of the integrated management of the basin and, with that purpose, establishes a Permanent Technical Committee. Other than that, the Corubal River Agreement does not contain any relevant substantive and procedural rules governing cooperation between Guinea and Guinea-Bissau. Hence, the UN Convention could contribute significantly to improving the management of the Corubal basin. The UN Convention could supplement the existing agreement with specific provisions informing and guiding cooperation between the two basin states, as well as by providing the technical committee with legal guidance for better implementing its activities.

⁶³ Code of Conduct for Sustainable and Equitable Management of the Volta Basin Water Resources, Burkina Faso-Ghana (on file with author).

⁶⁴ Protocol of the Agreement between the Republic of Guinea and the Republic of Guinea-Bissau on the Management of the Koliba-Korubal River, 21 Oct. 1978, available at <http://ocid.nacse.org/qml/research/tfdd/toTFDDdocs/264FRE.htm>.

3. WEST AFRICA STATE OPINION TOWARDS THE UN CONVENTION

As aforementioned, no West African state is a party to the UN Convention. Ivory Coast is a signatory, but still has to complete the ratification process. Nonetheless, the UN Convention and the principles it codifies have inspired recent developments in the region's international water law regime, such as the Volta River Convention and the Senegal Water Charter.

This suggests that there is no opposition to the UN Convention by West African countries. Based on this premise, the following paragraphs investigate why no West African country has ratified the UN Convention. The analysis indicates that a generalized lack of awareness in the region of the convention's content and of how to apply its principles and mechanisms to improve cooperation among basin states has prevented more countries from actively engaging in the ratification process. The section also shows that there is a growing interest in the convention among West African countries. The final subsection contains information about awareness-raising efforts in the region to engage countries and support them through the ratification process.

3.1 REGIONAL PARTICIPATION IN THE UN CONVENTION'S DRAFTING, NEGOTIATION, AND VOTING PROCEDURES

Records of the UN General Assembly show that West African states did not really participate in the drafting and negotiation process of the UN Convention. Although such a process was open to all UN Member States, the documents consulted refer to the participation in relevant sessions of only three West African countries: Mali, Niger, and Nigeria.⁶⁵

⁶⁵ See 49th Session of the UN General Assembly, 25 Oct. 1994, *Summary Record of the 17th Meeting of the 6th Committee*, U.N. Doc. A/C.6/49/SR.17 (17 Nov. 1994); 49th Session of the UN General Assembly, 28 Oct. 1994, *Summary Record of the 21st Meeting of the 6th Committee*, U.N. Doc. A/C.6/49/SR.21 (7 Nov. 1994); 49th Session of the UN General Assembly, 31 Oct. 1994, *Summary Record of the 22nd Meeting of the 6th Committee*, U.N. Doc. A/C.6/49/SR.22 (1 Dec. 1994); 49th Session of the UN General Assembly, 1 Nov. 1994, *Summary Record of the 23rd Meeting of the 6th Committee*, U.N. Doc. A/C.6/49/SR.23 (14 Nov. 1994); 49th Session of the UN General Assembly, 1 Nov. 1994, *Summary Record of the 24th Meeting of the 6th Committee*, U.N. Doc. A/C.6/49/SR.24 (29 Nov. 1994); 49th Session of the UN General Assembly, 3 Nov. 1994, *Summary Record of the 26th Meeting of the 6th Committee*, U.N. Doc. A/C.6/49/SR.26 (21 Nov. 1994); 49th Session of the UN General Assembly, 4 Nov. 1994, *Summary Record of the 27th Meeting of the 6th Committee*, U.N. Doc. A/C.6/49/SR.27 (21 Nov. 1994); 49th Session of the UN General Assembly, 4 Nov. 1994, *Summary Record of the 28th Meeting of the 6th Committee*, U.N. Doc. A/C.6/49/SR.28 (4 Nov. 1994); 49th Session of the UN General Assembly, 29 Nov. 1994, *Summary Record of the 41st Meeting of the 6th Committee*, U.N. Doc. A/C.6/49/SR.41 (12 Dec. 1994); 51st Session of the UN General Assembly, 7 Oct. 1996, *Summary Record of the 12th Meeting of the 6th Committee*, U.N. Doc. A/C.6/51/SR.12 (15 Nov. 1996); 51st Session of the UN General Assembly, 7 Oct. 1996, *Summary Record of the 13th Meeting of the 6th Committee*, U.N. Doc. A/C.6/51/SR.13 (24 Dec. 1996); 51st Session of the UN General Assembly, 8 Oct. 1996, *Summary Record of the 14th Meeting of the 6th Committee*, U.N. Doc. A/C.6/51/SR.14 (4 Dec. 1996); 51st Session of the UN General Assembly, 8 Oct. 1996, *Summary Record of the 15th Meeting of the 6th Committee*, U.N. Doc. A/C.6/51/SR.15 (24 Dec. 1994); 51st Session of the UN General Assembly, 9 Oct. 1996, *Summary Record of the 16th Meeting of the 6th Committee*, U.N. Doc. A/C.6/51/SR.16 (4 Dec. 1996); 51st Session of the UN General Assembly, 9 Oct. 1996, *Summary Record of the 17th Meeting of the 6th Committee*, U.N. Doc. A/C.6/51/SR.17 (30 Dec. 1996); 51st Session of the UN General Assembly, 10 Oct. 1996, *Summary Record of the 18th Meeting of the 6th Committee*, U.N. Doc. A/C.6/51/SR.18 (4 Dec. 1996); 51st Session of the UN General Assembly, 15 Oct. 1996, *Summary Record of the 21st Meeting of the 6th Committee*, U.N. Doc. A/C.6/51/SR.21 (4 Dec. 1996); 51st Session of the UN General Assembly, 16 Oct. 1996, *Summary Record of the 22nd*

West Africa's involvement was slightly more significant during the final voting for the adoption of the convention at the UN General Assembly. Among the fifteen West African states considered for the purposes of this study, Burkina Faso, Ivory Coast, Liberia, Nigeria, and Sierra Leone *voted in favor*. Ghana and Mali *abstained from voting*. Benin, Guinea, Mauritania, Niger, and Senegal *were absent*. The voting records contain no reference to the position of three other states in the region: Togo, The Gambia, and Guinea Bissau, which most likely had no representative that participated in the session of the UN General Assembly during which the convention was ultimately adopted.⁶⁶ Notably, no West African state voted against the UN Convention, which reveals the absence of a fundamental opposition to it by any country in the region.

Beyond the lack of general opposition, however, the level of participation of West Africa in the UN Convention's drafting, negotiation, and final adoption is not helpful to clarify the position and possible concerns of states in the region in that respect. This is true even for West African states that took part in the UN Convention's adoption, which did not justify their votes. We thus attempt to infer the likely position of those states.

In this sense, by voting for a conventional text, a state expresses its concern with the issue, as well as its overall understanding that such a convention is adequate for addressing the issue at stake *and* for doing so in line with that state's own interests. Hence, the states that voted in favor of the UN Convention implicitly recognized the risks of conflicts related to shared water resources and the need for a global binding convention to mitigate those risks. Moreover, one could argue that those states accepted the conventional text ultimately adopted as suitable for contributing to peaceful interstate cooperation on the equitable use and management of international watercourses. At the same time, those states arguably deemed that the convention preserved their fundamental interests relating to their own international watercourses.

Meeting of the 6th Committee, U.N. Doc. A/C.6/51/SR.22 (4 Dec. 1996); 51st Session of the UN General Assembly, 25 Oct. 1996, *Summary Record of the 25th Meeting of the 6th Committee*, U.N. Doc. A/C.6/51/SR.25 (4 Dec. 1996); 51st Session of the UN General Assembly, 27 Mar. 1997, *Summary Record of the 52nd Meeting of the 6th Committee*, U.N. Doc. A/C.6/51/SR.52 (20 Aug. 1997); 51st Session of the UN General Assembly, 31 Mar. 1997, *Summary Record of the 53rd Meeting of the 6th Committee*, U.N. Doc. A/C.6/51/SR.53 (5 Sep. 1997); 51st Session of the UN General Assembly, 1 Apr. 1997, *Summary Record of the 55th Meeting of the 6th Committee*, U.N. Doc. A/C.6/51/SR.55 (2 Sep. 1997); 51st Session of the UN General Assembly, 2 Apr. 1997, *Summary Record of the 57th Meeting of the 6th Committee*, U.N. Doc. A/C.6/51/SR.57 (4 Sep. 1997); 51st Session of the UN General Assembly, 2 Apr. 1997, *Summary Record of the 58th Meeting of the 6th Committee*, U.N. Doc. A/C.6/51/SR.58 (8 Sep. 1997); 51st Session of the UN General Assembly, 3 Apr. 1997, *Summary Record of the 59th Meeting of the 6th Committee*, U.N. Doc. A/C.6/51/SR.59 (16 Sep. 1997); 51st Session of the UN General Assembly, 3 Apr. 1997, *Summary Record of the 60th Meeting of the 6th Committee*, U.N. Doc. A/C.6/51/SR.60 (5 Sep. 1997); 51st Session of the UN General Assembly, 4 Apr. 1997, *Summary Record of the 61st Meeting of the 6th Committee*, U.N. Doc. A/C.6/51/SR.61 (22 Aug. 1997); 51st Session of the UN General Assembly, 4 Apr. 1997, *Summary Record of the 62nd Meeting of the 6th Committee*, U.N. Doc. A/C.6/51/SR.62 & Add.1 (29 Aug. 1997); for a summary of various meetings of the UN General Assembly 6th Committee. *See also* 45th Session of the UN General Assembly, U.N. Doc. A/CN.4/447 & Add.1-3 (3 Mar. 1993); 51st Session of the UN General Assembly, U.N. Doc. A/51/275 & Add.1-3 (6 Aug. 1996), for comments received from states at different stages of the drafting process.

⁶⁶ UN Convention Voting Records, *supra* note 4.

An abstention *may* reflect the position of a state partially dissatisfied with a conventional text. Presumably, therefore, the abstaining states did not consider the UN Convention as contrary to its fundamental interests, which would have led them to vote against it. On the other hand, those states were probably not completely satisfied with the convention's final text or else they would have casted a positive vote. Of course, political positions or legal interpretations may change or evolve over time. In the case of the convention, for example, Uzbekistan abstained from voting, but has recently deposited its instrument of accession. In addition, when states are uncertain about their positions, they also tend to abstain from voting. This uncertainty might occur, for example, in view of interpretational issues not sufficiently clarified during the drafting procedures. This could also be the case when negotiators at the UN General Assembly and their ministries in the Capitals fail to communicate with each other in a timely manner.

Finally, the states declared absent were those whose delegations were present at the beginning of the session for the adoption of the UN Convention, but whose representatives had left the conference room during the vote. Hence, the absence of some West African states during the convention's adoption could reflect another reality: the lack of interest in the issue at the time. The same could be true regarding the four states that are not mentioned at all in the voting records. Such indifference is surprising because of the considerable risk of interstate conflicts that derives from the high degree of hydrological interdependence among West African states. Nevertheless, over the past ten years, transboundary water management has risen up to the top of the regional political agenda, especially through the commendable efforts of the Water Resources Coordination Unit (WRCU) of ECOWAS. The recent adoption of the keystone watercourse agreements and codes of conduct examined in the previous session reinforces this conclusion. Furthermore, just as in the case of Uzbekistan as an abstaining state who ultimately acceded to the convention, Lebanon was absent during the voting procedures and yet became a contracting state to the convention in 1999.

3.2 LACK OF AWARENESS ABOUT THE UN CONVENTION

The survey conducted to inform the preparation of this regional assessment indicated that water managers, government officials, and professionals in several West African countries generally know of the existence of the UN Convention. Deeper awareness, however, about the convention's content or its applicability to the region's international watercourses is remarkably low. Among the twenty-two interviewed individuals, seven actually mentioned that the survey was the first time they were hearing about the convention. Furthermore, none of the surveyed individuals had taken part in the convention's development process and final adoption at the UN General Assembly. Even among those who were aware of the convention's existence, many were not familiar with its

substantive and procedural rules and principles. Many answers to the questionnaire were sparse, limited, vague, and unsubstantiated, particularly in regards to the convention's mechanisms of conflict prevention and resolution. Several individuals were also unable to clarify the potential links between existing watercourse agreements and the UN Convention.

The next step, therefore, was to investigate the factors contributing to this lack of knowledge about the convention in the region. One possible factor could be the non-participation of water specialists in the UN Convention's drafting process, which was conducted mainly by lawyers and diplomats representing the countries' respective Ministries of Foreign Affairs.⁶⁷ Experts possibly assisted some delegations, but did not have a mandate to speak on behalf of their countries. During meetings and discussions for informing the elaboration of the regional assessment, some water specialists in the region agreed that the strictly political nature of that process might have contributed to the low levels of regional awareness. In addition, the survey indicated that the UN Convention rarely comes up in sub-regional and regional meetings dealing with transboundary waters. Finally, the universal character of the convention might have led some water experts to consider that global treaty as too distant from their immediate concerns.

Interestingly, the lack of awareness about the convention contrasts with the high degree of knowledge about existing watercourse agreements governing the region's major watersheds. Hence, it seems that the same experts often involved in drafting and implementing the very watercourse agreements the convention could supplement lack a substantial understanding of the convention's content, objectives, and regional applicability. This disconnection between the regional and global levels makes it unlikely that the convention can actually contribute to basin-level treaty-making.

Hence, awareness among West African countries is significantly low about the content of the UN Convention and about its potential applicability in the region. For this reason, it is unlikely that those countries initiate spontaneously the ratification process. The lack of awareness also makes it less likely that such countries will resort to the convention widely and consistently to inform the adoption of new or revised watercourse agreements or to support the application and interpretation of existing ones. In that sense, awareness-raising efforts for assessing the national and regional relevance of the convention and for supporting states through the ratification process are also an opportunity for making the convention more useful. Those efforts will ultimately better enable West African states to consult and refer to the convention when appropriate for aiding in the resolution of current and emerging transboundary water issues in the region.

⁶⁷ Esther Schroeder-Wildberg, *The 1997 International Watercourses Convention: Background and Negotiations*. Working Paper on Management in Environmental Planning 04/2002, at 32 (2002) (on file with author).

3.3 GROWING REGIONAL INTEREST IN THE UN CONVENTION

Feedback received from the surveyed water specialists indicates that there is a growing interest in the UN Convention in the region. Even those officials who had little or even no knowledge of the convention recognized its relevance after debating and developing a better understanding of its possible applications. For example, it was acknowledged that the convention could inspire future watercourse agreements, as well as guide the interpretation and contribute to the more effective implementation of the existing ones. Moreover, it was suggested that the convention could potentially supplement existing agreements as a last resort if those failed to prevent or resolve disputes among basin states. There was also a special interest in the convention's mechanisms of dispute prevention and resolution, as well as in its role in fostering the progressive harmonization of watercourse agreements. In regards to the latter, "the macro-regional level ... is the missing link to regional cooperation pertaining to water. It could help formulate a regional water protocol which would facilitate the task of many stakeholder states in several shared basins."⁶⁸ It was finally observed that, by ratifying the convention, West African states would reaffirm their commitment to the equitable and cooperative management and utilization of international watercourses.

3.4 THE WEST AFRICA REGIONAL WORKSHOP AND THE 2007 DAKAR CALL FOR ACTION

On 20-21 September 2007, the Global Water Partnership, in cooperation with UNESCO and WWF, organized in Dakar the *Regional Workshop on the Relevance and Applicability of the UN Convention in West Africa*. The workshop brought together ten countries in the region: Benin, Burkina Faso, Ghana, Guinea, Ivory Coast, Mali, Nigeria, Niger, Togo, and Senegal. Also attending were representatives from ECOWAS and from other regional integration organizations, from river basin bodies, and from the civil society. A first draft of the regional assessment was presented during the workshop and the feedback received was later incorporated into this revised document.

As an outcome of the workshop, participants adopted the 2007 Dakar Call for Action, urging West African Governments to ratify or accede to the UN Convention. West African states have become increasingly aware of the need for water cooperation and, accordingly, have adopted a number of basin agreements. In this context, the UN Convention has a key role to play in supplementing and facilitating the implementation of those agreements. The Call notes further that adoption and implementation of the UN Convention by West African states will represent a major contribution for strengthening international water law.

⁶⁸ Atlas on Regional Integration in West Africa: Land Series 19(ECOWAS-OECD 2006).

Finally, the Call notes that West African states are likely to engage in awareness-raising initiatives that can support them through the ratification process. Awareness-raising campaigns should focus on the convention's relevance for improving transboundary water management and for maintaining peaceful relations among co-watercourse states. It is thus imperative to continue the dissemination efforts when engaging those states in the convention's entry into force and implementation.

4. UNECE WATER CONVENTION IN WEST AFRICA

The Convention on the Protection and Use of Transboundary Watercourses and International Lakes (UNECE Water Convention) is a regional legal instrument governing transboundary water resources within Europe and neighbouring regions. Negotiated under the auspices of the United Nations Economic Commission for Europe (UNECE), the convention was finally adopted in 1992 among UNECE member states. Since its entry into force in 1994, the convention has played a key role in fostering cooperation between states sharing water resources. It has contributed to the development of international water law, informed the adoption and implementation of international management frameworks, and spurred the development of policy guidance in key areas, such as payment for ecosystem services, joint monitoring, and climate change adaptation.

Although water use issues are covered to some extent, the UNECE Water Convention primarily deals with the pollution of rivers and international lakes. It requires parties to implement a number of measures of prevention, control and mitigation, aimed at achieving the desired goal of improved water quality. Such measures include:

- Preventing, controlling, and reducing the pollution of transboundary waters likely to cause impact to other states; ensuring the conservation and, where necessary, the restoration of ecosystems (Article 2);
- Establishing limits for waste-water discharges stated in permits based on the best available technology for discharges of hazardous substances;
- Adopting bilateral and multilateral agreements, where they do not exist, or harmonizing existing agreements with the provisions of the convention; such agreements must include the establishment of joint management bodies (Article 9);
- Continuously and jointly monitoring and evaluating the conditions of transboundary waters and, with that purpose, developing and applying suitable programmes (Articles 4 and 11);
- Exchanging information, in particular on the environmental condition of transboundary waters, emissions and monitoring data, actions for preventing, controlling and abating transboundary impacts, and permits and regulations for wastewater discharges (Articles 6 and 13);
- Consulting, on the basis of reciprocity, good faith and good neighbourliness, with other states on issues of relevance for the convention (Article 10);
- Engaging in common research and development activities to achieve agreed water quality objectives and standards (Article 12);

- Notifying other states in the case of emergencies, taking all measures necessary to mitigate any resulting harmful effects, and setting up warning and alarm systems (Article 14);
- Providing mutual assistance in the case of critical situations (Article 15);
- Keeping the public informed of the state of transboundary waters, pollution prevention, control and abatement actions, water quality objectives and the progress in their achievement, permits issued, the results of samplings (Article 16).

A Meeting of the Parties meets every three years to monitor, coordinate and promote the implementation of the UNECE Water Convention. It reviews the policies and methodological steps of parties with respect to transboundary water protection and use, in order to further improve their condition. It also considers the application of bilateral and multilateral agreements or other joint management arrangements. Furthermore, the Meeting of the Parties also considers and undertakes any other action necessary for the effective application of the convention. The convention also counts with a secretariat, entrusted to the Executive Secretary of the UNECE. The secretariat convenes and prepares meetings, disseminates the reports and other information received from parties, and undertakes any other tasks that parties may choose to delegate.

In 2003, the parties to the UNECE Water Convention adopted amendments opening it for accession by non-UNECE member states, recognizing the need for an effective global legal framework to guide the management of the world's transboundary waters. The amendments establish that accession by those states will be subject to approval by the Meeting of the Parties. At this time, nine parties have accepted such an amendment. While the amendment will enter into force upon acceptance by at least 23 states, the Meeting of the Parties will not decide on requests for accession until the amendments are in force for all states, plus the European Commission, which were parties to the convention at the time of the amendment's adoption.

Therefore, the UNECE Water Convention may become in the future a global legal instrument, as the UN Watercourses Convention is today. If that happens, that convention may then be of interest to West African States. For this reason, in preparing this study, we invited the West African officials interviewed to submit their opinion on the applicability and relevance of the former in the region. The majority of officials surveyed were in favour of their countries' future participation in the UNECE Water Convention. Those who replied positively, however, pointed out that the UNECE Water Convention is more onerous than the UN Watercourses Convention. For example, the UNECE Water Convention requires the establishment of river basin organizations for all transboundary water resources within a party, as well as the application of the best available technology to control the release of hazardous substances. Therefore, the officials interviewed considered accession to that convention to be premature and infeasible at this early stage.

In conclusion, compliance with the more stringent provisions of the UNECE Water Convention would require significant and foreseeable financial and technical resources, which countries in West Africa now lack. Securing sufficient international assistance would thus be a necessary step for West African states to consider seriously the possibility of acceding to the UNECE Water Convention.

CONCLUSION

West Africa has a significant number of international watercourses and is, therefore, vulnerable to the risk of interstate conflicts over shared water resources. West African states have become increasingly aware of those risks and their joint efforts leading to the adoption, updating, and strengthening of existing watercourse agreements are commendable. However, many watercourse agreements in West Africa predate the UN Convention and thus considerably fail to incorporate and develop its principles and rules. Recent agreements adopted among West African states are certainly more modern and appropriate to deal with current water management challenges, but they still fail to address important aspects of interstate cooperation. Finally, many of the region's basins are subject to no governance framework at all. Therefore, interstate cooperation in the region would benefit from the entry into force of the convention as an umbrella treaty supporting the adoption and implementation of more specific watercourse agreements. The UN Convention may also foster and support the progressive harmonization of the legal framework applicable to the numerous transboundary watersheds in West Africa, facilitating their implementation.

Hence, once in force and widely ratified by West African states, the UN Convention will serve in the short-term as a regional common denominator establishing minimum cooperation standards. The convention will also progressively spur the revision and strengthening of existing watercourse agreements and the adoption of new basin-specific treaties where none exists. Finally, the convention will pave the way for negotiations on a regional water protocol, learning from the efforts undertaken under the auspices of the Southern African Development Community (SADC).

West African states are likely to be interested in becoming parties to the UN Convention, especially because no country in the region voted against it. Good political will towards the goals of interstate cooperation and conflict prevention is another indication that those countries are likely to endorse the convention in support of ongoing and future cooperative actions. However, states are not sufficiently familiar with the UN Convention. It is thus imperative to raise awareness in the region and urge West African nations to engage in the convention's entry into force and implementation. Widespread ratification by West African states would enable them not only to improve regional cooperation but also to contribute to strengthening international water law.

**ANNEX I. THE UN CONVENTION AND THE WEAKNESSES AND GAPS OF WEST
AFRICAN WATERCOURSE AGREEMENTS**

Conventional texts	Weaknesses/gaps	Relevant provisions of the UN Convention
<p>1987 Revised Convention Pertaining to the Creation of the Niger Basin Authority</p> <p><u>Parties:</u> Benin, Burkina Faso, Cameroon, Chad, Cote D'Ivoire, Guinea, Mali, Niger, Nigeria.</p>	<p>Absence of the principle of equitable and reasonable use and participation</p> <p>Absence of rules on water allocation among various users</p> <p>Narrow codification of an obligation of transboundary harm prevention</p> <p>Absence of a clear and detailed conflict prevention procedure, including data exchange, consultations and negotiations requirements, in relation to planned measures</p> <p>General statement of obligation of prior notification, without clarifying the content of such notification and the obligations of the notifying state during any consultation procedures</p> <p>Absence of a requirement for regular exchange of information and data</p> <p>Exclusive resort to the basin organization for conflict settlement, with no mechanisms involving the intervention by third parties</p>	<p>Principle of equitable and reasonable use and participation (Articles 5-6)</p> <p>Guidelines on water allocation: absence of priority among water uses; duty for states to give due regard to vital human needs in the case of conflict among water uses (Articles 5-6, 10)</p> <p>Due diligence duty on significant transboundary harm prevention (Article 7)</p> <p>Detailed rules on planned measures (Articles 11-19)</p> <p>Clarifies the prior notification duty on planned measures (Article 12)</p> <p>Regular data and information exchange (Article 9)</p> <p>Conflicts settlement mechanisms involving third parties (Article 33)</p>
<p>1972 Conventions Relating to the Statute of the Senegal River & Pertaining to the Creation of the Organization for the Management of the Senegal River</p> <p><u>Parties:</u> Mali, Mauritania, Senegal</p>	<p>Fail to incorporate important substantive and procedural obligations</p> <p>Absence of detailed procedures and substantive rules regarding planned measures</p>	<p>Codification & clarification of the principle of reasonable and equitable use and participation (Articles 5-6)</p> <p>Provisions on data exchange, environmental protection, harmful conditions and emergencies (Articles 20-23, 25-28)</p> <p>Detailed rules on planned measures (Articles 11-19)</p>
<p>2002 The Charter of Water of the Senegal River</p> <p><u>Parties:</u> Mali, Mauritania, Senegal</p> <p>Not yet in force</p>	<p>Defines the “catchment area of the river” does not include aquifers</p> <p>Fails to incorporate the principle of reasonable and equitable participation as a framework for benefit-sharing</p>	<p>Defines international watercourses as systems of surface and underground waters (Article 2)</p> <p>Codifies and clarifies the principles of reasonable and equitable use and participation</p>

	<p>No guidance on reasonable/equitable use and participation</p> <p>Does not contain a general obligation on significant transboundary harm prevention and is silent on the relation between basic substantive principles</p> <p>Does not codify and detail a data-sharing obligation; does not address the generation and processing of meteorological information and related forecasts</p> <p>No timelines limiting the period for parties to achieve an agreement at the Ministerial level on planned measures</p> <p>No provisions on fact-finding procedures, in the absence of agreement through other settlement mechanisms within a certain period</p>	<p>Codifies and clarifies the no-harm rules (Article 5-7)</p> <p>Substantive and procedural requirements on regular exchange of data and information (Article 9)</p> <p>Rules on consultations and negotiations on planned measures (Article 17)</p> <p>Codifies and details fact-finding procedures (Article 33(3)-(9))</p>
<p>1978 Conventions Relating to the Status of the Gambia River & to the Creation of the Gambia River Basin Development Organization</p> <p><u>Parties:</u> Gambia, Guinea, Guinea-Bissau, Senegal</p>	<p>Does not apply to groundwater connected to the Gambia river</p> <p>Fails to incorporate substantive obligations related to harm prevention and equitable use</p> <p>Does not codify and detail a data-sharing obligation</p> <p>No provisions on environmental protection</p> <p>Provisions on planned measures are too generic</p> <p>No provisions on fact-finding procedures, in the absence of agreement through other dispute settlement mechanisms within a certain period</p>	<p>Definition of international watercourses as a system of surface and underground waters (Article 2(a)-(b))</p> <p>Codification and clarification of the principles of reasonable and equitable use and participation and of the no-harm rule (Article 5-7, 10)</p> <p>Clarifies the data-sharing obligation (Articles 9 and 31)</p> <p>Rules relating to the protection, preservation, and management of international watercourses (Articles 20-26)</p> <p>Detailed rules on planned measures (Articles 11-19)</p> <p>Incorporates fact-finding procedures (Article 33(3)-(9))</p>
<p>1964 Convention and Statutes relating to the Development of the Chad Basin</p> <p><u>Parties:</u> Cameroon, Central African Republic, Chad, Niger, Nigeria</p>	<p>Although groundwaters are mentioned for purposes of use and exploitation, the definition of the “Chad basin” does not seem to include aquifers</p> <p>Fails to codify and clarify substantive obligations, especially those relating to data-sharing, environmental protection, emergencies and harmful conditions</p>	<p>Defines international watercourses as a system of surface and underground waters (Article 2)</p> <p>Codifies and clarifies the principles of reasonable and equitable use and participation and the no-harm rule (Articles 5-7)</p> <p>Clarifies the data-sharing obligation (Articles 9 and 31)</p>

<p><u>Observers:</u> Sudan</p>	<p>Absence of a clear and detailed procedure in relation to planned measures</p> <p>No provisions on fact-finding procedures, in the absence of agreement through other mechanisms within a certain period</p>	<p>Rules on the protection, preservation, and management of international watercourses (Articles 20-26)</p> <p>Rules on emergency situations and harmful conditions (Articles 27-28)</p> <p>Detailed rules on planned measures (Articles 11-19)</p> <p>Incorporates fact-finding procedures (Article 33(3)-(9))</p>
<p>2007 Convention on the Statute of the Volta River and Setting Up the Volta Basin Authority</p> <p><u>Parties:</u> Benin, Burkina Faso, Ivory Coast, Ghana, Mali, Togo</p> <p>Not in force</p>	<p>Fails to apply the principles of reasonable and equitable participation to the protection of the Volta River</p> <p>Contains no guidance on reasonable and equitable use and participation.</p> <p>Does not qualify the no-harm rule and is silent on the consequences of significant transboundary harm</p> <p>Although authorizing major projects is within the mandate of the Volta Basin Authority, the convention lacks detailed procedures for planned measures</p> <p>Codifies a data-sharing duty, without clarifying its content and scope</p> <p>No provisions on environmental protection, except for a general enunciation the principled of ecosystem protection, precaution and prevention</p> <p>Does not address emergency situations and harmful conditions</p> <p>Fails to incorporate the principle of non-discrimination</p> <p>No timelines limiting the period for parties to achieve an agreement in disputes submitted to third-parties; No provisions on fact-finding procedures</p>	<p>Codifies and clarifies the principles of reasonable and equitable participation (Article 5(2))</p> <p>Contains guidelines on water allocation and benefit-sharing (Articles 5-6, 10)</p> <p>Details the no-harm rule and its relationship with the principle of reasonable and equitable use (Article 7)</p> <p>Detailed rules on planned measures (Articles 11-19)</p> <p>Clarifies the data-sharing obligation (Articles 9 and 31)</p> <p>Governs the protection and management of international watercourses (Articles 20-26)</p> <p>Substantive and procedural rules on emergency situations and harmful conditions (Articles 27-28)</p> <p>Codifies the principle of non-discrimination</p> <p>Establishes a timeline after which, in the absence of agreement, unilateral fact-finding procedures apply (Article 33(3)-(9))</p>
<p>Protocol of the Agreement on the Management of the Koliba-Korubal River</p> <p><u>Parties:</u> Guinea, Guinea-Bissau</p>	<p>Absence of specific substantive and procedural rules to facilitate, guide, and inform the work of the technical committee the agreement creates</p>	<p>Most provisions of the UN Convention would be relevant in this case</p>

ANNEX II. COUNTRY ANSWERS TO THE QUESTIONNAIRES

	<i>Benin</i>	<i>Burkina Faso</i>	<i>Côte d'Ivoire</i>	<i>Ghana</i>	<i>Guinea</i>	<i>Liberia</i>	<i>Mali</i>	<i>Niger</i>	<i>Senegal</i>	<i>Togo</i>	Total 22
Knowledge of the convention	Yes: 1 No: 2 SR:	Yes: 3 No: 1 SR:	Yes: 1 No: SR:	Yes: 1 No: SR:	Yes: No: 1 SR: 1	Yes: 1 No: SR:	Yes: 2 No: 1 SR:	Yes: 1 No: SR:	Yes: 1 No: SR:	Yes: 3 No: 1 SR:	Yes: 15 No: 6 SR: 1
Participation in the convention's negotiation	Yes: No: 3 SR:	Yes: No: 4 SR:	Yes: No: 1 SR:	Yes: No: 1 SR:	Yes: No: 2 SR:	Yes: No: 1 SR:	Yes: No: 3 SR:	Yes: No: 1 SR:	Yes: No: 1 SR:	Yes: No: 4 SR:	Yes: 0 No: 22 SR: 0
Can the convention strengthen regional cooperation?	Yes: 2 No: SR: 1	Yes: 3 No: SR: 1	Yes: 1 No: SR:	Yes: No: SR: 1	Yes: 2 No: SR:	Yes: 1 No: SR:	Yes: 1 No: SR: 2	Yes: 1 No: SR:	Yes: 1 No: SR:	Yes: 4 No: SR:	Yes: 17 No: SR: 5
Is the convention of interest to West African states?	Yes: 3 No: SR:	Yes: 4 No: SR:	Yes: 1 No: SR:	Yes: 1 No: SR:	Yes: 2 No: SR:	Yes: 1 No: SR:	Yes: 2 No: SR: 1	Yes: 1 No: SR:	Yes: 1 No: SR:	Yes: 4 No: SR:	Yes: 21 No: 0 SR: 1
Is the convention referred to in regional meetings?	Yes: 1 No: 2 SR:	Yes: 1 No: 3 SR:	Yes: No: 1 SR:	Yes: No: 1 SR:	Yes: No: 1 SR: 1	Yes: 1 No: SR:	Yes: No: SR: 3	Yes: No: 1 SR:	Yes: No: SR: 1	Yes: 2 No: 2 SR:	Yes: 5 No: 12 SR: 5
Are West African conventions in line with the convention?	Yes: 1 No: 1 SR: 1	Yes: 4 No: SR:	Yes: 1 No: SR:	Yes: 1 No: SR:	Yes: 2 No: SR:	Yes: 1 No: SR:	Yes: No: SR: 3	Yes: 1 No: SR:	Yes: 1 No: SR:	Yes: 3 No: 1 SR:	Yes: 15 No: 2 SR: 1
Are existing watercourse agreements effective in preventing & solving conflict?	Yes: 2 No: 1 SR:	Yes: No: 2 SR: 2	Yes: No: 1 SR:	Yes: 1 No: SR:	Yes: 2 No: SR:	Yes: No: 1 SR:	Yes: No: SR: 3	Yes: 1 No: SR:	Yes: 1 No: SR:	Yes: 2 No: SR: 2	Yes: 9 No: 6 SR: 7
Should existing watercourses agreements be adapted?	Yes: 3 No: SR:	Yes: 2 No: SR: 2	Yes: No: SR: 1	Yes: 1 No: SR:	Yes: 2 No: SR:	Yes: 1 No: SR:	Yes: No: SR: 3	Yes: 1 No: SR:	Yes: 1 No: SR:	Yes: 3 No: 1 SR:	Yes: 15 No: 1 SR: 6
Can West African States be sensitized about the convention?	Yes: 3 No: SR:	Yes: 4 No: SR:	Yes: 1 No: SR:	Yes: 1 No: SR:	Yes: No: SR: 2	Yes: No: SR: 1	Yes: No: SR: 3	Yes: 1 No: SR:	Yes: No: SR: 1	Yes: No: 2 SR: 2	Yes: 11 No: 2 SR: 9
Is the UNECE Water Convention of Interest in West Africa?	Yes: 1 No: SR: 2	Yes: 2 No: 1 SR: 1	Yes: No: 1 SR:	Yes: 1 No: SR:	Yes: 1 Non: SR: 1	Yes: 1 Non: SR:	Yes: Non: SR: 3	Yes: Non: 1 SR:	Yes: No: SR: 1	Yes: 3 No: SR: 1	Yes: 10 No: 3 SR: 9

SR: No answer

ANNEX III. LIST OF SURVEYED PEOPLE

Name/first name (s)	Institution	Function	Contact
Benin			
KOUEVI Augustin	OBEIABE	Agricultural Engineer	
HOMEKY Antoine	Directorate-General of Water	Lawyer	
TOSSA Aurélien	Eau et Vie	Environmental Geographer	
Burkina Faso			
BOUGAIRE Francis	Directorate-General of Water Resources (DGRE)/Burkina Faso	General Manager	Tel. 50 37 48 64
COMPAORE Athanase	Sahelian Agency for Water, Environment and sanitation (SAWES)	General Manager	Tel. 50 37 30 97
MILLOGO DIBI	Directorate-General of Water Resources (DGRE)/Burkina Faso	Environmental Lawyer	
ZERBO Régine	Directorate-General of Water Resources (DGRE)/Burkina Faso	Journalist	
Cape Verde			
SILVA Rui Luis	WRCU/ECOWAS	Regional Coordinator	Tel. 50 35 61 84
Côte d'Ivoire			
KRAIDI Jacques	Directorate of Water Resources	Engineer Water Scientist	
Ghana			
BINEY Charles	Volta Basin Authority	Executive Director	Tel. 50 37 43 68
Guinea			
GONDE Mandiou	National Directorate of Hydraulics	Hydro Technical Engineer	
LOUA Nyankoye Koto	National Directorate of Hydraulics	Engineer	
Liberia			
KULA Olivier	Ministry of Lands, Mines and Energy	Engineer	
Mali			
MAIGA Almoustapha	Organization for integrated development in the Sahel	Person in charge of Environment and Natural Resources component	
TRAORE KENEM Fanta	National Directorate of Hydraulics	Engineer	
CAMARA COULIBALY Lala	GIRE/Mali	Economist	
Niger			
GAGARA SOUMANA	Regional Directorate of Hydraulics	Engineer	
Senegal			
MBODJ Saliou	Senegal-German Poverty Alleviation Programme	Technical Adviser GTZ/PBA	

NIASSE Madiodio	West African Water Partnership	Chair	Tel. 50 36 62 12
Togo			
AGBEMEDI Kossi Lebene	Directorate of environment	GEF/UNEP/Volta National coordinator	
ATIKPO Yao. Mawussey	Volta Basin Authority	Deputy Executive Director	Tel. 50 37 43 68
MOGBANTE Dam	West African Water Partnership	Executive Secretary	Tel. 50 36 62 12
Scotland			
RIEU-CLARKE Alistair	UNESCO Centre for Water Law, Policy and Science, University of Dundee, Scotland, UK	Lecturer	Tel: +44 1382 386471