



# DAMS

Water flows regulation in a fragmented world

Output 1: Review of legal tools applicable to planning, developing and monitoring of dams (annex)



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## Contents

1.	1923 Geneva Convention.....	1
	1923 Convention relating to the Development of Hydraulic Power affecting more than one State and Protocol of Signature .....	1
2.	Multilateral Environmental Agreements (MEAs).....	2
	1972 Convention Concerning the Protection of the World Cultural and Natural Heritage or World Heritage Convention (WHC).....	2
	1979 Convention on the Conservation of Migratory Species of Wild Animals or Convention on Migratory Species or Bonn Convention (CMS) .....	4
	1982 United Nations Convention on the Law of the Sea (UNCLOS).....	6
	1992 Rio Declaration on Environment and Development.....	8
	1992 United Nations Framework Convention on Climate Change (UNFCCC) .....	9
	1992 Convention on Biological Diversity or Biodiversity Convention (CBD) .....	11
	2015 Paris Agreement.....	13
3.	Global water conventions .....	15
	1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes or UNECE Water Convention .....	15
	1997 Convention on the Law of the Non-Navigational Uses of International Watercourses or UN Watercourses Convention .....	18
4.	Human rights instruments .....	21
	1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) .....	21
	1966 International Covenant on Civil and Political Rights (ICCPR) .....	23
	1989 ILO Convention 169 also called the Indigenous and Tribal Peoples Convention.....	25
	1998 Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters or Aarhus Convention .....	27
	1981 African Charter on Human and People’s Rights or Banjul Charter .....	29
	1969 American Convention on Human Rights or Pact of San José.....	31
	1950 Convention for the Protection of Human Rights and Fundamental Freedoms or European Convention on Human Rights .....	33
5.	International standards.....	34
	2010 Hydropower Sustainability Assessment Protocol .....	34
	IFC Performance Standards or the International Finance Corporation Performance Standards on Environmental and Social Sustainability .....	36
	2011 UN Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework .....	38
	2011 OECD Guidelines for Multinational Enterprises.....	39

# 1. 1923 Geneva Convention

<b>Treaty information</b>	<p>1923 Convention relating to the Development of Hydraulic Power affecting more than one State and Protocol of Signature</p> <p>Geneva in December 9, 1923</p> <p>Its primary purpose is to facilitate the exploitation and increasing the yield of hydraulic power</p>
<b>Key provisions relating to dams</b>	<p>The Convention relates entirely to hydraulic power.</p>
<b>Substantive rules</b>	<p>The Convention lays down the principle that development of hydraulic power by a State within its own territory is to be carried out within the limits of international law. (Article 1)</p> <p>The Convention also calls for increased cooperation between Contracting States. First it provides that in cases in which the development of hydraulic power involves international investigation, the concerned Parties shall agree to this investigation at the request of any of them. (Article 2) Second, if a Contracting State desires to carry out operations for the development of hydraulic power, partly on its own territory and partly on the territory of another Party, or involving alterations on the territory of another Party, which might cause serious prejudice to any other Contracting State, Contracting States shall enter into negotiations to discuss and decide on how to proceed. (Article 3 and Article 4).</p> <p>These agreements should include, inter alia, provisions about: (Article 6)</p> <ul style="list-style-type: none"><li>• Equitable contributions by the States concerned towards the risks or damage of the works,</li><li>• The methods for exercising technical control and securing public safety,</li><li>• The protection of sites,</li><li>• The regulation of the flow of water,</li><li>• The protection of the interests of third parties</li><li>• The method of settling disputes regarding the interpretation and application of the agreement</li></ul>

## 2. Multilateral Environmental Agreements (MEAs)

<p><b>Treaty information</b></p>	<p>1972 Convention Concerning the Protection of the World Cultural and Natural Heritage or World Heritage Convention (WHC)</p> <p>Adopted in Paris, on November 23, 1972, and entered into force on December 17, 1975.</p> <p>There are currently 194 States Parties.</p> <p>Its primary focus is the protection of cultural and natural heritage</p>
<p><b>Key provisions relating to dams</b></p>	<p>There are no specific provision directly relating to dams but with natural sites being included in the World Heritage List, dam's projects have the potential to affect listed sites or areas.</p>
<p><b>Scope</b></p>	<p>The Convention's objective is the protection, at the national and international level, of cultural and natural heritage of exceptional value</p> <p>Its scope is global with 1,121 listed sites, including 39 transboundary sites and 213 natural sites.</p>
<p><b>Substantive rules</b></p>	<p>State Parties have the following obligations:</p> <ul style="list-style-type: none"> <li>• Identify protect, conserve, rehabilitate and pass on to future generations the cultural and natural heritage on national territory (Article 5)</li> <li>• Submit an inventory of property forming part of the cultural and natural heritage, situated in its territory and suitable for inclusion in the World Heritage List. (Article 3)</li> <li>• Adopt a general policy aimed at giving cultural and natural heritage a role in the life of the community (Article 5)</li> <li>• Develop research and scientific and technical studies (Article 5)</li> <li>• Prevent any harm occurring to cultural and natural heritage (Article 4)</li> </ul> <p>Natural heritage may include: (Article 2)</p> <ul style="list-style-type: none"> <li>• Natural features consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view;</li> <li>• Geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation;</li> <li>• Natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.</li> </ul> <p>Cultural heritage is defined as works of man or combined works of man and nature, as well as archaeological sites, which are of outstanding value</p>

	<p>from its historic, aesthetic, ethnological or anthropological point of view (Article 1).</p> <p>Any State Party to the Convention can request international assistance for property forming part of the cultural or natural heritage of outstanding value to the World Heritage Committee. (Article 19). The assistance received can take the form of (1) studies concerning the problems raised by the protection, conservation and rehabilitation of the cultural and natural heritage, (2) experts to ensure the approved work is correctly carried out, (3) the training of staff and specialists, (4) the supply of equipment, (5) loans which may be repayable in long-term basis, and the granting, in exceptional cases and for special reasons, of non-repayable subsidies. (Article 22).</p>
<b>Procedural rules</b>	<p>States Parties shall give information on the legislative and administrative provisions they have adopted and other action they have taken for the application of the Convention. (Article 29)</p>
<b>Institutional Mechanisms</b>	<p>An Intergovernmental Committee for the Protection of the Cultural and Natural Heritage of Outstanding Universal Value called the World Heritage Committee is established within UNESCO and is composed of and elected by State Parties. (Article 8) The Committee is responsible for establishing, updating and publishing the World Heritage List. (Article 11)</p> <p>A Fund for the Protection of the World Cultural and Natural Heritage of Outstanding Universal Value, or World Heritage Fund, is also established by the Convention. (Article 5) This Fund is used</p>

<p><b>Treaty information</b></p>	<p>1979 Convention on the Conservation of Migratory Species of Wild Animals or Convention on Migratory Species or Bonn Convention (CMS)</p> <p>Signed on November 6, 1979 and entered into force on November 1, 1983.</p> <p>There are 131 Member States.</p> <p>Its primary focus is on the conservation and management of terrestrial, aquatic and avian migratory species.</p>
<p><b>Key provisions relating to dams</b></p>	<p>There are no specific provisions relating to dams, but some provisions may be applicable if a project affects migratory species listed in the Appendices.</p>
<p><b>Scope</b></p>	<p>This Convention applies to terrestrial, marine and avian migratory species whose members cyclically and predictably cross one or more national jurisdictional boundaries.</p>
<p><b>Substantive rules</b></p>	<p>The Convention has two Appendices: Appendix I lists migratory species that have been assessed as being in danger of extinction throughout all or a significant portion of their range and Appendix II covers migratory species that have an unfavourable conservation status and that require international agreements for their conservation and management.</p> <p>Range States to a migratory species listed in Appendix I shall endeavour to protect by: (Article III)</p> <ul style="list-style-type: none"> <li>• Prohibiting the taking of such species with very restricted scope for exceptions,</li> <li>• Conserving and where appropriate restoring their habitats,</li> <li>• Preventing, removing or mitigating obstacles to their migration and controlling other factors that might endanger them</li> </ul> <p>Range States to a migratory species listed in Appendix II shall endeavour to conclude agreements where these should benefit the species and should give priority to those species in an unfavourable conservation status. The object of each agreement shall be to restore the migratory species concerned to a favourable conservation status or to maintain it in such a status. (Article IV)</p> <p>In those cases where species inhabiting wetlands, rivers and coastal zones are included in the range of migratory species, countries will have to establish specific measures to protect them as part of the conservation measures necessary to protect the migratory species.</p>
<p><b>Procedural rules</b></p>	<p>The Convention calls for Range States to conclude agreements when migratory species are endangered or when they have an unfavourable conservation status. As part of the guidelines for guidelines provided in Article V, the Convention suggests the following: where appropriate and feasible, each agreement should provide inter alia the exchange of information on the migratory species concerned, and on the substantial threats to the migratory species.</p>

	The States Parties also need to keep informed the Secretariat on the migratory species listed in the Appendices they consider themselves to be Range States (Article VI)
<b>Institutional Mechanisms</b>	<p>A Conference of the Parties is established by the Convention and will be the decision-making body of the Convention. (Article VII) It is inter alia responsible for amending the Appendices. (Article XI)</p> <p>Secretariat is established by the Convention, under the auspices of the United Nations Environment Programme, and will maintain and publish a list of Range States of all migratory species included in Appendices I and II. (Article IX)</p> <p>A Scientific Council is also established by the Convention to provide advice on scientific matters. (Article VIII)</p>
<b>Dispute Settlement Mechanisms</b>	Any dispute arising between one or more Parties with respect to the interpretation and application of the Convention shall be subjected to negotiation between the Parties involved. If the dispute cannot be solved, the Parties may, by mutual consent, submit the dispute to arbitration, notably to the Permanent Court of Arbitration. (Article XIII)

<b>Treaty information</b>	<p><a href="#">1982 United Nations Convention on the Law of the Sea (UNCLOS)</a></p> <p>Adopted on December 10, 1982 and entered into force on November 16, 1994</p> <p>There are 168 States Parties to the Convention.</p> <p>Its primary focus is on cooperation on all issues relating to the law of the sea.</p>
<b>Key provisions relating to dams</b>	<p>There are no specific provision applicable to dams but there are provisions specific to rivers, in relation to migratory species and pollution of marine environment from land-based sources, which could be applicable should a project affects these species or pollutes the marine environment.</p>
<b>Scope</b>	<p>The Convention’s objectives are the following:</p> <ul style="list-style-type: none"> <li>• To regulate navigation rights, define maritime territorial limits and determine the legal status of resources on the seabed</li> <li>• To protect marine ecosystems and the resources found therein</li> </ul> <p>The Convention is applicable to oceans and seas, including high seas, seabed and maritime resources.</p>
<b>Substantive rules</b>	<p>States’ obligations are the following:</p> <ul style="list-style-type: none"> <li>• To prevent, reduce and control pollution of the marine environment from any source</li> <li>• To ensure that activities under national jurisdiction or control are conducted in a manner that does not cause harm to other States and their environment</li> <li>• To protect and preserve rare or vulnerable ecosystems and the habitats of depleted, threatened or endangered species and other forms of marine life</li> </ul> <p>In addition, in relation to anadromous stocks the Convention determines that the States in whose rivers anadromous stocks originate shall have the primary interest and responsibility for those stocks, and ensure their conservation by the establishment of appropriate measures. (Article 66). The management of catadromous species corresponds to the coastal state in whose waters the species spend the greater part of their life cycle. (Article 67)</p> <p>Finally, an additional set of provisions focus on pollution of the marine environment from land-based sources, including rivers. The Convention determines that States shall adopt laws and regulations to prevent, reduce, and control pollution of the marine environment from these sources. (Article 207)</p>
<b>Procedural rules</b>	<p>States shall cooperate for the purpose of promoting studies, undertaking programmes of scientific research and encouraging the exchange of information and data acquired about pollution of the marine environment. (Article 200)</p> <p>Throughout the Convention, consultation and notification provisions exist but may not be applicable in the context of dams.</p>

<b>Institutional Mechanisms</b>	<p>The United Nations Convention on the Law of the Sea provides that the Secretary-General will convene necessary meeting of States Parties in accordance with the Convention.</p> <p>The Secretariat is the Division for Ocean Affairs and the Law of the Sea, which is part of the United Nations Legal Affairs Office.</p>
<b>Dispute Settlement Mechanisms</b>	<p>First the general will of the parties to the Convention shall prevail, including referral to the International Court of Justice.</p> <p>If the parties do not agree upon a dispute settlement method, multiple venues are offered depending on the issue from which the dispute has arisen. (see Part XI, Section 5; Part XIII, Section 6; Part XV)</p>

<b>Treaty information</b>	1992 Rio Declaration on Environment and Development
<b>Key provisions relating to dams</b>	Incorporates principles applicable to dams
<b>Scope</b>	27 principles on sustainable development, signed by 175 countries.  Its thematic scope is on the environment and economic development and the contours of sustainable development.
<b>Substantive rules</b>	<ul style="list-style-type: none"> <li>• State sovereignty to exploit their own resources (P.2)</li> <li>• State's responsibility to not cause damage to the environment of other States (P.2)</li> <li>• Right to development (P.3)</li> <li>• Duty to cooperate to conserve, protect and restore the health and integrity of the Earth's ecosystem (P.7)</li> <li>• Principle of common but differentiated responsibilities (P.7)</li> <li>• Effective access to judicial and administrative remedies (P.10)</li> <li>• Expectation that States will enact environmental legislation (P.11)</li> <li>• Precautionary principle: lack of scientific certainty is no reason to postpone action to avoid potentially serious or irreversible harm to the environment (P.15)</li> <li>• Polluter pays principle: states should take those actions necessary to ensure that polluters and users of national resources bear the full environmental and social costs of their activities. (P. 16)</li> <li>• Need to cooperate in good faith and in a spirit of partnership to further the development of international law in the field of sustainable development (P.27)</li> </ul>
<b>Procedural rules</b>	<ul style="list-style-type: none"> <li>• Public awareness, participation in decision-making process and access to information on the environment, including hazardous materials and activities (P.10)</li> <li>• Environmental impact assessment required for any proposed activity likely to have an adverse impact on the environment (P.18)</li> <li>• Prior, timely and relevant notification on any activity likely to have significant adverse transboundary environmental effect to potentially affected States (P.19)</li> </ul>

<p><b>Treaty information</b> (Title; date and place; primary focus)</p>	<p><b>1992 United Nations Framework Convention on Climate Change (UNFCCC)</b></p> <p>Negotiated during the UN Conference on Environment and Development (Rio de Janeiro, 3-14 June 1992), known as the Earth Summit.</p> <p>The Convention entered into force on March 21, 1994 and 197 countries have ratified the Convention.</p> <p>The ultimate aim of the Convention is to prevent dangerous human interference with the climate system.</p>
<p><b>Key provisions relating to dams</b></p>	<p>No specific provisions for dams but includes obligations that can be applicable such as:</p> <ul style="list-style-type: none"> <li>- Commitment by all Member States to develop and elaborate appropriate and integrated plans for water resources and for the protection and rehabilitation of areas affected by drought, desertification and floods (Art. 4§1(e))</li> <li>- Commitment by all Member States to take into account climate change considerations when drafting new social, economic and environmental policies, impact assessments and action plans (Art.4§1(f))</li> </ul>
<p><b>Scope</b></p>	<p>The Convention has established a general framework on how to stabilize GHG concentrations in the atmosphere at a level that would prevent dangerous interference with the climate. It has delineated few specific or substantive obligations.</p> <p>This Convention is applicable to all anthropogenic emissions of greenhouse gases, not controlled by the Montreal Protocol on ozone depletion, in all relevant sectors.</p>
<p><b>Substantive rules</b></p>	<ul style="list-style-type: none"> <li>• Intergenerational equity: the duty for current generations to not leave future generations worse off by the choices we make today regarding development (Art.1§1)</li> <li>• Common but differentiated responsibilities (Art. 1§1),</li> <li>• Precautionary principle (Art. 1§3)</li> <li>• Right to sustainable development (Art.1§4)</li> <li>• Commitment by all Member States to develop and public national inventories of anthropogenic GHG emissions and sinks not controlled by the Montreal Protocol (Art.4§1(a))</li> <li>• Commitment by all MS to formulate programs to mitigate emissions and to adapt to climate change (Art.4§1(b))</li> <li>• Commitment by all MS to cooperate and promote technology transfer in the enhancement and conservation of sinks and reservoirs of all GHG not controlled by the Montreal Protocol (Art.4§1(c))</li> <li>• Commitment by developed countries to adopt national policies to mitigate climate change with the aim of reducing GHG emissions to 1990s levels (Art. 4§2(a))</li> <li>• Commitment by developed countries to provide new and additional financial resources and to facilitate the transfer of technology for developing countries (Art.4§3-5)</li> </ul>

	<ul style="list-style-type: none"> <li>• Commitment to develop public awareness on climate change and its effects (Art.6)</li> </ul>
<b>Procedural rules</b>	<ul style="list-style-type: none"> <li>• Commitment by all MS to promote and cooperate in the exchange of information related to the climate system and climate change (Art.4§1(h))</li> <li>• Commitment by all MS to submit national communications to the CoP on GHG emissions and removals, on steps taken to implement the Convention (Art.4§1(j); Art. 4§2(b); Art.12)</li> </ul>
<b>Institutional Mechanisms</b>	<p>The Convention establishes the yearly Conference of Parties (CoP), with its Secretariat in Bonn, Germany (Art.7-8). The CoP examines the obligations of the MS under the Convention. The CoP also facilitates the exchange of information and cooperation between the MS and make recommendations on the implementation of the Convention.</p> <p>A subsidiary body for scientific and technological advice is established to provide the CoP with timely information and advice on scientific and technology matters (Art.9). A subsidiary body for implementation will assess and review the effective implementation of the Convention.</p> <p>The Convention also establishes a financial mechanism for grants, loans, technology transfers to be run through UNDP's Global Environmental Facility.</p>
<b>Dispute Settlement Mechanisms</b>	Submission of disputes to either the International Court of Justice, or arbitration (Art. 14)

<b>Treaty information</b>	<p>1992 Convention on Biological Diversity or Biodiversity Convention (CBD)</p> <p>Adopted at Rio de Janeiro, on June 5, 1992 and entered into force on December 29, 1993.</p> <p>There are 196 States Parties.</p> <p>Its primary focus is on conservation of biological diversity.</p>
<b>Key provisions relating to dams</b>	<p>There are no specific provisions on dams, but its principles may still be applicable.</p>
<b>Scope</b>	<p>The objectives of the Convention are the following:</p> <ul style="list-style-type: none"> <li>• The conservation of biological diversity,</li> <li>• The sustainable use of its components,</li> <li>• The fair and equitable sharing of benefits arising out of the utilization of genetic resource</li> </ul> <p>The provisions of this Convention are applicable in areas within the limits of a State Party's national jurisdiction or control. (Article 4)</p> <p>It is applicable to all living organisms from terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part of.</p>
<b>Substantive rules</b>	<p>State Parties have the following obligations:</p> <ul style="list-style-type: none"> <li>• To cooperate with other Contracting Parties in respect of areas beyond national jurisdiction and on other matters of mutual interest, for the conservation and sustainable use of biological diversity (Article 5)</li> <li>• To develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity (Article 6§1)</li> <li>• To integrate biodiversity conservation and sustainable use into sectoral or cross-sectoral plans, programmes and policies (Article 6§2)</li> <li>• In accordance with its particular conditions and capabilities, to gather accurate and comprehensive information about the opportunities for, and threats to, biodiversity conservation</li> <li>• To establish a system of protected areas with guidelines on how to, inter alia, (c) regulate or manage biological resources important to the conservation of biodiversity, (f) restore degraded ecosystems and promote recovery of threatened species, and (j) protect and maintain indigenous and traditional lifestyles and knowledge with respect to biodiversity conservation and sustainable use of biodiversity (Article 8)</li> <li>• To adopt economically and socially sound measures that act as incentives for the conservation and sustainable use of components of biological diversity (Article 11)</li> <li>• To introduce arrangements to ensure that the environmental consequences of programmes and policies that are likely to have</li> </ul>

	significant adverse impacts on biological diversity are duly taken into account (Article 10)
<b>Procedural rules</b>	<p>Parties shall: (Article 14§1)</p> <ul style="list-style-type: none"> <li>• Introduce environmental impact assessment procedures for proposed projects likely to have significant adverse effect on biodiversity;</li> <li>• Promote exchange of information and consultation on activities under their jurisdiction likely to significantly and adversely affect biodiversity of other States or, of areas beyond national jurisdiction</li> <li>• Immediately notify potentially affected States in cases of imminent or grave danger or damage to biodiversity originating under their jurisdiction or control.</li> </ul> <p>States shall also facilitate the exchange of information from all publicly available sources, relevant to the conservation and sustainable use of biological diversity, taking into account the special needs of developing countries. (Article 17)</p>
<b>Institutional Mechanisms</b>	<p>A Conference of Parties is established and is in charge of monitoring the implementation of the Convention. (Article 23) The Conference of Parties shall examine issues of liability and redress, including restoration and compensation for damage to biodiversity, except where such liability is purely internal matter. (Article 14§2)</p> <p>A Body on Scientific Technical and Technological Advice is also established to provide the Conference of Parties with advice relating to the implementation of the Convention. (Article 25)</p> <p>A Secretariat to the Convention is also established at Article 24.</p>
<b>Dispute Settlement Mechanisms</b>	<p>In the event of a dispute between two or more Contracting Parties, concerning the interpretation or application of the Convention, the Parties shall turn to negotiation. If they cannot reach an agreement by negotiation, they may request mediation by a third party. When ratifying the Convention, Contracting Parties may also declare that in the absence of resolution of the dispute under a negotiation or a mediation scheme, they shall submit the dispute to either to arbitration as established in Annex II of the Convention or to the International Court of Justice. (Article 27)</p>

<b>Treaty information</b>	<p><b>2015 Paris Agreement</b></p> <p>It was adopted by 196 Parties at COP 21 in Paris, on December 12, 2015 and entered into force on November 4, 2016.</p> <p>The Agreement aims to strengthen response to climate change by holding temperature to well below 2°C above pre-industrial levels and to pursue efforts for 1.5°C, by increasing ability to adapt, and by making finance flows consistent with low GHG development (Art.2)</p> <p>Global agreement with 195 signatory countries and 189 ratifications.</p>
<b>Key provisions relating to dams</b>	<p>There are no specific provisions relating to dams but issues surrounding dams relate to mitigation, adaptation, loss and damage measures States should take to deal with climate change.</p>
<b>Scope</b>	<p>This Agreement has a territorial scope with some extraterritorial elements including emissions trading.</p>
<b>Substantive rules</b>	<p>States' Parties have the following obligations:</p> <ul style="list-style-type: none"> <li>• Each Party to the agreement has to prepare successive nationally determined contributions it intends to achieve in pursuit of the global goal of keeping temperature rise within 2°C to 1,5°C. Domestic mitigation measures by each Party are required to meet the objectives of each contribution. These contributions will be submitted every five years, with each new contribution increasing the future climate actions undertaken by the Party. (Art.4)</li> <li>• Each Party should take action to conserve and enhance sinks and reservoirs of GHG (Art.5)</li> <li>• Cooperation between Parties in implementing nationally determined contributions, i.e. emissions trading, is allowed under conditions set out in Art. 6</li> <li>• Increased focus on the need for adaptive measures as part of the long-term global response to climate change, including protecting ecosystems, especially for vulnerable communities vulnerable to the adverse effects of climate change. (Art.7§2-§5)</li> <li>• Obligation for Parties to engage in adaptation planning processes including assessing climate change impacts and vulnerability, inter alia, on vulnerable communities and ecosystems, and building resilience of socioeconomic and ecological systems through, inter alia, sustainable management of natural resources (Art. 7§9(c)(e))</li> <li>• Calls for cooperation to enhance understanding, action and support in resilience of communities, livelihoods and ecosystems (Art. 8§4(h))</li> <li>• Obligation for developed countries to provide financial resources to assist developing countries with respect to their mitigation and adaptation obligations (Art.9) and to strengthen cooperation on technology development and transfer (Art. 10)</li> <li>• Calls for developed countries to enhance support for capacity-building actions in developing countries (Art. 11)</li> </ul>
<b>Procedural rules</b>	<ul style="list-style-type: none"> <li>• Calls for Parties to strengthen their cooperation on enhancing action on adaptation by sharing information and good practices (Art.7§7)</li> </ul>

	<ul style="list-style-type: none"> <li>• Obligation for all Parties to take measures enhancing public awareness, public participation and public access to information, seen as steps to enhance actions under the Agreement (Art. 12)</li> <li>• Obligation for each party to provide information on GHG inventory, progress on mitigation measures. (Art. 13§7).</li> <li>• Calls for each Party to provide information on climate change impacts, adaptation measures, financial, technology transfer and capacity building support provided and received (Art. 13§8-10)</li> </ul>
<b>Institutional Mechanisms</b>	<p>The following are institutional mechanisms under the Agreement:</p> <ul style="list-style-type: none"> <li>• An enhanced transparency framework for action and support, taking into account parties' different capacities, is established to track the progress of each Parties' individual nationally determined contributions, and Parties' adaptation actions (Art. 13§5).</li> <li>• A technical expert review of some of the information provided (GHG inventory, mitigation, and financial and technology support) is established. (Art.13§11-12)</li> <li>• The CoP will take stock of the implementation of the agreement to assess collective progress towards achieving the purpose of the agreement every 5 years. (Art.13)</li> <li>• An expert-base mechanism to facilitate implementation and promote compliance is established and functions in a transparent, non-adversarial and non-punitive manner (Art. 15)</li> <li>• The CoP serves as the meeting of the Parties to the Agreement (Art. 16) and the UNFCCC Secretariat serves as the secretariat of this agreement. (Art. 17).</li> <li>• The subsidiary body for scientific and technological advice and the subsidiary body for implementation established under UNFCCC shall serve respectively as the subsidiary body for scientific and technological advice and the subsidiary body for implementation under this agreement. (Art. 18)</li> </ul>

### 3. Global water conventions

<p><b>Treaty information</b> (Title; date and place; primary focus)</p>	<p><a href="#">1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes or UNECE Water Convention</a></p> <p>Drafted in Helsinki on March 17, 1992 and entered into force on October 6, 1996.</p> <p>Adopted under the auspices of the UN Economic Commission for Europe and opened for ratification only to UNECE Members States until 2013. Following the entry into force of two amendments on February 6, 2013, all UN Member States can accede to it.</p> <p>On February 1, 2021, Chad, Senegal and Ghana had acceded to it.</p> <p>Its primary focus is on conservation of shared water resources.</p> <p>Two additional Protocols were adopted: the Protocol on Water and Health (adopted in June 1999) and the Protocol on Civil Liability (adopted in May 2003). The Protocol on Water and Health aims to promote at all appropriate levels the protection of human health and well-being within a framework of sustainable development, through improving water management, including the protection of water ecosystems, and through preventing, controlling and reducing water-related disease.</p>
<p><b>Key provisions relating to dams</b></p>	<p>There are no specific provisions on dams; however considering the scope and purpose of this Convention, it is applicable when a dam or a future dam will affect the protection and use of transboundary watercourses and international lakes of its Member States.</p>
<p><b>Scope</b></p>	<p>The purpose of the Convention is to set up a framework for the protection and use of transboundary watercourses and international lakes. It does not replace bilateral and multilateral agreements, but instead foster their establishment and implementation.</p> <p>The Convention is applicable to any surface or ground waters which mark, cross or are located on boundaries between two or more States.</p>
<p><b>Substantive rules</b></p>	<p>As a general obligation, the Convention requires its Parties to prevent, control and reduce transboundary impact, to use transboundary waters in a reasonable and equitable way, to ensure their sustainable management, and to ensure conservation and restoration of ecosystems where necessary. (Article 2)</p> <p>Several principles are also mentioned in the Convention as applicable in cases of protection and use of transboundary watercourses and international lakes: the precautionary principle, the polluter-pays principle and the intergenerational equity principle.</p> <p>The Convention specifies that Parties shall develop, adopt and implement legal administrative, economic, financial and technical measures to</p>

	<p>prevent, control and reduce the emissions of pollutants and waste-water discharges including environmental impact assessments, contingency planning etc. (Article 3)</p> <p>Parties bordering the same transboundary waters have to cooperate by entering into specific agreements and establishing joint bodies to define their mutual relations and conduct regarding the prevention, control and reduction of transboundary impacts. (Article 9) The Convention also prescribes its Parties to enter into joint monitoring and assessment programmes on the conditions of the transboundary waters, including floods, and transboundary impacts. (Article 11)</p> <p>Specific research and development activities in support of achieving and maintaining the water-quality objectives and criteria is also an obligation for Riparian Parties.</p> <p>Annexes II and III provide the Parties with Guidelines for developing best environmental practices and water-quality objectives and criteria.</p>
<p><b>Procedural rules</b></p>	<p>The Convention calls for Parties to provide the widest exchange of information, as early as possible, on issues covered by the Convention. (Article 6 and Article 13)</p> <p>Consultations shall also be held between the Riparian Parties on the basis of reciprocity, good faith, and good neighborliness at the request of any such Party. (Article 10)</p> <p>The Parties shall also inform without delay each other about any critical situation that may have transboundary impact, especially by setting up, where appropriate, and operating coordinated or joint communication warning and alarm systems. (Article 14)</p> <p>In case of a critical situation, Parties shall also provide mutual assistance. (Article 16)</p> <p>Finally, information on the conditions of transboundary waters, measures taken or planned to be taken to prevent, control and reduce transboundary impact, and their effectiveness, shall be made available to the public. The Convention specifically pinpoints the need for the following information to be made public: water-quality objectives, permits issued and the conditions required to be met, and results of water and effluent sampling. (Article 16)</p>
<p><b>Institutional Mechanisms</b></p>	<p>A meeting of the Parties is established where Parties will keep under continuous review the implementation of the Convention. (Article 17) The meeting of the Parties shall:</p> <ul style="list-style-type: none"> <li>• Review the policies for and methodological approaches to the protection and use of transboundary waters of the Parties with a view to further improving the protection and use of transboundary waters</li> <li>• Exchange information regarding experience gained in concluding and implementing bilateral and multilateral agreements regarding the protection and use of transboundary waters to which one or more of the Parties are party; and</li> <li>• To seek, where appropriate, the services of relevant bodies of the Economic Commission for Europe as well as other competent</li> </ul>

	<p>international bodies in all aspects pertinent to the achievement of the purposes of the Convention.</p> <p>The Executive Secretariat of the Economic Commission for Europe is to carry out the secretariat functions of this Convention. (Article 19)</p>
<p><b>Dispute Settlement Mechanisms</b></p>	<p>In the event of a dispute between two or more Parties about the interpretation and the application of the Convention, the Parties shall turn to negotiation. When ratifying the Convention, Parties may also declare that in the absence of resolution of the dispute under a negotiation or a mediation scheme, they shall submit the dispute to the International Court of Justice, or to arbitration as established in Annex IV of the Convention. (Article 22)</p>

<b>Treaty information</b>	<p><a href="#">1997 Convention on the Law of the Non-Navigational Uses of International Watercourses or UN Watercourses Convention</a></p> <p>Adopted by the United Nations on May 21, 1997 and entered into force on August 17, 2014. 37 States have ratified the Convention.</p> <p>Its primary focus is on the uses and conservation of all waters that cross international boundaries, including both surface and groundwater.</p>
<b>Key provisions relating to dams</b>	<p>There are no provisions specifically applicable to dams; however, as this Convention regulates transboundary watercourses, its provisions may be applicable in the context of dams.</p>
<b>Scope</b>	<p>Its objectives are to regulate the use, development and protection of transboundary basins and to establish principles and provisions for non-navigational uses of transboundary rivers and lakes</p> <p>It is applicable to the international watercourse defined as a system of surface water and ground water, constituting by virtue of their physical relationship a unitary whole and normally flowing into a common terminus, parts of which are situated in different States. (Article 2)</p> <p>The uses of international watercourses for navigation is not within the scope of the Convention except insofar as other uses affect navigation or are affected by navigation.</p>
<b>Substantive rules</b>	<p>States' obligations are the following:</p> <ul style="list-style-type: none"> <li>• To use watercourses and their resources in an equitable and reasonable manner (the right to utilize the watercourse and the duty to cooperate) (Article 5)</li> <li>• To take all appropriate measures to prevent the causing of significant harm to other watercourse States (the obligation not to cause significant harm) (Article 7)</li> <li>• To protect and preserve, individually and where appropriate jointly, the ecosystems of international watercourses (Article 20)</li> <li>• To cooperate on the basis of sovereign equality, territorial integrity, mutual benefit and good faith, including by establishing joint mechanisms or commissions to facilitate such cooperation (Article 8)</li> <li>• To prevent, reduce or control the pollution of an international watercourse that may cause significant harm to other watercourse States and to their environment (Article 21)</li> <li>• To consult each other, and at the request of any of them, with a view of arriving at mutually agreeable measures and methods to prevent, reduce and control pollution of an international watercourse (Article 21)</li> <li>• To take all measures necessary to prevent the introduction of species, alien or new, into an international watercourse which may have effects detrimental to the ecosystem of the watercourse resulting in significant harm to other watercourse States (Article 22)</li> <li>• To take all measures with respect to an international watercourse that are necessary to protect and preserve the marine environment (Article 23)</li> </ul>

	<ul style="list-style-type: none"> <li>• To cooperate where appropriate to respond to needs or opportunities for regulation of the flow of the waters of an international watercourse (Article 25)</li> <li>• To employ their best efforts to maintain and protect installations, facilities and other works related to an international watercourse within their respective territories (Article 26)</li> <li>• To take all appropriate measures to prevent or mitigate conditions related to an international watercourse that may be harmful to other watercourse States, whether resulting from natural causes or human conduct (Article 27)</li> </ul> <p>The Convention lists in Article 6 factors to be taken into consideration when defining what equitable and reasonable manner encompasses: (a) factors of natural character such as geography, (b) social and economic needs of the watercourse, (c) the dependent population, (d) the effects of the uses by one State on another state, (e) the existing and potential uses of the watercourse, (f) the conservation, protection, development and economy of use of the water resources of the watercourse and the costs of measures taken to that effect, and (g) the alternatives to a particular planned or existing use.</p>
<b>Procedural rules</b>	<p>Parties' obligations are the following:</p> <ul style="list-style-type: none"> <li>• To exchange, on a regular basis or when requested by another State, data and information on the condition of the watercourse, in particular that of a hydrological, meteorological, hydrogeological, and ecological nature, and related to the water quality and related forecasts. (Article 9)</li> <li>• To exchange information and consult each other and, if necessary, to negotiate on the possible effects of planned measures on the condition of an international watercourse. (Article 11)</li> <li>• To timely notify each other before a watercourse State implements or permits the implementation of planned measures which may have a significant adverse effect upon other watercourse States, including passing over any available technical data and information and the results of the environmental impact assessment. (Article 12)</li> <li>• Within a 6-month timeframe, extendable by an additional six months, the notified State can communicate its own findings to the notifying State. If the notified State does not reply to the notification, the notifying state can proceed with the implementation of the planned measures (Articles 14 to 16)</li> <li>• In case a reply to the notification reveals that the planned measures are, according to the notified State, contrary to the equitable and reasonable utilization and participation, or the obligation not to cause significant harm, both States shall enter into consultations and if necessary negotiation with a view of arriving at an equitable resolution of the situation. (Article 17)</li> <li>• A similar procedure to the one described from Article 12 to Article 17 is applicable when a watercourse state has reasonable grounds to believe that another watercourse State is planning measures that may have a significant adverse effect upon it. (Article 18)</li> </ul>

	<ul style="list-style-type: none"> <li>• If implementation of planned measures is of the utmost urgency in order to protect public health, public safety or other equally important interests, the State planning the measures may immediately proceed to implementation (Article 19)</li> <li>• To enter into consultation concerning the management of an international watercourse which may include the establishment of a joint management mechanism (Article 24)</li> <li>• To enter into consultation if so requested by another watercourse State which may have reasonable grounds to believe that it may suffer significant adverse effects with regards to the safe operation, maintenance and protection of installations (Article 26)</li> <li>• To notify without delay and by the most expeditious means available other potentially affected States and competent international organizations of any emergency originating within its territory and to immediately take all practicable measures to prevent, mitigate and eliminate harmful effects of the emergency (Article 28)</li> </ul>
<p><b>Dispute Settlement Mechanisms</b></p>	<p>In the event of a dispute between two or more Parties on the interpretation or application of the Convention, the Parties shall seek a settlement of the dispute by peaceful means, including negotiation mediation or conciliation. They may also agree to submit the dispute to the International Court of Justice. A fact-finding Commission may also be established at the request of one of the parties if they cannot reach an agreement by negotiation. Parties may also declare that in the absence of resolution of the dispute under a negotiation or a mediation scheme, they shall submit the dispute to either to arbitration as established in the Annex of the Convention or to the International Court of Justice. (Article 33)</p>

## 4. Human rights instruments

<p><b>Treaty information</b></p>	<p><a href="#">1966 International Covenant on Economic, Social and Cultural Rights (ICESCR)</a></p> <p>Multilateral treaty adopted by the UNGA on December 16, 1966 and came into force on January 3, 1976.</p> <p>Part of the International Bill of Human Rights, with 171 parties to the Convention, and four signatory countries that have not ratified the Covenant.</p> <p>Commits its Parties to work towards the granting of economic, social and cultural rights.</p> <p>The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which entered into force in March 2013, further elaborates on the role of the Committee on Economic, Social and Cultural Rights.</p>
<p><b>Key provisions relating to dams</b></p>	<p>There are no specific provisions relating to dams but with dams having impacts on ESC rights, several articles could be applicable</p>
<p><b>Scope</b></p>	<p>The agreement has a territorial scope but over the years the UN Committee on ESC Rights has indicated ICESCR may have an effect beyond the borders of State Parties (but lack of clear indications on the nature of these extraterritorial obligations)</p> <p>This instrument recognizes several ESC substantive rights.</p>
<p><b>Substantive rules</b></p>	<p>Peoples are free to dispose of their natural wealth and resources (Art. 1§2) and nothing in the ICESCR may impair the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources. (Art. 25).</p> <p>With respect to ESC rights, the obligation of a State Party is to take steps, to the maximum of its available resources, and with a view of progressively and fully realizing the rights in the Convention. A sense of progressive realization is enshrined in the Convention and the full realization of rights is not immediate (Art. 2).</p> <p>Limitations on ESC rights are to be (1) determined by law, (2) compatible with the nature of the rights and (3) solely for the purpose of promoting general welfare in a democratic society (Art.4). (The UN Committee on Economic, Social and Cultural Rights, as well as State Parties that have reported on their obligations rarely bring up this article and instead rely on the progressive realization of ESC rights to account for limitations on these rights).</p> <p>ESC rights that could be applicable in the context of dams:</p>

	<ul style="list-style-type: none"> <li>• Right of everyone to the enjoyment of just and favourable conditions of work (Art.7)<sup>1</sup></li> <li>• Right to unionize (Art. 8)</li> <li>• Right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions (Art. 11§1)</li> <li>• Right to be free of hunger (Art. 11§2)</li> <li>• Right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Art. 12§1). The Convention identifies, in Art. 12§2(b), the improvement of all aspects of environmental and industrial hygiene as one of the necessary steps to achieve the full realization of this right</li> <li>• Right of everyone to take part in cultural life (Art.15§1(a))</li> </ul>
<b>Procedural rules</b>	<p>Parties to the Covenant have to submit regularly reports detailing the degree of fulfilment of their obligations under the Covenant to the UN Committee on Economic, Social and Cultural Rights. They must first submit a report within one year after acceding to the Covenant and continue to do so whenever the UN Committee requests new reports (usually a four-year cycle).</p>
<b>Institutional Mechanisms</b>	<p>The Covenant is monitored by the UN Committee on Economic, Social, and Cultural Rights, a body of 18 independent experts, established under ECOSOC Resolution 1985/17 of May 28, 1985, to carry out the monitoring functions originally assigned to the UN Economic Social Council in Part IV of the Covenant as well as other functions not mentioned in the covenant (such as reviewing individual complaints).</p> <p>Today, the UN Committee on Economic, Social and Cultural Rights performs the following functions:</p> <ul style="list-style-type: none"> <li>• Review progress made by State Parties on how the rights are being implemented through a periodic review every five years</li> <li>• Receive and consider communications from individuals claiming that their rights under the Covenant have been violated (since May 5, 2013 following the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights)</li> <li>• Publish general comments which summarize the Committee’s interpretation of the provisions of the Covenant</li> <li>• Receive and review state-to-state complaints (Art. 10 of the Optional Protocol to ICESCR)</li> <li>• May, on its own initiative, initiate inquiries if it has received reliable information containing well-founded indications of serious or systematic violations of the Convention in a State party (Art. 11 of the Optional Protocol)</li> </ul>

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<sup>1</sup> Rights of workers are included to have a holistic approach to dams and their human impact.

<p><b>Treaty information</b></p>	<p><b>1966 International Covenant on Civil and Political Rights (ICCPR)</b></p> <p>Multilateral treaty adopted by the UNGA on December 16, 1966 and came into force on March 23, 1976.</p> <p>Part of the International Bill of Human Rights, with 173 States parties to the Convention.</p> <p>Commits its parties to respect and ensure to all individuals within its territory and subject to its jurisdiction civil and political rights without discrimination on race, color, sex language, religion, political or other opinion, national or social origin, property, birth or other status.</p> <p>The Optional Protocol to the International Covenant on Civil and Political Rights, entered into force on March 23, 1976, further elaborates on the role of the Human Rights Committee.</p>
<p><b>Key provisions relating to dams</b></p>	<p>No specific provisions relating to dams but with dams having impacts on civil and political rights, several articles could be applicable</p>
<p><b>Scope</b></p>	<p>States Parties are required to respect and ensure the rights recognized by the ICCPR to all persons who may be within their territory and to all persons subject to their jurisdiction (Art. 2§1). This means the enjoyment of these rights is not limited to citizens of States Parties, and that a State Party must respect and ensure these rights to anyone within the power or effective control of that State Party, even if not situated within the territory of the State Party (<i>see</i> General Comment n°31)</p> <p>There are three sets of obligations for each right recognized by the ICCPR:</p> <ul style="list-style-type: none"> <li>• Obligation to respect: the state shall not to affirmatively violate the right.</li> <li>• Obligation to protect: the state must protect an individual from a violation of his rights by third parties.</li> <li>• Obligation to promote or fulfil an individual’s rights: a state should take the required steps to create a necessary and conducive environment within which the relevant rights can be fully realized.</li> </ul>
<p><b>Substantive rules</b></p>	<p>The Covenant recognizes the possibility of rights conflict and sets specific limitations for each right (a few of these rights such as the right not to be subjected to torture cannot be limited under any circumstances). In addition, the covenant provides for derogations in case of public emergency, with limited exceptions, and strict conditions (Art.4).</p> <p>Civil and political rights which can (have been) raised in the context of dams</p> <ul style="list-style-type: none"> <li>• Right to life (Art. 6)</li> <li>• Right to security (Art.9)</li> <li>• Right not to be subjected to arbitrary arrest or detention (Art. 9)</li> <li>• Right to a fair and public hearing by a competent, independent and impartial tribunal established by law (Art. 14)</li> <li>• Right not to be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation (Art. 17)</li> </ul>

	<ul style="list-style-type: none"> <li>• Right to hold opinions without interference and right to freedom of expression (Art. 19)</li> <li>• Right of peaceful assembly (Art. 21)</li> <li>• Right to freedom of association with others, including the right to form and join trade unions (Art. 22)</li> <li>• Right to take part in the conduct of public affairs (Art.25)</li> <li>• Non-discrimination clause (Art. 26)</li> <li>• Minorities’ rights (Art. 27)</li> </ul> <p>Nothing in the ICCPR may impair the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources. (Art. 47).</p>
<b>Procedural rules</b>	<p>Parties to the Covenant have to submit regularly reports detailing the degree of fulfilment of their obligations under the Covenant to the UN Committee on Economic, Social and Cultural Rights. They must first submit a report within one year after acceding to the Covenant and continue to do so whenever the UN Committee requests new reports (usually a four-year cycle).</p>
<b>Institutional Mechanisms</b>	<p>The Human Rights Committee is established in Art. 28 and holds these functions:</p> <ul style="list-style-type: none"> <li>• Review country reports through periodic review of countries every 3 to 5 years (Art.40)</li> <li>• Make general comments on a right enshrined in the ICCPR (compile its own jurisprudence on the matter) (Art. 40)</li> <li>• Receive and review individual communications (since the entry into force of the First Optional Protocol to the ICCPR – only states that have ratified this protocol can be subjected to this procedure)</li> </ul>

<p><b>Treaty information</b></p>	<p><a href="#">1989 ILO Convention 169 also called the Indigenous and Tribal Peoples Convention</a></p> <p>Drafted by the International Labour Organization as part of its mandate to establish international labour standards to improve the living and working conditions of people around the world.</p> <p>Adopted on June 27, 1989 and entered into force on September 5, 1991</p> <p>Only 23 States have ratified the Convention, primarily in Latin America</p> <p>Outlines the rights of indigenous and tribal peoples and the duties of ratifying States toward them</p>
<p><b>Key provisions relating to dams</b></p>	<p>No specific provision relating to dams but many provisions apply in the context of dams and the impacts to tribal and indigenous peoples.</p>
<p><b>Scope</b></p>	<p>Applies to tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community and peoples in independent countries who are regarded as indigenous on account of their descent from populations which inhabited the region at the time of colonization (Art.1)</p> <p>States Parties have to develop coordinated and systematic actions to protect the rights of these peoples and to guarantee respect for their integrity which include:</p> <ul style="list-style-type: none"> <li>• An obligation to ensure equality of rights and opportunities in law</li> <li>• An obligation to promote the realization of ESC rights of these peoples</li> <li>• An obligation to assist these peoples to eliminate socio-economic gaps (Art.2)</li> </ul> <p>Strong emphasis on the participation of these peoples when applying the provisions of this Convention (Art. 6).</p>
<p><b>Substantive rules</b></p>	<p>Some key substantive obligations which may be applicable in the context of dams:</p> <ul style="list-style-type: none"> <li>• To establish special measures for safeguarding the persons, institutions, property, labour, cultures and the environment of indigenous and tribal peoples (Art. 4)</li> <li>• To recognize and protect social, cultural, religious and spiritual values of indigenous and tribal peoples, and respect the integrity of their values, practices and institutions (Art. 5)</li> <li>• A right to determine the path of their own economic, social and cultural development (Art. 7§1)</li> <li>• To assess the social, spiritual, cultural and environmental impact of planned development activities may have on these peoples and to use the results of this assessment as a fundamental criteria for the implementation of these activities (Art.7§3)</li> <li>• To take measures to protect and preserve the environment of the territories inhabited by these peoples (Art. 7§4)</li> <li>• To take into account indigenous and tribal custom and customary law when applying national laws and regulations to the peoples concerned (Art. 8)</li> </ul>

	<ul style="list-style-type: none"> <li>• To respect the special importance to the cultures and spiritual values of indigenous and tribal peoples of their relationship with the lands or territories that they occupy (Art. 13)</li> <li>• To recognize the rights of ownership and possession of the peoples concerned over the lands that they traditionally occupy (Art. 14)</li> <li>• To establish adequate procedures to resolve land claims brought by indigenous and tribal peoples (Art. 14)</li> <li>• The right of these peoples to participate in the use, management and conservation of the natural resources pertaining to their lands (Art. 15§1); in cases where the State retains the ownership of these resources, consultation with these peoples should take place (Art. 15§2)</li> <li>• Non removal of peoples from the lands they occupy. Relocation is seen as an exceptional measure which must take place only with the peoples' free and informed consent. If consent cannot be obtained, relocation can take place following appropriate measures which ensure effective representation of the peoples concerned (Art. 16)</li> </ul>
<b>Procedural rules</b>	<ul style="list-style-type: none"> <li>• A right to participate in decision-making process: To consult indigenous and tribal peoples, through their representative institutions, when legislative and administrative measures that may directly affect them are being considered (Art.6§1(a))</li> <li>• A right to freely participate at all levels of decision-making in institutions and bodies responsible for policies and programmes which concern them (Art. 6§1(b))</li> <li>• A right to establish their own institutions: to establish means and provide the resources for the full development of these peoples' own institutions and initiatives (Art. 6§1(c))</li> </ul>

<p><b>Treaty information</b></p>	<p><a href="#">1998 Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters or Aarhus Convention</a></p> <p>Signed on June 25, 1998 in Aarhus, Denmark.</p> <p>Entered into force on October 30, 2001.</p> <p>46 States, all from Europe and Central Asia, and the European Union are parties to the Convention.</p> <p>The Convention grants the public rights to access information, to participate and to access justice in governmental decision-making processes on matters concerning the local, national, and transboundary environment.</p>
<p><b>Key provisions relating to dams</b></p>	<p>Article 6 in combination with Annex I§13:</p> <p>In cases where a decision is planning for a dam to hold back a new or additional amount of water exceeding 10 million cubic waters, the public concerned must be informed early in the environmental decision-making process, and in an adequate, timely and effective manner, of, inter alia, the following elements:</p> <ul style="list-style-type: none"> <li>• The information about this additional water load,</li> <li>• The nature of the possible decision,</li> <li>• The authority in charge of the decision,</li> <li>• The envisaged procedure: when, how where, who, the available environmental information</li> <li>• The fact that the activity is subject to a national or transboundary environmental impact assessment procedure</li> </ul> <p>Reasonable timeframes are necessary to allow sufficient time for informing the public, for the public to prepare itself and for the public to participate in the environmental decision-making process. Proactive measures to identify the concerned public is encouraged. A detailed regime of information the public concerned is entitled to receive is further provided in Art. 6§6, as well as the means for the public concerned to submit its own comments, information, analyses and opinions in Art.6§7. The ultimate decision must take due account of the outcome of the public decision and the public must be informed of the decision with the reasons and considerations on why it was weighed. (Art. 6§8-§9).</p>
<p><b>Scope</b> (geographical and thematic)</p>	<p>The Convention provides for:</p> <ul style="list-style-type: none"> <li>• The right of everyone to receive environmental information held by public authorities</li> <li>• The right to participate in environmental decision-making</li> <li>• The right to access review procedures to challenge public decisions that have been made without respecting the aforementioned rights or environmental law.</li> </ul> <p>The Convention is applicable to all information in written, visual, aural, electronic or any other material form on the state of elements of the</p>

	environment, the factors likely to affect these elements, and the state of human health and safety inasmuch as they are affected by these elements.
<b>Substantive rules</b>	Parties shall take all the necessary legislative, regulatory and other measures to establish and maintain a clear, transparent, and consistent framework to implement the provisions of the Convention.
<b>Institutional Mechanisms</b>	The Executive Secretariat of the Economic Commission for Europe serves as the Secretariat of the Convention. (Art.12)
<b>Dispute Settlement Mechanisms</b>	<p>In cases of dispute between two or more Parties over the interpretation or application of the Convention, negotiation or any other means of dispute settlement are foreseen.</p> <p>They can also refer the dispute to the ICJ or to arbitration as set out in Annex II if while ratifying the Convention, they accepted one or both of these dispute settlement mechanisms.</p>

<b>Treaty information</b>	<p><b>1981 African Charter on Human and People’s Rights or Banjul Charter</b></p> <p>Adopted on June 1, 1981 in Nairobi, Kenya, and entered into force on October 21, 1986</p> <p>Drafted by the Organization of African Unity, and its members (now called the African Union)</p> <p>53 states have ratified the Charter</p>
<b>Key provisions relating to dams</b>	No specific provisions about dams but some key substantive may be applicable
<b>Scope</b>	<p>The Charter is opened to ratification to the African States members of the African Union.</p> <p>It is applicable to all individuals within the territory or control of the State Party without any distinction of race, color, sex, language, religion, political opinion, social origin, fortune, birth or any status.</p>
<b>Substantive rules</b>	<p>Individual rights that may be affected by dams:</p> <ul style="list-style-type: none"> <li>• Non-discrimination provision (Art. 2) and equality before the law (Art.3)</li> <li>• Right to life, to the integrity of his person and to not be arbitrarily deprived of this right (Art. 4)</li> <li>• Right not to be arbitrarily arrested or detained (Art.6) and right to a fair trial (Art. 7)</li> <li>• The right to receive information and the right to express his opinion within the law (Art. 9)</li> <li>• The right to assemble freely with others with limitations provided for by law and pertaining to the interest of national security, the safety, health, ethics, and rights and freedoms of others (Art. 11)</li> <li>• Right to property (Art. 14)</li> <li>• Right to enjoy the best attainable state of physical and mental health (Art. 16)</li> <li>• Right to freely take part in the cultural life of his community (Art. 16)</li> </ul> <p>Peoples’ rights that may be affected by dams:</p> <ul style="list-style-type: none"> <li>• Equality of peoples (Art. 19)</li> <li>• Peoples’ right to freely determine their political status and to pursue their economic and social development according to the policy they have freely chosen (Art. 20)</li> <li>• Peoples’ right to freely dispose of their wealth and natural resources with the exclusive interest of the people and without any limitation (Art. 21)</li> <li>• Peoples’ right to lawful recovery of its property in cases of spoliation (Art. 21)</li> <li>• Peoples’ right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind (Art.22)</li> <li>• Peoples’ right to a general satisfactory environment favourable to their development (Art.24)</li> </ul>

	<ul style="list-style-type: none"> <li>• A call to eliminate all forms of foreign exploitation practiced by international monopolies to allow its peoples to fully benefit their national resources (Art. 21)</li> </ul>
<b>Procedural rules</b>	Every two years, State Parties submit a report on the legislative and other measures taken to implement the Charter. (Art. 62)
<b>Institutional Mechanisms</b>	Article 30 establishes the African Commission on Human and Peoples' Rights, set up in November 1987.

<b>Treaty information</b>	<p><a href="#">1969 American Convention on Human Rights or Pact of San José</a></p> <p>Adopted in San José, Costa Rica, on November 22, 1969 by the Organization of American States (OAS).</p> <p>Entered into force on July 18, 1978.</p> <p>25 of the 35 OAS's member states have ratified the Convention</p>
<b>Key provisions relating to dams</b>	<p>No specific provision applicable to dams but several rights enshrined in the Convention may still be affected.</p>
<b>Scope</b>	<p>Two sets of obligations:</p> <ul style="list-style-type: none"> <li>• To respect the rights and freedoms recognized by the Convention</li> <li>• To ensure all persons subject to their jurisdiction the free and full exercise of those rights and freedoms without any discrimination</li> </ul>
<b>Substantive rules</b>	<p>Civil and political rights potentially affected by dams:</p> <ul style="list-style-type: none"> <li>• Right to life (Art. 4)</li> <li>• Right to have his physical, mental and moral integrity respected (Art. 5)</li> <li>• Right to personal liberty and security and the right not to be subjected to arbitrary arrest or imprisonment (Art. 7)</li> <li>• Right to a fair trial (Art. 8)</li> <li>• Right not be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence, or of unlawful attacks on his honour or reputation (Art. 11)</li> <li>• Right to freedom of thought and expression (Art. 13)</li> <li>• Right of peaceful assembly (Art. 15)</li> <li>• Right to associate freely for ideological, religious, political, economic, labour, social, cultural sports, or other purposes (Art. 16)</li> <li>• Right to the use and enjoyment of his property (Art. 21)</li> <li>• The right not to be deprived of his property except upon payment of just compensation, for reasons of public utility or social interest, and in the cases established by law (Art. 21)</li> <li>• The right to take part in the conduct of public affairs (Art. 23)</li> <li>• The right to equal protection before the law (Art. 24)</li> <li>• The right to judicial protection (Art. 25)</li> </ul> <p>Economic, social and cultural rights are acknowledged in the Convention but not detailed further. The Convention calls for their progressive realization in accordance with the Charter of the Organization of American States (Art.26)</p> <p>Limitations on these rights are provided for in Article 27 in cases of war, public danger or other emergency that threatens the independence or security of a State Party. Conditions limiting the scope and duration of these derogations are the following: they must be limited in time, they are provided for by the law, they are not inconsistent with other obligations under international and they do not involve discrimination on the ground</p>

	of race, colour, sex, language, religion, or social origin. Some rights cannot be limited altogether (Art. 27§2 and Art. 30)
<b>Institutional Mechanisms</b>	<p>Two institutional bodies are set up by the Convention to monitor and provide recommendations on its implementation :</p> <ul style="list-style-type: none"> <li>• The Inter-American Commission on Human Rights established in Chapter VII of the Convention ;</li> <li>• The Inter-American Court of Human Rights is established in Chapter VIII of the Convention. It fulfils the following functions:</li> </ul>

<b>Treaty information</b>	<p>1950 Convention for the Protection of Human Rights and Fundamental Freedoms or European Convention on Human Rights</p> <p>Treaty open for signature to the Member States of the Council of Europe Signed on November 4, 1950 and entered into force on September 3, 1953</p> <p>47 State Parties (all Council of Europe member States)</p> <p>Its primary focus is to protect human rights and political freedoms in Europe</p>
<b>Key provisions relating to dams</b>	<p>No specific provisions relating to dams, but several rights enshrined in the Convention may be affected by dams.</p>
<b>Scope</b>	<p>State Parties have to secure to everyone within their jurisdiction the rights and freedoms enshrined in the Convention (Art. 1).</p>
<b>Substantive rules</b>	<ul style="list-style-type: none"> <li>• Right to life (Art. 2)</li> <li>• Right to liberty and security and right not to be arbitrarily arrested, detained or punished without law (Art. 5 and Art. 7)</li> <li>• Right to a fair trial (Art. 6)</li> <li>• Right to respect for private and family life (Art. 8),</li> <li>• Freedom of expression (Art. 10),</li> <li>• Freedom of assembly and association (Art. 11),</li> <li>• Right to an effective remedy (Art. 13),</li> <li>• Prohibition of discrimination (Art. 14)</li> </ul>
<b>Institutional Mechanisms</b>	<p>Section II of the Convention establishes the European Court of Human Rights. The Court has jurisdiction over all matters concerning the interpretation and application of the Convention and its Protocols (Art. 32).</p>

## 5. International standards

<b>Information</b>	<p><a href="#">2010 Hydropower Sustainability Assessment Protocol</a></p> <p>Drafted in 2010 by a multi-stakeholder forum including representatives of environmental NGOs, social NGOs, development banks, governments and the hydropower sector.</p> <p>Updated in 2018 to include a topic on climate change resilience and mitigation</p> <p>Enables the production of a sustainability profile for a project through the assessment of performance within important sustainability topics</p>
<b>Key provisions relating to dams</b>	<p>The Protocol is a sustainability assessment framework for hydropower development and operation – dams – and consists in 5 documents, including 4 independent tools applicable at major decision points (start of a hydropower project preparation/award of construction contracts/project commissioning).</p>
<b>Scope</b>	<p>This document defines international good and best practice in sustainable hydropower development and serves as a support tool to assess the sustainability of individual projects.</p>
<b>Principles</b>	<p>Throughout the 200-p documents, substantive rules on inform on how an assessment of a dam should occur. General principles inform on what this sustainability assessment protocol aims to achieve:</p> <ul style="list-style-type: none"> <li>• Meeting the needs of the present without compromising the ability of future generations to meet their own needs</li> <li>• Encompassing goals of poverty reduction, respect for human rights, changes in unsustainable patterns of production and consumption, long-term economic viability, protecting and managing the natural resource base, and responsible environmental management</li> <li>• Achieving synergies and trade-offs amongst economic, social and environmental values</li> <li>• Implementing social responsibility, transparency and accountability</li> <li>• Enabling communities to meet sustainable development objectives through national, regional, and local benefits</li> </ul>
<b>Procedures</b>	<p>Calls for consultation, stakeholder involvement and engagement at various stages of the project, including in the preparation, in the implementation and in the operation tools.</p>
<b>Institutional Mechanisms</b>	<p>Governed by the Hydropower Sustainability Assessment Council (rules on formation and decision-making were adopted in 2011)</p> <p>This Council consists of the following entities:</p> <ul style="list-style-type: none"> <li>• A Governance Committee: formed by elected members of Chambers mentioned below</li> <li>• A Management Entity</li> </ul>

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|--|---|
|  | <ul style="list-style-type: none"><li>• A series of Chambers representing a different segment of stakeholders including hydropower operators, environmental organizations</li></ul> |
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The Council's mission is to ensure multi-stakeholder input and confidence in the Protocol content and its application.

<p><b>Information</b></p>	<p><a href="#">IFC Performance Standards or the International Finance Corporation Performance Standards on Environmental and Social Sustainability</a></p> <p>The latest version of the IFC Performance Standards dates back from 2012 and applies to all investment and advisory clients whose projects go through IFC’s initial credit review process after January 1, 2012.</p> <p>The IFC is an international financial institution, member of the World Bank Group, to advance economic development by investing in for-profit commercial projects for poverty reduction and promoting development.</p>
<p><b>Key provisions relating to dams</b></p>	<p>The IFC Standards as such are applicable to dams when they are funded by IFC or any other entity requiring its clients/recipients to follow them when developing a new project. Dams developers can also take the decision to follow them.</p> <p>Performance Standard 4 on Community Health, Safety and Security singles out dams in one of its provisions. It provides the following: when dams are situated in high-risk locations, and their failure or malfunction may threaten the safety of communities, the client will engage one or more experts to conduct a review as early as possible in project development and throughout the stages of project design construction operation and decommissioning.</p>
<p><b>Scope</b></p>	<p>The Performance Standards are directed towards clients, providing guidance on how to identify risks and impacts, and are designed to help avoid, mitigate, and manage risks and impacts as a way of doing business in a sustainable way.</p> <p>With its direct investments, the IFC requires its clients to apply the Performance Standards to manage environmental and social risks and impacts. It can also be used by other financial institutions.</p> <p>These Performance Standards apply to business activities with environmental and/or social risks and/or impacts.</p> <p>They can be used by any project developer, IFC-funded or not.</p>
<p><b>Principles</b></p>	<p>There are 8 Performance Standards, which are standards the client has to meet throughout the life of an investment by the IFC:</p> <ul style="list-style-type: none"> <li>• Standard 1: Assessment and Management of Environmental and Social Risks and Impacts</li> <li>• Standard 2: Labor and Working Conditions</li> <li>• Standard 3: Resource Efficiency and Pollution Prevention</li> <li>• Standard 4: Community Health, Safety and Security</li> <li>• Standard 5: Land Acquisition and Involuntary Resettlement</li> <li>• Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources</li> <li>• Standard 7: Indigenous Peoples</li> <li>• Standard 8: Cultural Heritage</li> </ul>
<p><b>Procedures</b></p>	<p>There are multiple procedural requirements for each performance standard. <b>Performance Standard 1 on Assessment and Management of Environmental and Social Risk</b> describes in detail what a <b>Stakeholder</b></p>

**Engagement requirement** may entail and is referred to in multiple sections of other Performance Standards.

A Stakeholder Engagement consistent with the IFC Standards may involve the following elements:

- Stakeholder analysis and engagement planning;
- Disclosure and dissemination of information;
- Consultation and participation;
- Grievance mechanism; and
- Ongoing reporting to Affected Communities.

<p><b>Information</b></p>	<p>2011 UN Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework</p> <p>Developed by the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises.</p> <p>Endorsed by the Human Rights Council in its resolution 17/4 of June 16, 2011.</p>
<p><b>Key provisions relating to dams</b></p>	<p>There are no specific provisions relating to dams but as these UN Guiding Principles formulate human rights standards that companies should respect in their supply and value chains, we can assume they will be applicable in the context of dams.</p>
<p><b>Scope</b></p>	<p>These Guiding Principles are applicable to all States and to all business enterprises, transnational or others, regardless of their size, sector, location, ownership and structure.</p> <p>The 31 Guiding Principles are grounded in recognition of:</p> <ul style="list-style-type: none"> <li>• The States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms;</li> <li>• The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights;</li> <li>• The need for rights and obligations to be matched to appropriate and effective remedies when breached.</li> </ul> <p>The Guiding Principles are divided into three sections, with foundational and operations principles for each of them. These sections are the following:</p> <ul style="list-style-type: none"> <li>• The State duty to protect human rights;</li> <li>• The corporate responsibility to respect human rights; and</li> <li>• The access to remedy</li> </ul>

<b>Information</b>	<p><b>2011 OECD Guidelines for Multinational Enterprises</b></p> <p>The updated guidelines were adopted on May 25, 2011 by the Ministerial Meeting of the Organization for Economic Cooperation and Development. There are currently 49 adhering countries.</p> <p>Its primary focus is on business ethics and responsible business conduct in a global context</p>
<b>Key provisions relating to dams</b>	<p>There are no specific provisions applicable to dams, but as these are general guidelines some may be applicable in the context of dams, if a multinational enterprise is for instance involved in a dam project. There can also be instances where these guidelines will be the subject individual, national or international commitment.</p>
<b>Scope</b>	<p>These are non-binding principles and standards for responsible business conduct, consistent with applicable laws and internationally recognized standards, for multinational corporations operating in or from countries adhering to the OECD Declaration on International Investment and Multinational Enterprises.</p> <p>The Guidelines are addressed to all entities within the multinational enterprise (parent companies and/or local entities)</p> <p>The issues covered by the Guidelines include:</p> <ul style="list-style-type: none"> <li>• Concepts and Principles;</li> <li>• General Policies;</li> <li>• Employment and industrial relations;</li> <li>• Human rights;</li> <li>• Environment;</li> <li>• Information disclosure;</li> <li>• Combating bribery;</li> <li>• Consumer interests;</li> <li>• Science and technology;</li> <li>• Competition;</li> <li>• Taxation.</li> </ul> <p>We will look at provisions dealing with concepts and principles (Section I), general policies (Section II), information disclosure (Section III) human rights (Section IV) employment and industrial relations (Section V), environment (Section VI)</p>
<b>Institutional Mechanisms</b>	<p>Each adhering country has to set a National Contact Point, an entity responsible for the promotion of the Guidelines on a national level and assisting enterprises and their stakeholders to take appropriate measures to further the implementation of the guidelines.</p> <p>The OECD Investment Committee is responsible for overseeing the functioning and for providing clarification of the Guidelines.</p>
<b>Dispute Settlement Mechanisms</b>	<p>The Guidelines are not intended to place an enterprise in situations where it faces conflicting requirements. However, the Guidelines encourage the use of appropriate international dispute settlement mechanisms, including arbitration, as a means of facilitating the resolutions of legal problems arising between enterprises and host country governments. (Section I§10)</p>



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