



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

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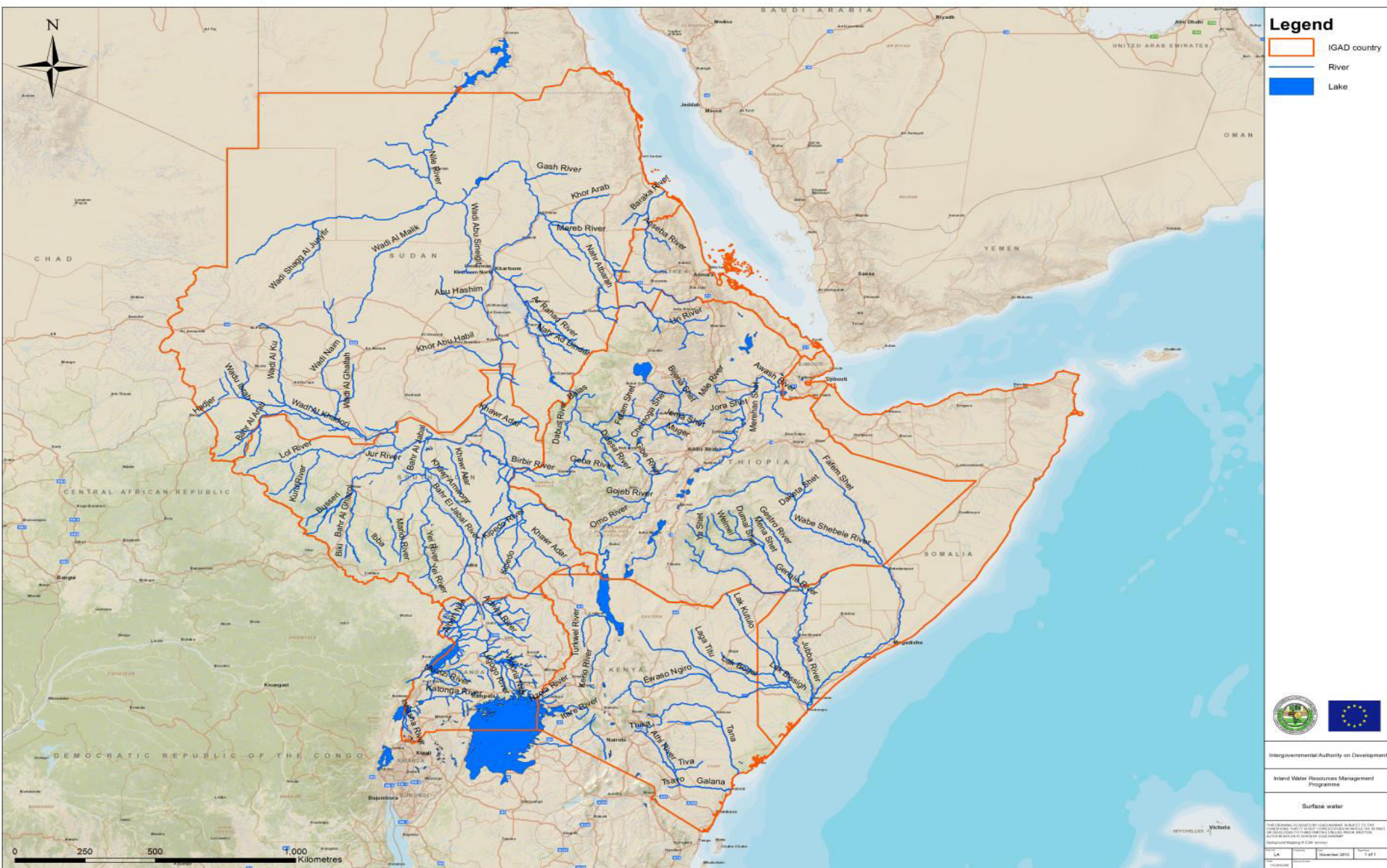
What is IGAD ?

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

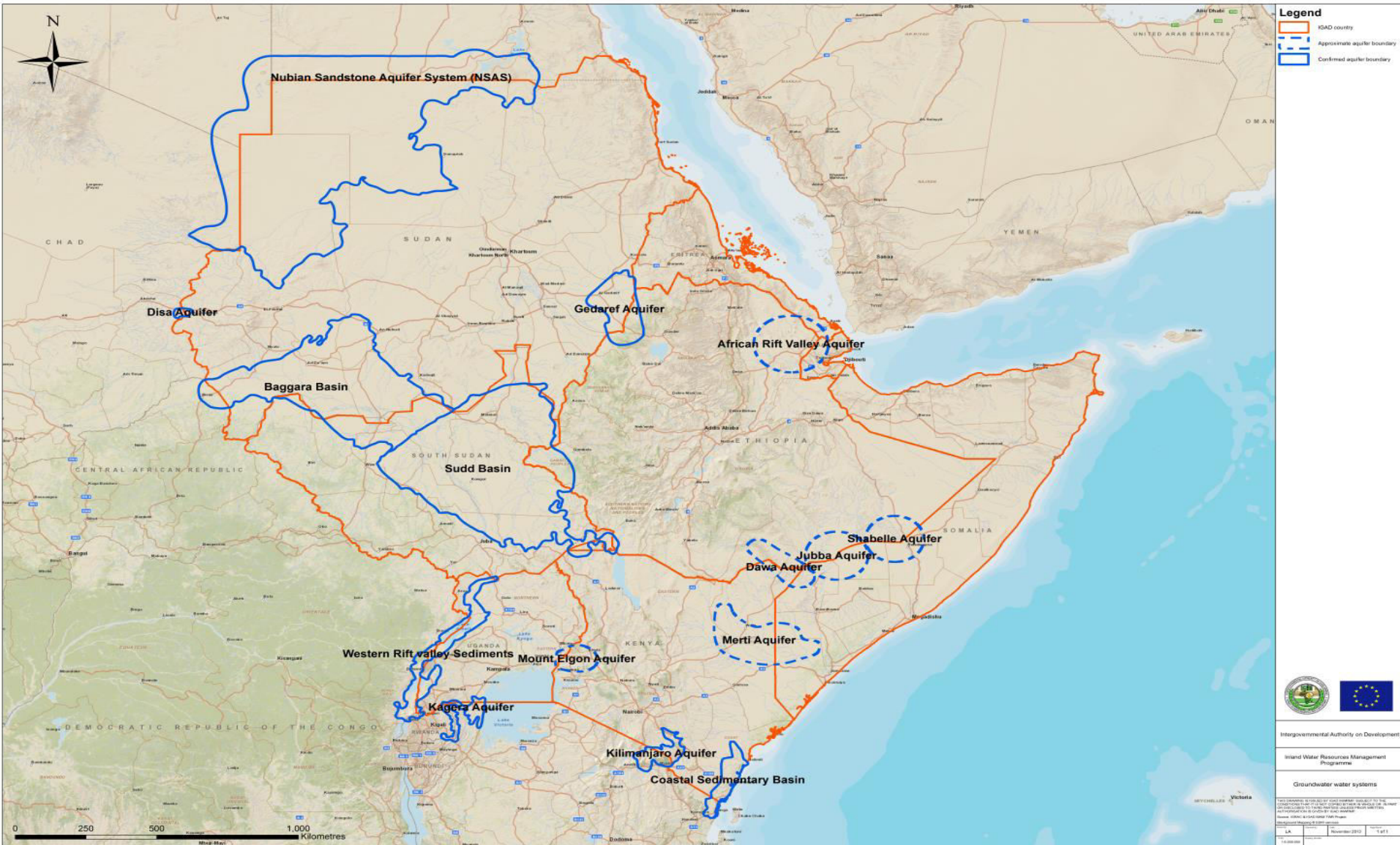
Why an IGAD regional policy and legal framework for WR management ?

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

Surface (transboundary) water resources



Transboundary aquifers



Regional policy and legal frameworks: examples elsewhere in Africa

- **SADC: regional integration**

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

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

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

SADC institutional framework

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

ADVANTAGES

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

Framework development process at IGAD

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

POLICY : MAIN CONTENT

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

DRAFT REGIONAL PROTOCOL

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

Nature of provisions

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

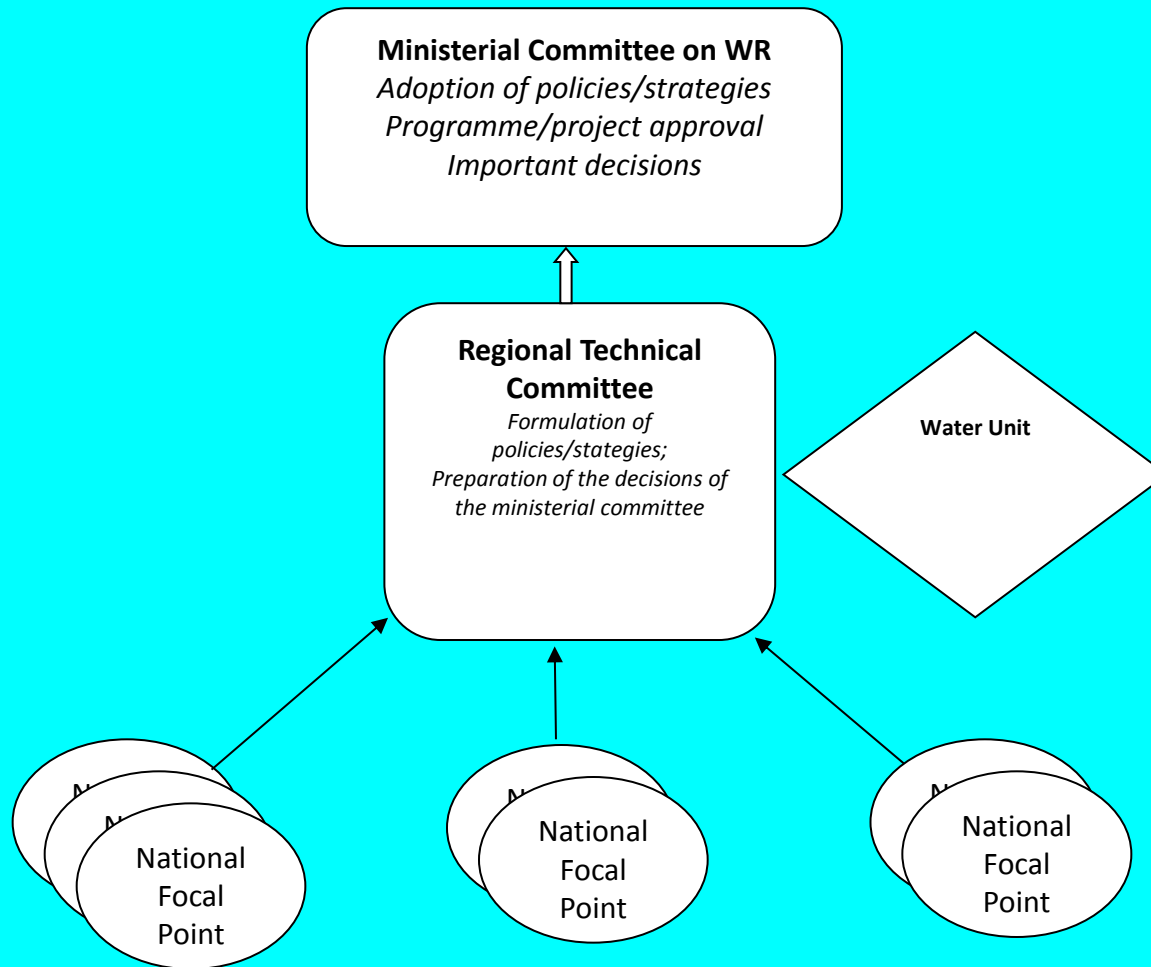
Situation-tailored provisions

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

Institutional framework (Policy & Protocol)

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

IGAD institutional set up for WR



Policy & legal framework implementation

Regional policy



Regional protocol



River basin/aquifer agreements



National policy and legal frameworks
(harmonized)