



Transboundary Watercourses of the ASEAN Region

Perspectives and Prospects for International Water Law

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- Approximately 286 transboundary watercourses 592 transboundary aquifer systems (UNECE, 2021).
- Accounts for 60% of global freshwater flows, with 153 States having territory in one or more of these shared watercourses.

Source: UN-Water. (2021). *Progress on Transboundary Water Cooperation: Global status of SDG indicator 6.5.2 and acceleration needs.*

ASEAN Transboundary Waters

- 10 member States (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam) seeking regional development and integration; borders 5 Non-ASEAN States (Bangladesh, China, India, Papua New Guinea and Timor-Leste).
- While the Mekong River has been heavily researched, these States share many transboundary watercourses and groundwaters that deserve closer attention.





When one thinks of ASEAN and transboundary waters you might think of the Mekong, but there are many basins and aquifers across the region...

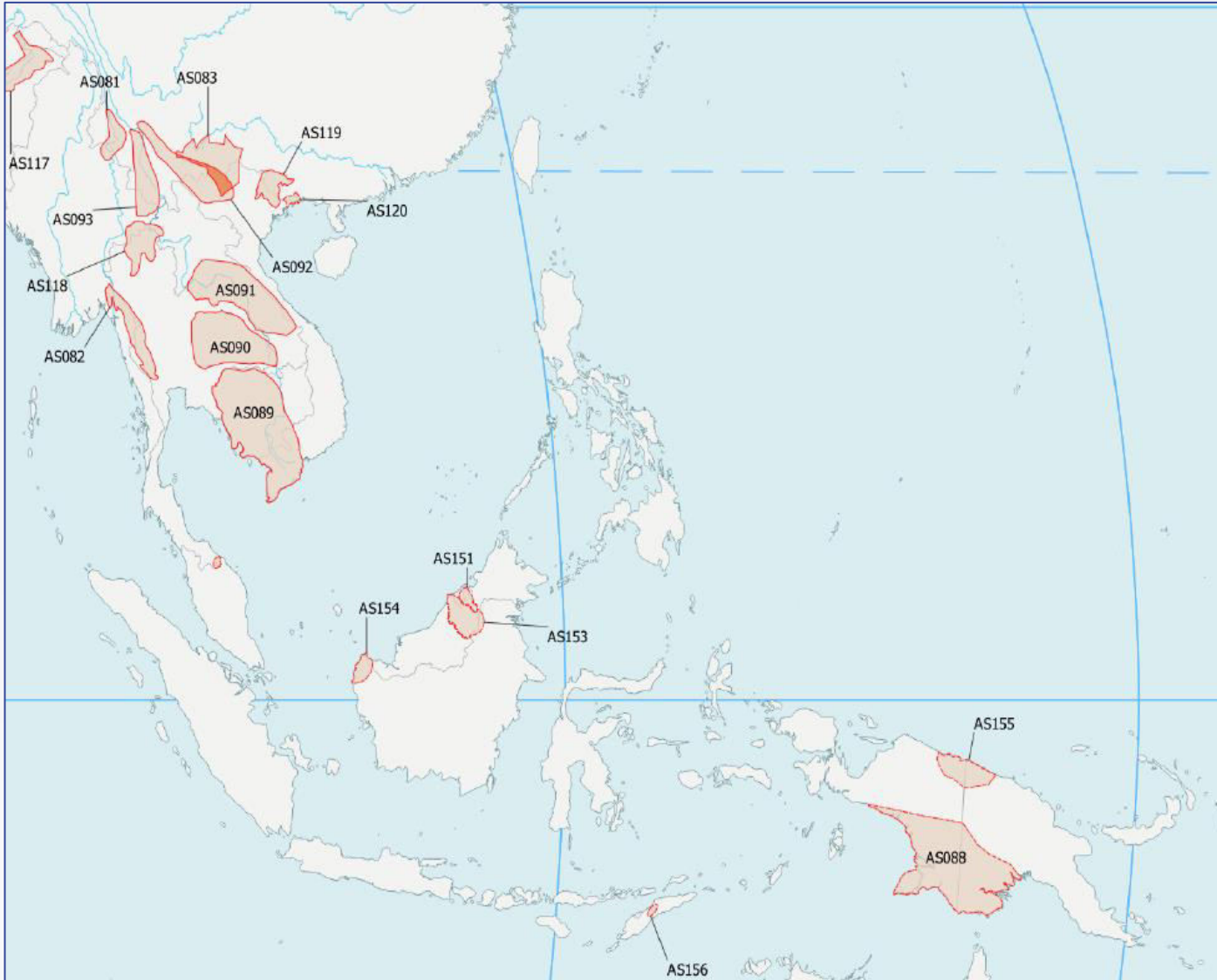
21 Transboundary Surface Waters

- 9 between ASEAN States
- 12 between ASEAN and Non-ASEAN States

19 Transboundary Aquifers

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**collected from SDG 6.5.2 Reports, IGRAC 2021 map and Oregon State University Transboundary Freshwater Treaties Database.*



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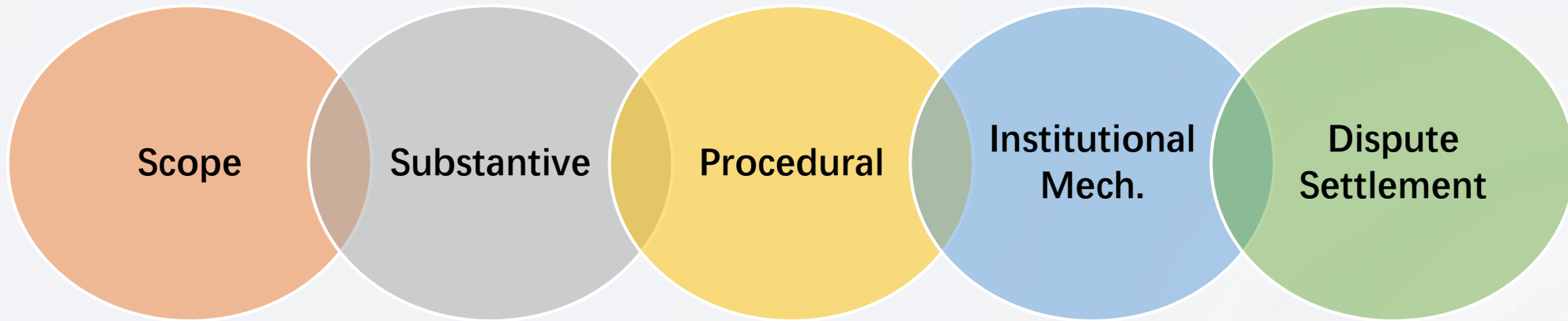
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5 Key Elements of Transboundary Water Agreements:



As transboundary watercourses they are governed under international law, composed of many layers...

- Two global water conventions: 1992 Water Convention & 1997 Watercourses Convention.
 - Codified and progressively developed the rules of this field; reflective of **customary international law** in some respects.
- Regional Agreements – 2000 SADC Revised Protocol
- Multilateral and Bilateral Agreements,
- Non-binding instruments.

- Most ASEAN States (apart from Vietnam) and their neighbours are not party to the global water conventions.
- The ASEAN approach to transboundary water governance needs to be taken in consideration of the regional context and history.
 - 1954 Five Principles of Peaceful Coexistence
 - 1955 Ten Principles of Bandung
 - 1967 ASEAN Declaration
 - 2008 ASEAN Charter

THE ASEAN CHARTER



one vision, one identity, one community

While they could not participate in the drafting of the Water Convention, many participated in the drafting process of the Watercourses Convention (Cambodia, Malaysia, Thailand and Vietnam) and the 2008 Draft Articles on Transboundary Aquifers (Indonesia, Malaysia, Philippines and Vietnam).

- Commented on a series of rules/provisions of the Watercourses Convention and Draft Articles, illustrating their perspectives on these rules – Largely supportive sentiments; requesting stronger substantive rules (ERU/NSH) to protect small, developing States; requested strong dispute settlement mechanisms.
- All ASEAN States supported the draft of the Watercourses Convention at the UN General Assembly, however, only Vietnam has become party to the Watercourses Convention.
- Vietnam's submitted a reservation when acceding to the Convention, protecting its choice of dispute settlement method.
- The Draft Articles remain a Draft, with ASEAN States generally not supporting of turning them into a binding convention.

While they are not party to the global water conventions, there are some agreements, instruments, and institutions through which ASEAN States govern their transboundary water resources. None, however, relate directly to transboundary aquifers.

ASEAN-ASEAN	Agreement/Instrument
Cambodia, Laos, Thailand, Vietnam	1995 Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin
Malaysia, Thailand	Malaysia-Thailand Joint Committee on the Golok River
ASEAN-Non-ASEAN	
China-MRC	2020 MoU On the Provision of Hydrological Information of the Lancang River in Flood Season
China, Cambodia, Laos, Myanmar, Thailand, Vietnam	Lancang-Mekong Cooperation (LMC) and related instruments
China, Laos	1993 Treaty on the Border System (Article 6) 2014 Memorandum of Understanding on Cooperation in the Field of Cooperating Water Resources
China, Vietnam	2009 China–Vietnam Land Border Management System Agreement (Art. 1(11), Chapter 4)
Indonesia, Papua New Guinea	1973 Agreement as to the Border between Papua New Guinea and Indonesia
Indonesia, Timor-Leste	2017 Implementation Arrangement on Management of Trans Boundary Watersheds

- The ASEAN region shares many transboundary water resources between its members but also with non-member States, highlighting the possible role that ASEAN could play.
- While nearly all ASEAN States supported the Watercourses Convention, only Vietnam is party.
- Very few agreements between ASEAN States, but a growing number of agreements between ASEAN and its neighbours.
- How might the States move forward?

