

# **The Role of Multilateral Development Banks in Information Sharing on Transboundary Freshwater Systems**

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# Outline

- Role of Multilateral Development Banks
- Transboundary Freshwater Systems and Importance of Information Sharing
- Information Sharing in International Water Law
- MDB Policy Approaches concerning Transboundary Waters
- Conclusion



# Role of Multilateral Development Banks

# Multilateral Development Banks (MDBs)

- Poverty reduction
- Sustainable economic development
- Assist clients achieving SDGs
- International Organizations
- Regional or global focus



AFRICAN DEVELOPMENT BANK GROUP



ASIAN DEVELOPMENT BANK



**IDB** Inter-American  
Development Bank



**WORLD BANK GROUP**

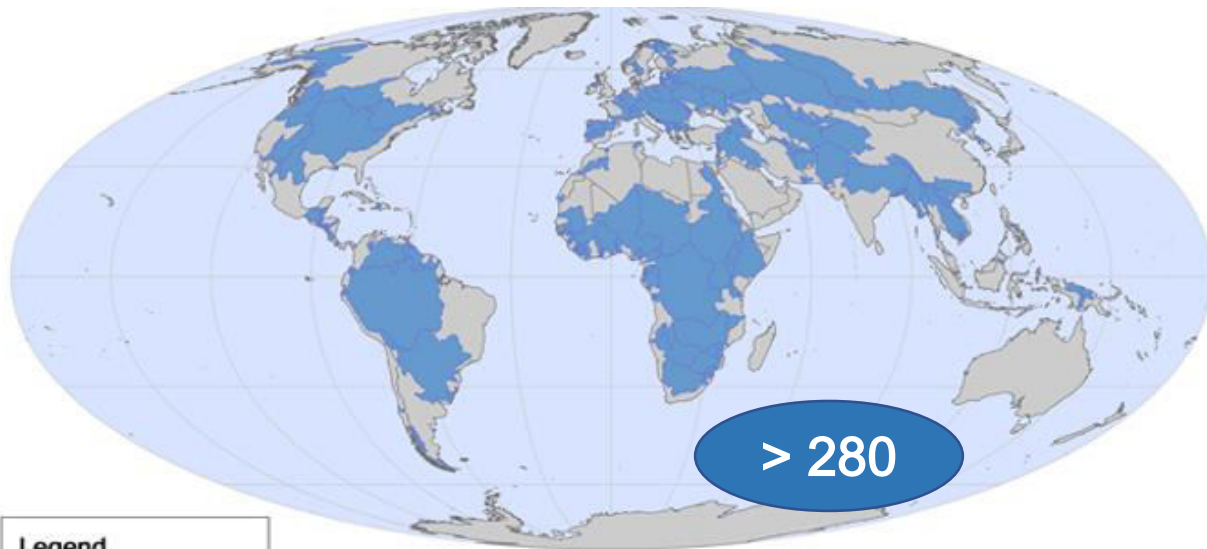


**European Bank**  
for Reconstruction and Development



**ASIAN INFRASTRUCTURE  
INVESTMENT BANK**

# Transboundary Freshwater Systems



**Legend**  
 International Basins



Transboundary Freshwater Dispute Database  
 Oregon State University, 2010  
 Mollweide World Projection  
 WGS 1984 Geographic Coordinate System

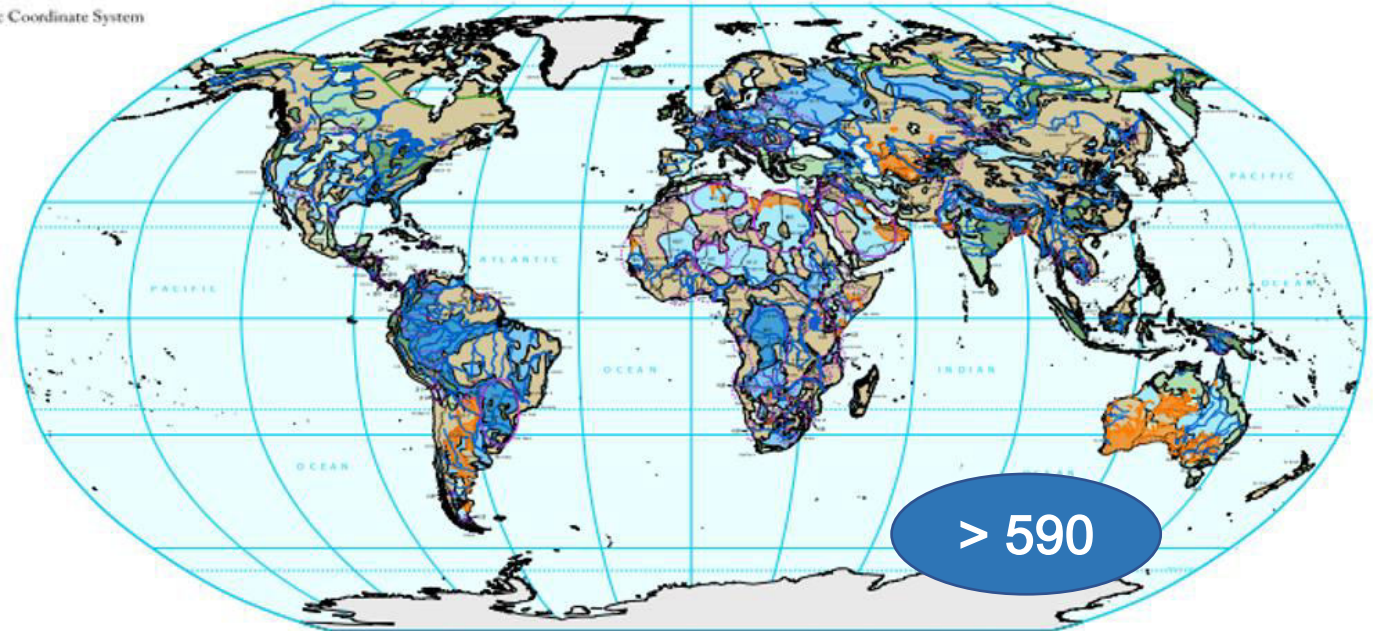


**~60%**

**> 3 billion**

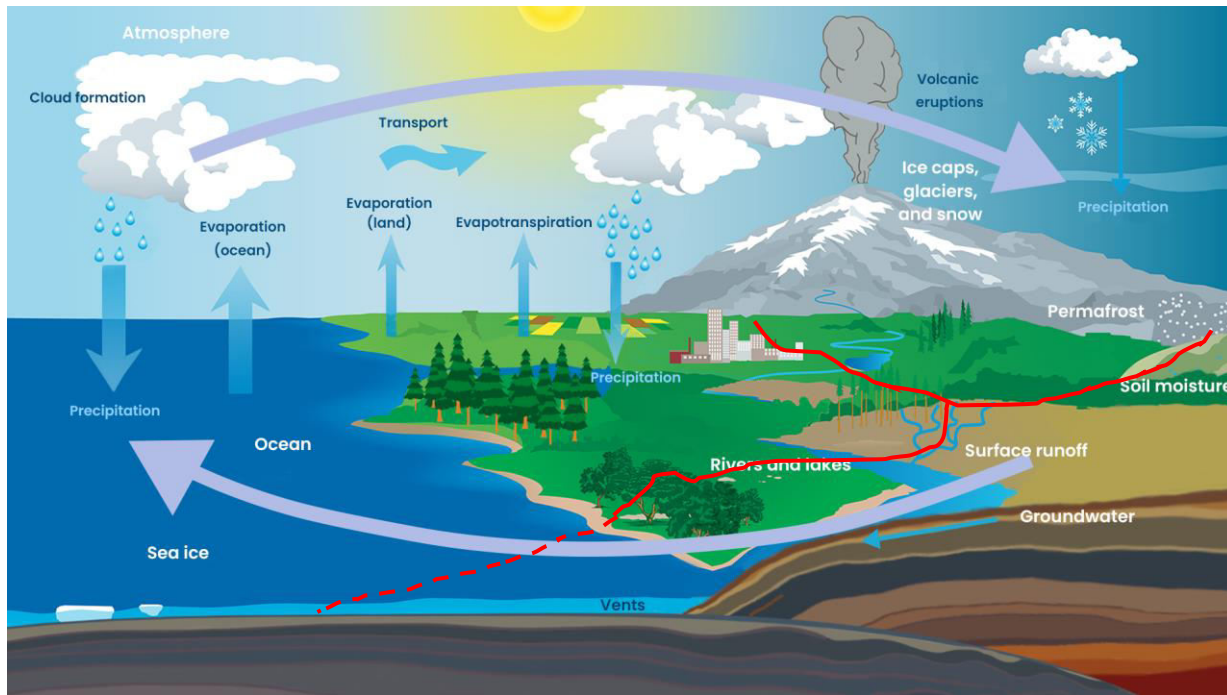


**> 153  
 Countries**



*"Transboundary Aquifer Systems", Transboundary Waters: Sharing Benefits, Sharing Responsibilities, UN Water, 2008*

# Hydrological Interdependence



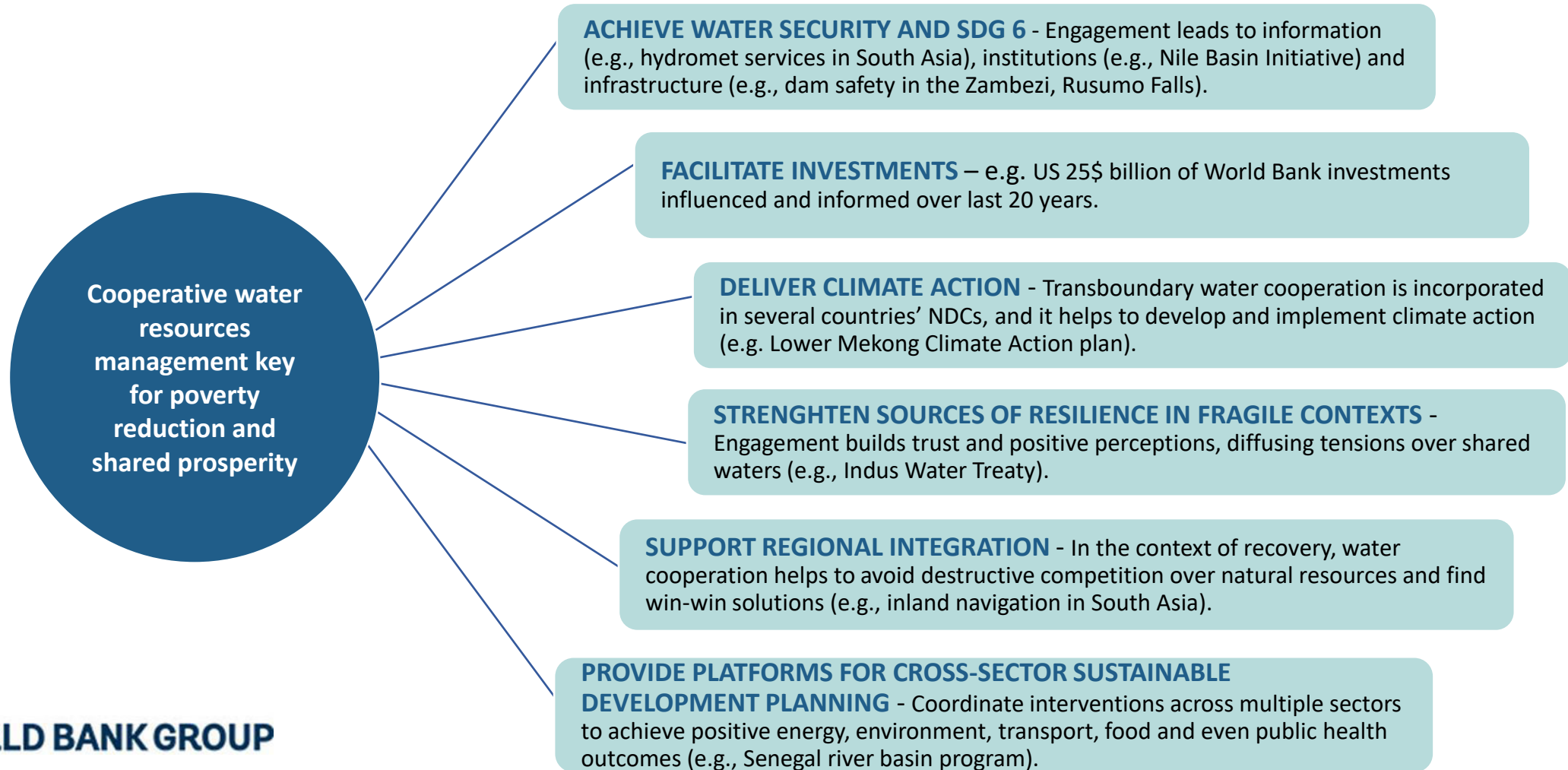
Source: PBS Learning Media <https://www.pbslearningmedia.org/resource/buac20-68-sci-ess-cyclingofwater/the-cycling-of-water/>

## Continuous changes & Unpredictability

- Climate
  - Water availability ↓
  - Temperature-based water needs
- Population
  - Water demand ↗
- Economic development
  - Water demand ↗
- Pollution → water availability ↓
- Ecosystem functions

→ Importance of information exchange for sustainable development

# Opportunities for MDBs and their clients







# Information sharing in international water law

# Obligation to regularly exchange data and information

- Exchange on a regular basis readily available data and information on the condition of the watercourse/aquifer - (e.g. Art 9 (1) 1997 UNWC)
  - hydrological, meteorological, hydrogeological and ecological nature
- “The Parties shall provide for the widest exchange of information, as early as possible, on issues covered by the provisions of this Convention.” - 1992 UNECE Water Convention, Art 2 (6)
- Not customary international law – obligation for parties



# Exchange of information on planned measures

- Watercourse States shall exchange information and consult each other and, if necessary, negotiate on the possible effects of planned measures on the condition of an international watercourse. – (Art 11 - 1997 UNWC)
- The Riparian Parties shall, [...], exchange reasonably available data, inter alia, on: [...] (d) Measures taken and planned to be taken to prevent, control and reduce transboundary impact; [...] –(Art 13 (1) - 1992 UNECE Water Convention)
- Not customary law – (ICJ, Silala Case Judgment 2022)






# Notification of Planned Measures

- “Before a watercourse State implements or permits the implementation of planned measures which may have a significant adverse effect upon other watercourse States, it shall provide those States with timely notification thereof. [...]” – (Art 12, 1997 UNWC)
- “For a proposed activity listed in Appendix I that is likely to cause a significant adverse transboundary impact, the Party of origin shall, for the purposes of ensuring adequate and effective consultations under Article 5, notify any Party which it considers may be an affected Party [...].” – (Art 3 (1), 1991 Espoo Convention)
- Customary law - threshold: significant harm – (ICJ, Silala Case Judgment 2022)

# Objectives of information exchange and notification

- Inform potentially affected riparian country
- First step in consultation process
- Allow for adjustments (e.g. design) to minimize or mitigate impact
- Customary law does not require agreement





# MDB Policy Approaches concerning Transboundary Waters

# Three Key Approaches and Combinations

1. Water Sector Policies
2. Environmental and Social Policies
3. Policies on International Waters



# 1. Dedicated Water Policies

- ADB Water Policy 2001
  - Principle Element – “Promote regional cooperation and increase the mutually beneficial use of shared water resources within and between countries. The primary focus will be on the exchange of information and experiences in water sector reform.”
- AfDB Policy on Water 2021 - The Bank will:
  - assess and acknowledge any significant impacts on riparian countries
  - seek broad agreement with riparian countries in respect to financed projects
  - advocate for the adoption and implementation of transboundary water agreements
  - Policy refers international water law and key principles of 1997 UNWC, but does not require notification specifically

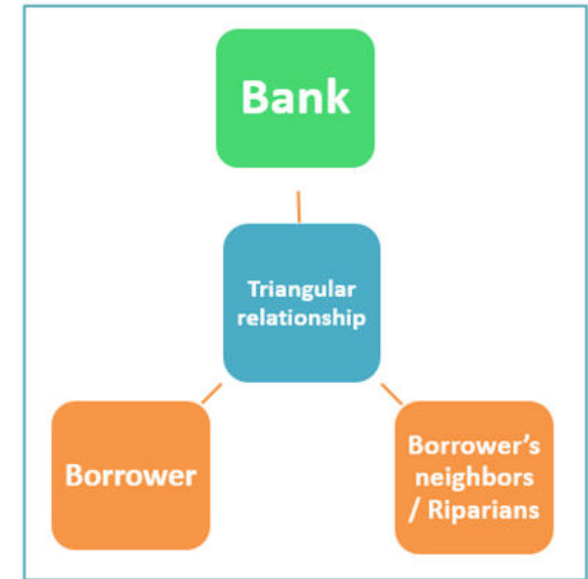


## 2. Environmental and Social (ES) Policies

- ADB ES Policy Statement
  - Triggers in case of potential environmental risk
  - Disclosure of ES assessments, including transboundary impacts
  - Consultation with affected people
- World Bank ES Framework
  - Requirement to assess project-related transboundary risks and impact (ESS1) and consultation of affected stakeholders (individuals and groups) (ESS10)
  - ESA will consider potentially significant project-related transboundary risks, including increased use or contamination of waterways
- Disclosure of ES assessments
- EBRD ES Policy
  - Encourages adherence to Espoo Convention for transboundary impact for projects that have significant environmental impacts

# 3. Policies on International Waters

- Address triangular relationship Bank-client-members
- Notification requirement
- Threshold lower than customary international law
- AIIB, NDB, World Bank



World Bank OP 7.50	AIIB OP on International Relations
Recognition of potential to affect triangular relationship	
+ Includes statement on Policy objective related to effective use and protection of waterway and riparian cooperation	
Groundwater included based on practice	Trans-boundary groundwater included
Changes in water quantity or quality	+ Explicitly considers changes in timing of flow
No de minimis threshold for notification of new schemes	<i>De minimis</i> exception to notification
Address as early as possible – “reasonable period to respond	Defined timelines for notification and response period
Notify all riparian countries – upstream and downstream	
Possibility to appoint independent expert for complex questions of impact	

# Promotion of cooperation and information sharing on planned measures – OP 7.50

## **OP 7.50 – International Waterways**

### *Paragraph 3*

The Bank recognizes that cooperation and goodwill of riparians is essential for the efficient use and protection of the waterway.

Therefore, it attaches great importance to riparians' making appropriate arrangements or agreements for these purposes...

**The Bank stands ready to assist riparians achieve this end.**

## **Notification**

### *Paragraph 4*

The Bank ensures that the international aspects of a project on an international waterway are dealt with at the earliest possible opportunity.

If such a project is proposed, the Bank requires the beneficiary state, ...

**formally to notify the other riparians of the proposed project** and its Project/Program Details

# Commonalities and Differences among MDB Approaches

Conformity of MDB policies with customary international law

Promotion of cooperation and IWRM as a policy goal

Integration in E&S Policies as part of general transboundary impact consideration

Consultation requirement as part of stakeholder engagement process

Downstream notification versus upstream and downstream notification (2-way street of harm)

Use of country/basin systems – established treaty procedures

# Conclusion

Significant differences among MDB approaches concerning transboundary waters

Comprehensive approach in Policy Framework an effective way to promote water security and climate resilience

Disclosure and consultation obligations promote transparency on investments

Notification and consultation obligations can promote dialogue among riparian countries facilitating cooperation processes over the long-term



Photo: [TWIN](#)



**Thank you!!!**