

# Joint infrastructure and the sharing of benefits in the Senegal and Niger watersheds

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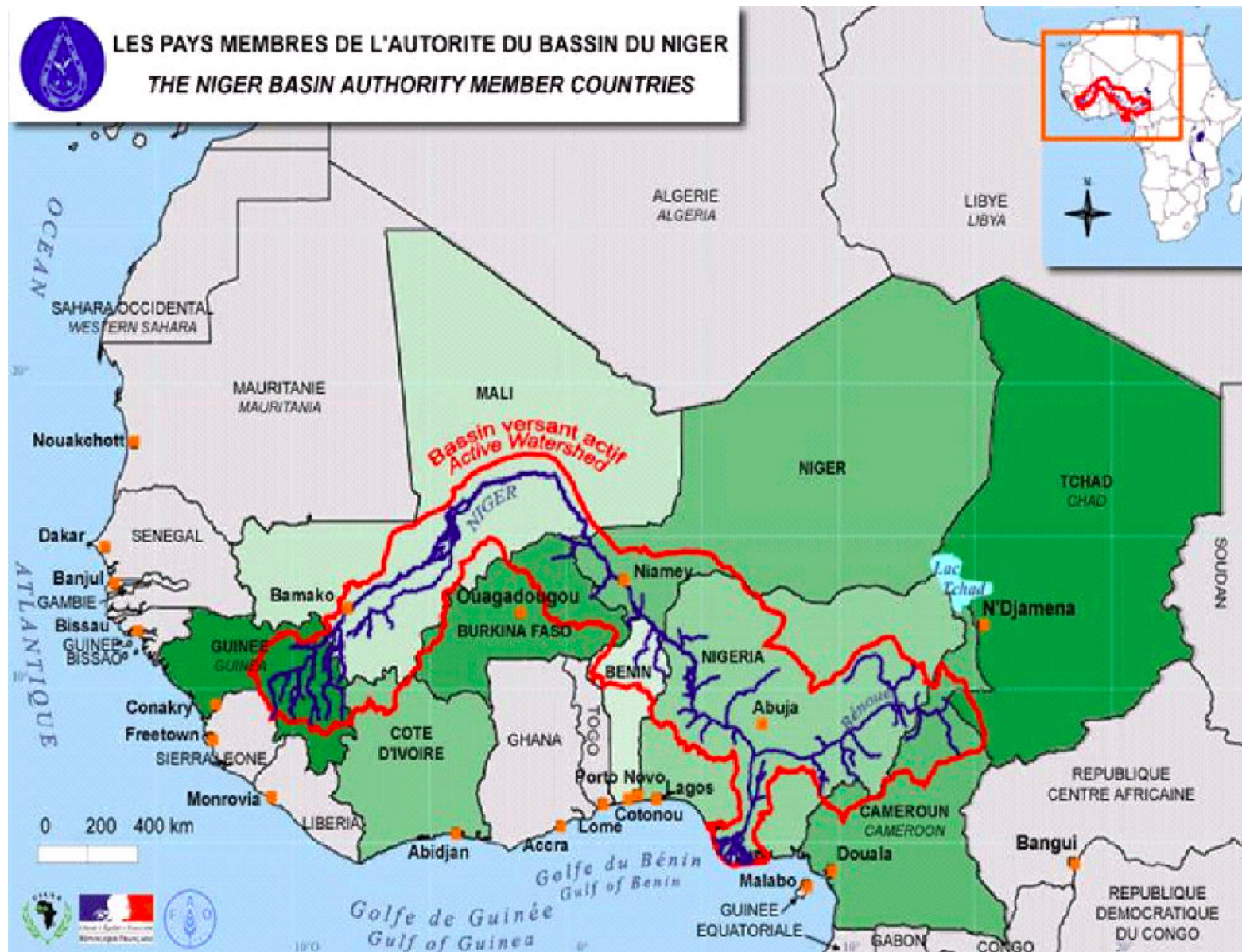


# Outline

- I. Joint ownership of water infrastructures in the Senegal and Niger basins
- II. Inclusion of environmental and local community considerations in benefit sharing



LES PAYS MEMBRES DE L'AUTORITE DU BASSIN DU NIGER  
THE NIGER BASIN AUTHORITY MEMBER COUNTRIES



## Section I

# Joint ownership of water infrastructure



Source: **Organisation pour la mise en valeur du fleuve Sénégal (OMVS)**, available at: <http://www.portail-omvs.org/infrastructure-regionale/barrages/barrage-diama>

# The Manantali and Diama dams in the Senegal River Basin

- The two dams are « common and indivisible property » of the riparian States: Guinea, Mali, Mauritania and Senegal
- A State must not create any obstacle for other States with a co-ownership interest to exercise their use and enjoyment of the water infrastructure
- Autonomous agencies for the management of the two dams
- Cost-sharing schedule based on projected benefits and tailored to the needs of riparian countries

## Legal framework

- 1978 Convention Concerning the Legal Status of Common Works
- 1982 Convention Regarding Financing Arrangements for Common Works Autonomous agencies for the management of the two dams
- 1997 Convention Creating the Dama Management and Operation Agency (SOGED Convention)
- 1997 Convention Creating the Manantali Management and Operation Agency (SOGEM Convention)

## Convention on the Legal Status of Common Works (1978)

- Common and indivisible property of OMVS member States (Art.2)
- No-exhaustive list of works designated as common (Art.3)

## Convention regarding Financing Arrangements for Common Works (1982)

- Investment costs are allocated on the basis of the benefits that each co-owner State will have from the operation of common works
- OMVS and member States act as co-guarantors (Art.8)
- In the case of breach, a State will bear the entirety of financial charges (Art.13)

## Convention Creating the Diama Management and Operation Agency (SOGED Convention) (1997)

- Sale of water (Art.12)
- Role of OMVS member States (Art.13)

## Convention Creating the Manantali Management and Operation Agency (SOGEM Convention) (1997)

- Production, transmission and sale of electricity (Art.12.1)
- Agreement on electricity prices (Art.12.2)

## The Cost-Sharing Key (OMVS Council of Ministers, 1985)

|                                                                 | Mauritania's share | Senegal's share | Mali's share |
|-----------------------------------------------------------------|--------------------|-----------------|--------------|
| Cost allocation across sectors (energy, irrigation, navigation) | 22.6%              | 42,1%           | 35,3%        |
| <b>Allocation of benefits</b>                                   |                    |                 |              |
| Energy                                                          | 15%                | 33%             | 52%          |
| Irrigated agriculture                                           | 31%                | <b>58%</b>      | 11%          |
| Navigation (access to Atlantic Ocean)                           | 12%                | 6%              | <b>82%</b>   |

Source: Susanne Schmeier, *Governing International Watercourses. River Basin Organizations and the Sustainable Governance of Internationally Shared Rivers and Lakes*, Routledge, 2013, p.255

## Niger watershed

- In the Niger basin the method of division depends on whether projects are designated as “common work” or “work of common interest”
- Common works, are “a facility which the member states of the Niger Basin Authority (NBA) have decided through a legal act to make their common and indivisible property” (Article 1.21 of the 2008 Niger Basin Charter)
- Works of common interest are “a facility being of interest to two or more member states of the NBA, for which they have mutually agreed on coordinated management” (Article 1.22 of the 2008 Niger Basin Charter)

- The status of common facilities is similar to the OMVS model. Each State would be obliged to ensure that other riparian States are able to draw benefits from these projects
- The principle of sharing benefits is different when it comes to works of common interest. In this case, the sharing of benefits is restricted to a subset of the member States

## Section II

# Inclusion of environmental and local community considerations in benefit sharing



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- Recognition of right to water and public participation as tools to ensure of equity for local population in the 2008 Niger Basin Charter
- Niger Basin Water Charter endorses the Observation No. 15 definition of right to water: **“the fundamental right to a sufficient and physically accessible supply at an affordable cost of safe water of a quality that is acceptable for personal and domestic use by everyone”** (Art. 1.10 of the Niger Basin Charter)

- The inclusion of civil society is also a prerequisite of decision-making processes for the successful implementation of dam projects in both watersheds
- The principle of public involvement has been institutionalized with the creation of consultation fora, like the Local Coordination Committees in the OMVS context and the National User Organizations in the NBA context
- OMVS and NBA promote also actions to improve the standard of living, incomes and productivity of local people

- The 2002 Senegal River Water Charter dedicated a chapter to the environment and to institutions charged with management of water and the environment, as well as making reference to the polluter-pays principle (Article 18), the principle of prevention (Article 16), and the determination of shared objectives regarding water quality (Article 16)
- The 2008 Niger Basin Water Charter includes an Annex on environmental protection. A wide approach on environment: forest and waste management, biodiversity, climate change etc.

## Final Remarks



Joint infrastructure appears in both regimes like a tool to achieve benefit sharing.  
These benefits have firstly an interstate dimension



Progressive « environmentalization » and « humanization » of international water law which underscore a progressive change by incorporating non-State actors (L. Boisson de Chazournes, *Fresh Water in International Law*, OUP, 2013)

# Thanks!

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**Geneva Water Hub**

[www.genevawaterhub.org](http://www.genevawaterhub.org)

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