



# Transboundary freshwater security governance train

Interactive Online Session:  
**Interactive Online Session:  
The Source-to-Sea Approach in  
International Water Law**

19 October 2021





# Event Moderator



**Dr. Yumiko Yasuda**

## Senior Network and Transboundary Water Cooperation Specialist, GWP

- Yumiko leads GWP's thematic work on transboundary water, and is the lead faculty of the MOOC on Transboundary Freshwater Security, designed and directed the production of the course.
- Her area of expertise lies in the analysis of water and environmental governance, water diplomacy, political economy analysis surrounding natural resources management, with a focus on transboundary rivers and non-state actors' engagements in natural resources management.
- Dr. Yasuda obtained her PhD degree from the Centre for Water Law, Policy and Science at the University of Dundee, MA in environmental policy from the Tufts University, and MSc in environmental science from Tsukuba University. Her research on the Mekong has culminated in the publication of a book entitled "Rules, Norms and NGO Advocacy Strategies: Hydropower Development on the Mekong River" by Routledge in 2015.

**Fun fact! Yumiko performed stand-up comedy in Scotland.**



**The biggest achievement in life:  
Still working on it!**



# 'Season 2' Session Series

Session Topic	Date
<b><u>Session 7: IWL &amp; International Dispute Settlement (21 September 2021):</u></b> What are the linkages between international water law and dispute settlement? What are the historical and ongoing cases? What are the steps to solve and international dispute? What is the role of the International Court of Justice (ICJ)?	21 September
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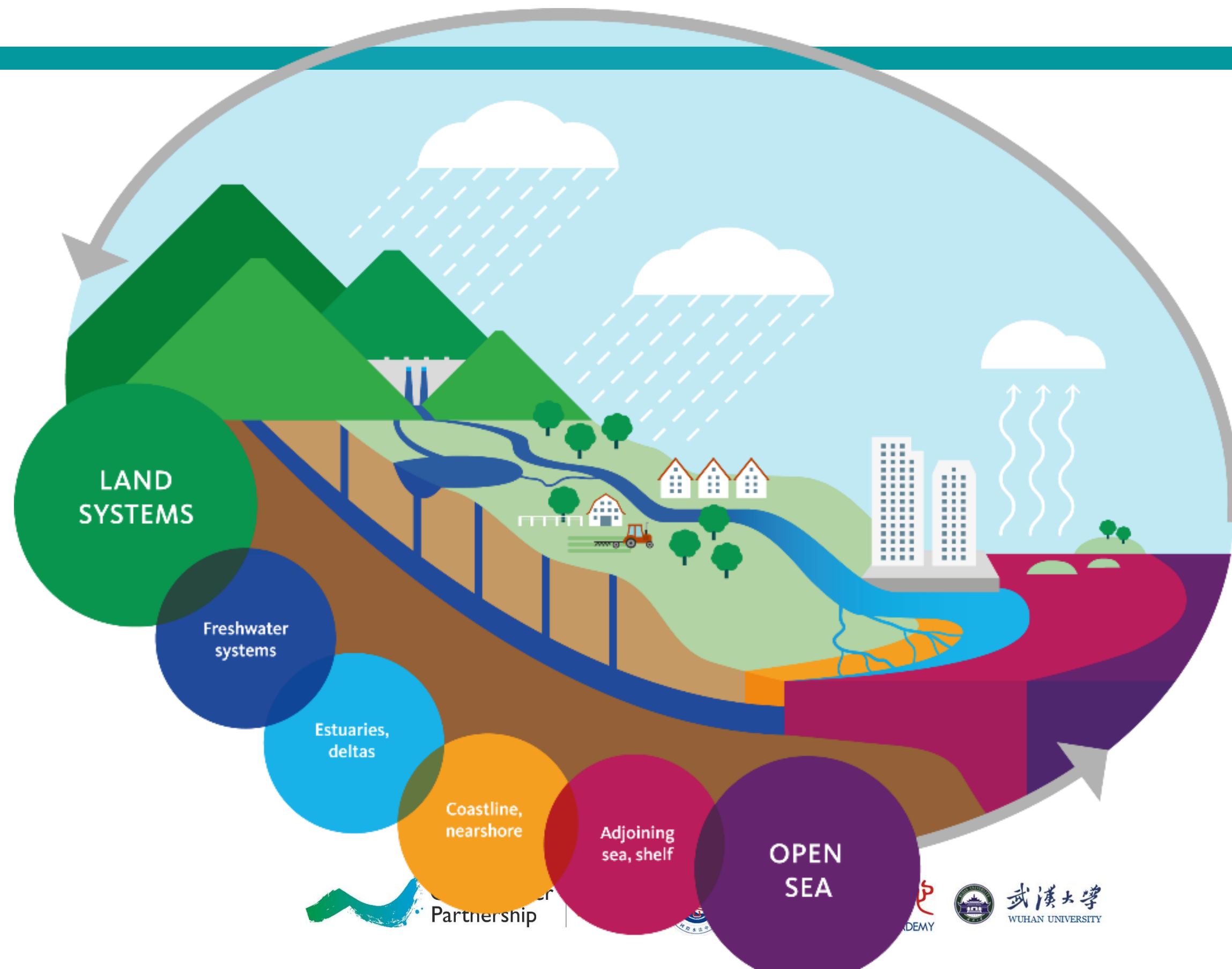


# House Keeping Rules

- 1. This online session will be recorded.**
- 2. Please always mute your audio during plenary session unless you are given a floor to speak.**
- 3. The event will not only present new knowledge, but will welcome your input in the interactive part, so we count on your presence throughout the whole session.**



# Source to Sea System



# Marine agreements addressing land-based pollution

- Agreements signed by states sharing common sea or ocean.
- Examples
  - Protocol for the Protection of the Mediterranean Sea against Pollution from Land-based Sources and Activities, 1980
    - Article 11 requires Party to cooperate with upstream riparian states on transboundary river.
- UNEP Global Program of Action (GPA) for the Protection of the Marine Environment from Land-Based Activities. Adopted in 1995.



# Collaboration between freshwater and marine commissions

- Agreement/collaboration between marine commissions and basin commissions/organizations
- Examples
  - MoU between the International Commission for the Protection of the Black Sea (ICPBS), and International Commission for the Protection of the Danube River (ICPDR)
  - Programmatic Collaboration between Orange-Senqu River Commission (ORASECOM) and Benguela Current Commission (BCC)
- 1992 Water Convention:
  - Refers to the need for protection of the environment influenced by transboundary waters (Art 2 (6))
  - Suggests for cooperation between joint body established for transboundary waters and relevant marine environment (Art 9 (4))



# Key flows

- Cooperation can be an overall, but often focus on 'key flows' where specific agreements or program can be developed.
- Key flows found in source
  - Water
  - Sediment
  - Pollutants
  - Biota
  - Materials
  - Ecosystem services
- Example:
  - Cooperation on environmental flow, joint monitoring of water quality (ORASECOM and BCC)
  - Reduction of nutrient pollution. Monitoring and data sharing , Joint Danube-Black Sea Technical working group.



Source: SIWI



# References

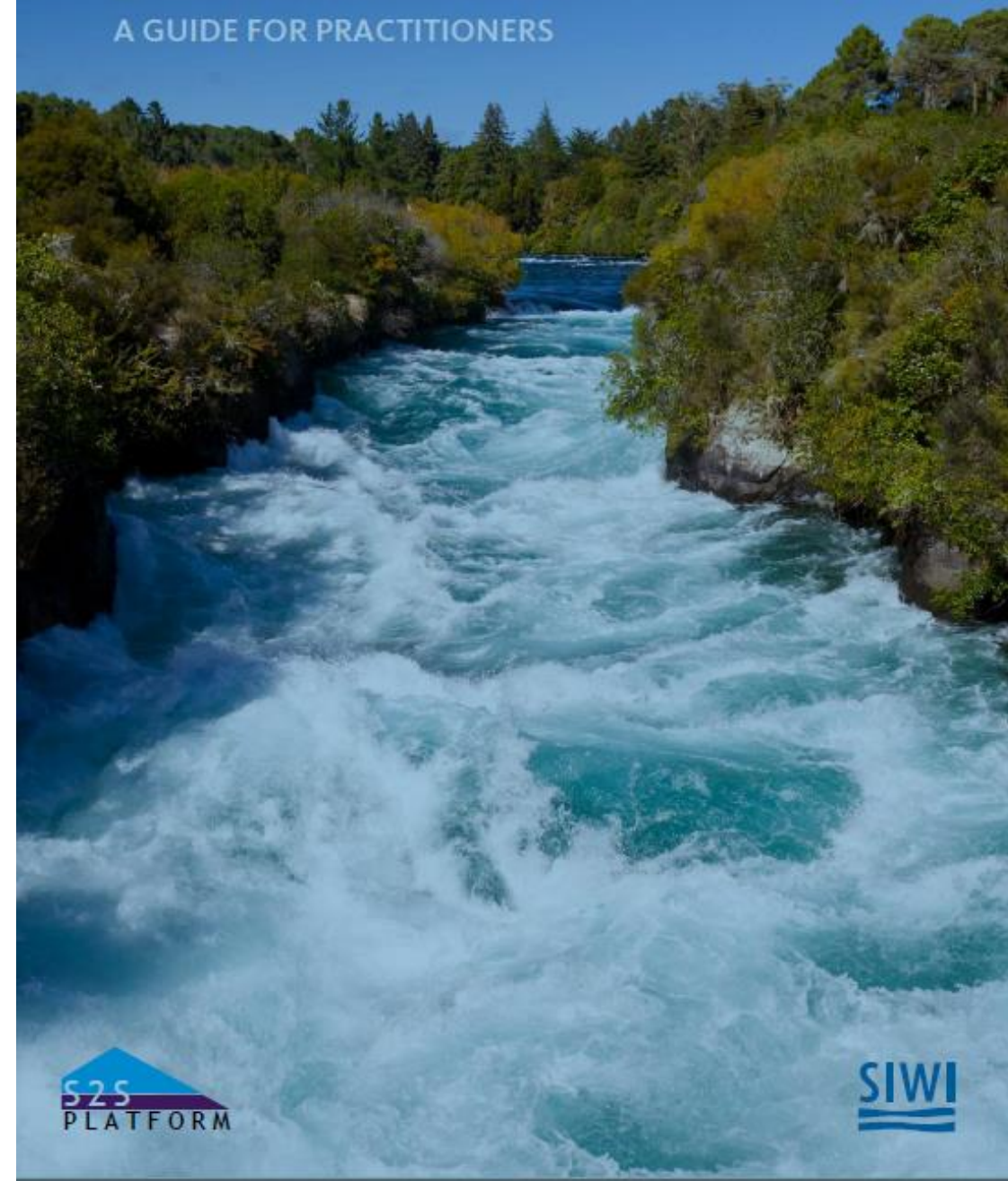
**UNECE**

Practical Guide for the Development of  
Agreements or Other Arrangements for  
Transboundary Water Cooperation



Implementing the  
source-to-sea approach

A GUIDE FOR PRACTITIONERS



S2S  
PLATFORM

SIWI



# Event Chairs

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**Professor Patricia Wouters**

Founding Director, International  
Water Law Academy, Wuhan  
University



**Dr. David Devlaeminck**

Lecturer, School of Law,  
Chongqing University





# Founding Director, Wuhan International Water Law Academy (CIBOS) University of Wuhan

- Professor Wouters has close to 30 years experience in the field of international law that governs transboundary waters. Her legal education includes BA and LLB at the University of Ottawa, Canada; LLM, University of Berkeley, California; DES, PhD, Graduate Institute of International Studies/University of Geneva, Switzerland.
- Professor Wouters has published and consulted broadly on international water law, including for the UN, World Bank, regional bodies and national governments, across most regions of the world. She was founding director of the University Dundee UNESCO Centre for Water Law and Policy (Scotland), and established the China International Water Law group at Xiamen Law School, where she was appointed under the Chinese Thousand Talent programme (2012).

“ **Fun fact! Patricia has a dual nationality - Canadian and Belgian, and lives mostly in Scotland (commuting to Wuhan).**

**The biggest achievement in life:  
My healthy family!**



**Professor Patricia Wouters**





**David J Devlaeminck**

## Lecturer, School of Law, Chongqing University

- Dr. Devlaeminck is an emerging young scholar in the law of international watercourses. He completed a BA in Philosophy at the University of Guelph, Canada; an MA in Philosophy at McMaster University, Canada; the Water Without Borders Graduate Certificate Programme at the United Nations University – Institute of Water, Environment and Health, Canada; and a PhD in International Law from Xiamen University, China.
- He conducts teaching and research on international environmental law with a focus on the law of international watercourses. He has published in various international journals and his monograph, *Reciprocity and China's Transboundary Waters: The Law of International Watercourses*, was recently published with Routledge.

**Fun fact! David is a bit of an adventurous eater, willing to try anything (from sandworms to cicada) at least once.**



**The biggest achievement in life:  
After moving to China in 2014, he now speaks  
Mandarin (although it's a work in progress)!**



# Speakers

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- 1. Owen McIntyre**, Professor of Environmental Law, School of Law, University College Cork (Ireland)
- 2. Elizabeth Kirk**, Global Professor (Global Governance and Ecological Justice), Director of the Lincoln Centre for Ecological Justice, University of Lincoln
- 3. Dimitris Faloutsos**, Deputy Regional Co-ordinator, GWP Mediterranean
- 4. Alistair Rieu-Clarke**, Professor, School of Law, Northumbria University





# Professor of Environmental Law, School of Law, University College Cork (Ireland)

- Prof. McIntyre's research focuses in particular on International Water Law. He serves on the editorial boards of a number of international journals and has served as the inaugural Chair of the IUCN World Commission on Environmental Law's Specialist Group on Water and Wetlands, as well as a member of Global Faculty at the UNESCO Centre for Water Law, Policy & Science.
- He has been a member of the Project Complaints Mechanism of the European Bank for Reconstruction and Development (EBRD) and has served on the Scientific Committee of the European Environment Agency as an expert on European and International Environmental Law.
- Prof McIntyre holds visiting academic positions at the University of Dundee, Charles University Prague, Xiamen University and Wuhan University.

**“ Fun fact! Owen has been trying to learn Mandarin in recent years, with very limited success!**

**The biggest achievement in life:  
My happy and healthy family and my wonderful  
circle of friends!**



**Professor Owen McIntyre**





## Global Professor (Global Governance and Ecological Justice), Director, Lincoln Centre for Ecological Justice, University of Lincoln, UK

- Professor Kirk holds an LL.M. from the University of British Columbia, Canada, and an LL.B. from the University of Glasgow, UK. She qualified as a solicitor in Scotland before becoming an academic.
- Professor Kirk is a Director of the Lincoln Centre for Ecological Justice, University of Lincoln. She is currently a member of the Advisory Board for the Centre for Law and the Environment, University College Cork, Ireland, and an advisor to a WWF Asia project on plastics pollution and the potential for a plastics treaty.
- Elizabeth was formerly a Research Professor of International Environmental Law and co-director of the Centre for Marine Ecological Resilience and Geological Resources as well as a member of the Sustainable Futures interdisciplinary steering committee at Nottingham Trent University. She was previously Chair of the IUCN Academy of Environmental Law, and a member of the Steering Committee of the IUCN World Commission for Environmental Law.
- Elizabeth's research addresses the production of normativity in international environmental law – what causes actors to comply with law. Her current focus is complex, multi-faceted problems such as plastics pollution and energy efficiency.

“ **Fun fact! Elizabeth is a keen gardener who enjoys growing vegetables and fruit (not always successfully!)**

**Biggest achievement in life: her students, many of whom have gone on to successful careers in academia and in practice.**



**Professor Elizabeth Kirk**





## Deputy Regional Coordinator, GWP Mediterranean



**Dimitris Faloutsos**

- Dimitris Faloutsos is the Deputy Regional Coordinator of Global Water Partnership Mediterranean leading the work of the organization in the fields of Transboundary Water Resources Management, Source to Sea and, Water-Food-Energy-Ecosystems Nexus.
- Dimitris has a Bachelor's degree on Environmental Management and a Master's degree in Oceanography. He has over sixteen years of both coordination and hands-on experience in multi-stakeholders policy dialogues and technical work for sustainable natural resources management across the source-to-sea continuum.
- His work has led among others to the development of management plans and enhancement of transboundary waters management also through the preparation and signing of relevant legal arrangements.

**Fun fact: Dimitris has not managed to get a black belt in karate yet, although he has been practicing for more than a decade.** ”

**The biggest achievement in life: A beautiful daughter and being able to positively affect the lives of people through my work.**





# School of Law, Northumbria University, Newcastle

- 20+ years experience in research, teaching and consultancy related to international law and transboundary waters;
- Alistair graduated with an LLB (Hons.) in Law from University of Dundee Law School, a Masters (with Distinction) in Natural Resources Law and Policy and PhD from University of Dundee, Centre for Energy, Petroleum and Mineral Law and Policy;
- Prior to joining Northumbria University, Alistair worked at the Centre for Water Law, Policy & Science, University of Dundee, and also spent 15 months (2017-18) with Water Convention Secretariat in Geneva, working on the SDGs and reporting under the Convention. His research primarily focuses on developing knowledge and understanding of how transboundary watercourse treaties can work better.

“ **Fun fact! Alistair lives near St Andrews ('the Home of Golf'), and plays off a 5 handicap.**

**The biggest achievement in life:  
Family, for sure!**



**Professor Alistair Rieu-Clarke**







# Transboundary freshwater security governance train

## Interface between IWL & Marine Environment

Owen McIntyre

*Professor of Environmental Law, School of  
Law, University College Cork (Ireland)*

19 October 2021





# Interface between Intl Water Law & Marine Environment

- Legal fragmentation and incoherence
- Institutional non-interaction
- Relative neglect of LBS marine pollution in IWL
- Growing reliance on 'transnational' governance





# International Marine Env. Law (on LBS)

- **Global Frameworks:**

- 1972 ILA Arts Marine Pollution of Continental Origin
- 1974 Paris Convention on LBS Pollution
- 1982 UNCLOS, Arts. 194, 207 & 213
- 1985 UNEP Montreal Guidelines re LBS Pollution
- 1995 Global Programme of Action (GPA) re LBAs

- **Regional Frameworks:**

- 1980 Athens Protocol (Barcelona Conv.); 1983 Quito Protocol (SE Pacific); 1990 Protocol (Kuwait Conv.); 1999 Protocol (Cartagena Conv.);
- UNEP Regional Seas – Action Plans

- **Failing re Current Challenges:**

- Marine Plastic Pollution (MPP);
- Nutrients Pollution; etc.



# International Water Law

- **Global Water Resources Instruments:**
  - 1997 UN Watercourses Convention, Art 23
  - 1992 UNECE Water Convention, Preamble, Art 2(6) & Art 9(4)
- **Intl Marine Environmental Law:**
  - 1985 UNEP Montreal Guidelines re LBS Pollution: watercourse States
  - 1993 OSPAR Convention (NE Atlantic): reduce discharges to River Rhine
  - 1992 Bucharest (Black Sea) Convention and LBS Protocol: River Danube
  - 1995 GPA: cooperation btn watercourse States & marine regions; promotes ecosystem approach / ICARM approach
- **River Basin Agreements:**
  - 1994 Danube Convention, Art 2(1): reduce Black Sea pollution loads
  - 2001 MoU between Danube Commission & Black Sea Commission





# Fragmentation & Neglect

- Over 80 percent of marine pollution from LBS; over 90 percent of MPP from 10 rivers, six transboundary (UFZ, 2017).
- Protection of marine environment not prioritised in Intl Water Law practice, despite emergence of 'ecosystem approach' etc
- Rare interaction between sub-fields of Intl Water Law & Intl Marine Environmental Law, incl. re LBS (Finska & Gjørtz Howden, 2018).
- Growing reliance on non-legal / 'transnational' and/or voluntary approaches to progress LBS governance, incl. GPA multi-stakeholder partnerships (re 9 LBS categories), UNEA Resolutions, UN Clean Seas; SDG Indicator 14.1.1, etc.





# Transboundary freshwater security governance train

## International Law and Plastics

Elizabeth Kirk

*Director, Lincoln Centre for Ecological  
Justice, University of Lincoln, UK*

19 October 2021





# Current law

- State responsibility
  - Trail Smelter Arbitration (*United States v. Canada*) ( 1938 and 1941 ) 3 R.I.A.A. 1905.
  - Corfu Channel Case *United Kingdom v. Albania*) 1948 I.C.J. Rep. 15; 1949 I.C.J. Rep. 4.
  - Reiterated in various cases and treaties
    - Convention on the Law of the Non-navigational Uses of International Watercourses 1997 Article 7 obligation not to cause significant harm is framed only in relation to other water course States
- UN Convention on the Law of the Sea 1982 Article 207





# UNCLOS 1982 Article 207 Pollution from land-based sources

1. States **shall adopt** laws and regulations to prevent, reduce and control pollution of the marine environment from land-based sources...**taking into account** internationally agreed rules, standards and recommended practices and procedures.

&

4. States, ..., shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment from land-based sources, taking into account characteristic regional features, the economic capacity of developing States and their need for economic development. ...





# Soft Law Measures

- Global Programme of Action for Protection of the Marine Environment from Land-based Activities – Guidelines for Monitoring and Developing Understanding
- Manila Declaration on Furthering the Implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities
- UNEP/IOC Guidelines on Survey and Monitoring of Marine Litter,
- The Honolulu Strategy: A Global Framework for Prevention and Management of Marine Debris
- Bali Declaration on the Protection of the Marine Environment from Land-based Activities, 2018





# Current Developments

- UNEA3 meeting in December 2017, States formed an Ad-Hoc Open-Ended Expert Group (AHOEEG) to present options to combat marine plastic litter and microplastics for consideration of member states, experts, and civil society.
- UNEA 5.1 2021 40 countries expressed support for a global plastics treaty
- 2021 Oceans Day Plastics Pollution Declaration (80 States signed up)
  - **“We commit** to work for a decision at UNEA5.2 to establish an Intergovernmental Negotiating Committee recommending starting negotiations of a global legally binding agreement to combat plastic pollution, with the aim of concluding this as soon as possible”

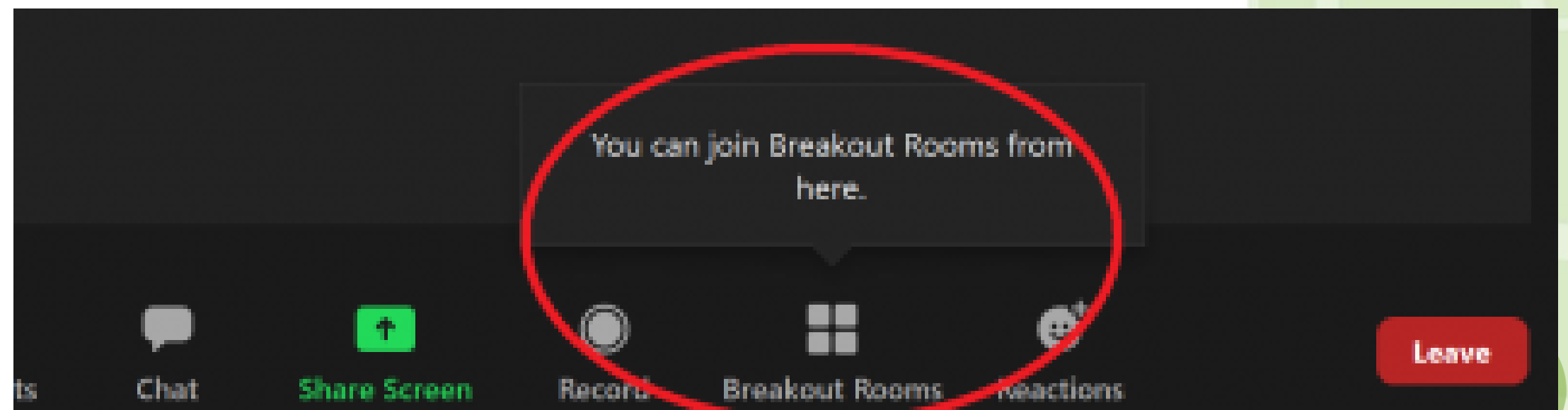




# Let's meet each other!

- Participants are invited to continue the discussion with the speakers in 4 Breakout Groups. The discussion will last for up to 20 minutes.
  - **Group 1: Owen McIntyre & Tobias Bohne**
  - **Group 2: Elizabeth Kirk & David Devlaeminck**
  - **Group 3: Dimitris Faloutsos & Barbara Janusz-Pawletta**
  - **Main Room: Patricia Wouters and Yumiko Yasuda**

To join the breakout room, please click on the button “Breakout Rooms” and then select preferred Room.





Thanks to all the  
speakers  
& participants!

Interactive Online Session:  
**Interactive Online Session:  
The Source-to-Sea Approach in  
International Water Law**

19 October 2021





SATELLITE EVENT:

# Starting at the Source to Save the Ocean

UN DECADE OF OCEAN SCIENCE: A CLEAN OCEAN LABORATORY

18 Nov 2021 | 14:00 - 15:20 (CET)

This session will explore ways in which the freshwater and ocean communities can strengthen their collaboration to better understand, monitor and reduce pollution across the source-to-sea continuum of inland, coastal and marine ecosystems.



2021  
2030 United Nations Decade  
of Ocean Science  
for Sustainable Development



Register here:

<https://siwi.zoom.us/meeting/register/tZYpc-yoqDwtHdDk9c9-blrdMg470HWHIS3S>





# 'Season 2' Session Series

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# Sign up for the MOOC!\*

**\*The MOOC has been extended to August 2022!**

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