

Training workshop “From practitioner to practitioner:
how to use the two global Water Conventions to promote cooperation on the ground”

Peace, conflict prevention and dispute settlement

Dr Mara Tignino

Reader, Faculty of Law, University of Geneva
Lead Legal Specialist, Geneva Water Hub



Outline

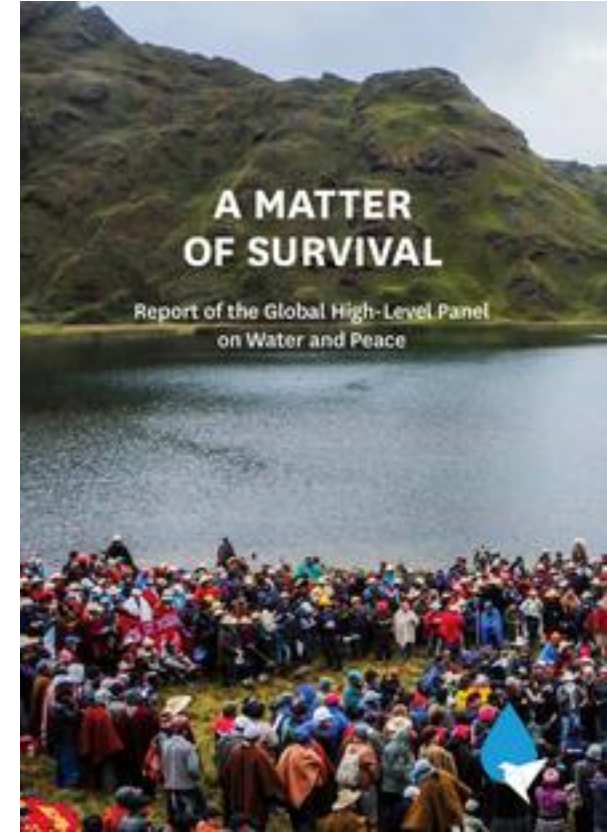
- Prevention of water disputes
- Avenues for the settlement of water disputes



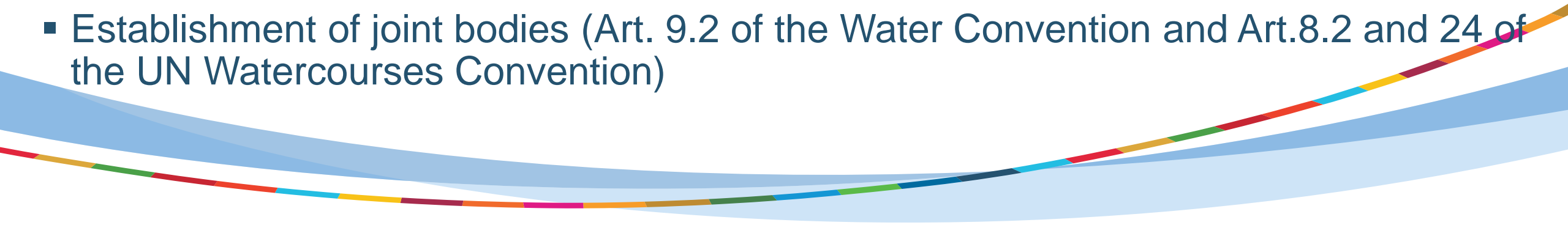
Prevention of disputes and accession to the UN global water conventions

In 2017, the Global High-Level Panel on Water and Peace recommended:

‘States should adhere to the principles of International Water Law and promote their full implementation. The Panel calls for wide accession by States to the 1997 UN Watercourses Convention and the 1992 UNECE Water Convention, now open for accession to all UN Member States’



Principles contributing to the prevention of transboundary water disputes

- Principle of cooperation (Art. 9 of the Water Convention and Art.8 of the UN Watercourses Convention)
 - Principle on the exchange of information (Arts. 6 and 13 of the Water Convention and Art.9 of the UN Watercourses Convention)
 - Principle on notification of planned measures and consultations (Arts.11-19 of the UN Watercourses Convention and Art.10 of the Water Convention)
 - Establishment of joint bodies (Art. 9.2 of the Water Convention and Art.8.2 and 24 of the UN Watercourses Convention)
- 
- The bottom of the slide features decorative wavy lines in shades of blue, with a multi-colored line (red, orange, yellow, green, blue, purple) weaving through the waves.

Prevention of domestic water disputes

Public participation

- Access to information (Art. 16 of the Water Convention)
- Participation of communities in decision-making processes (synergies with other MEAs, for example Aarhus, Escazú and Espoo Conventions)
- Access to remedies (Art.32 of the UN Watercourses Convention)



The Implementation Committee of the Water Convention and the prevention of water disputes

- **Composition:** 9 members elected by the Meeting of the Parties and serving in their personal capacity
- **General features:** Simple, non-confrontational, non-adversarial, transparent, supportive and cooperative in nature
- **Objectives:** Facilitate and support the implementation and compliance with the Water Convention without prejudice to the clause on dispute settlement of the Convention
- **Functions:** - Consider requests for advice; - Consider self-submission or Party-to-Party submission; - Consider undertaking a Committee initiative



Avenues for the settlement of disputes

Diplomatic avenues

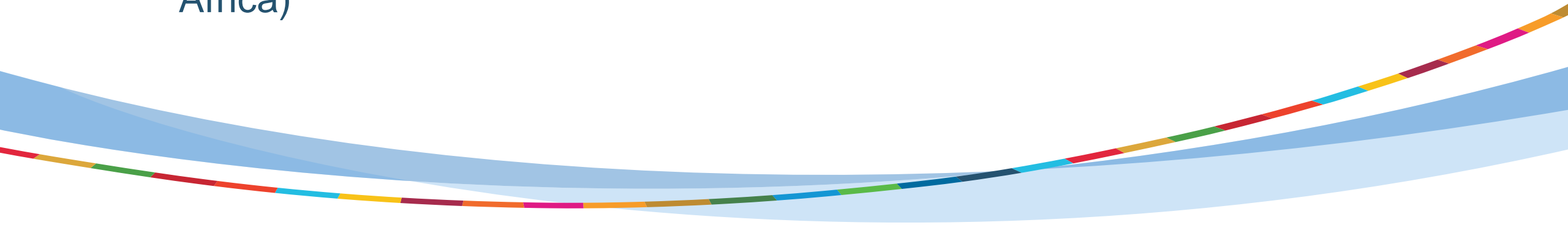
1. Negotiation (bilateral or multilateral negotiations; held or not within a joint body)
2. Intervention by a third party (i.e. good offices, mediation, facilitation by an international or regional organization)



Avenues for the settlement of disputes

Judicial avenues

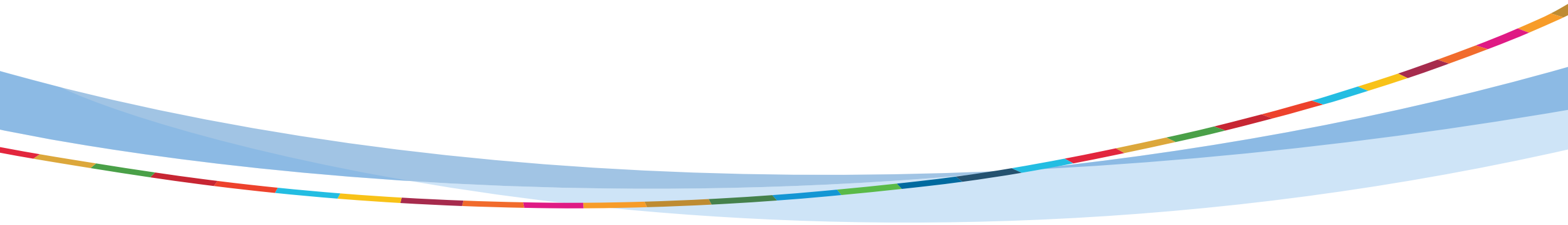
1. Arbitration
2. International Court of Justice
3. Judicial bodies established at the regional level (i.e. African Union, Economic Community of West Africa, Economic Community of Central Africa)



Avenues for the settlement of disputes

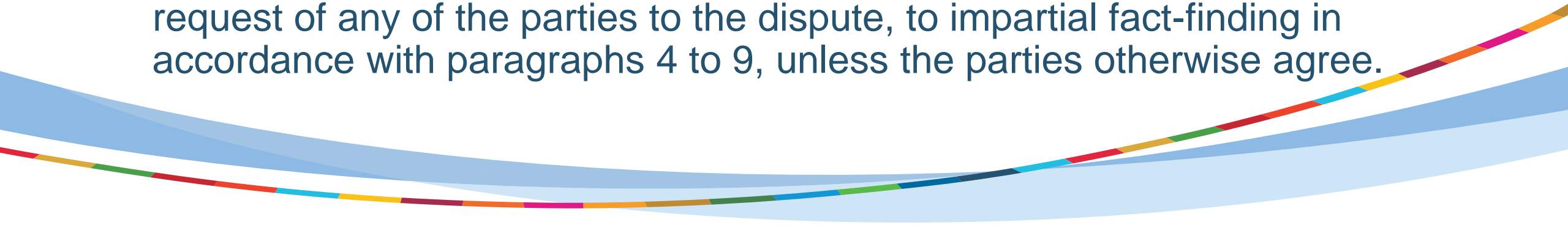
Hybrid mechanisms

1. Inquiry/fact-finding commission
2. Conciliation commission



What is provided in the global UN Conventions?

Article 33 of the UN Watercourses Convention

2. If the parties concerned cannot reach agreement by negotiation requested by one of them, they may jointly seek the good offices of, or request mediation or conciliation by, a third party, or make use, as appropriate, of any joint watercourse institutions that may have been established by them or agree to submit the dispute to arbitration or to the International Court of Justice.
 3. Subject to the operation of paragraph 10, if after six months from the time of the request for negotiations referred to in paragraph 2, the parties concerned have not been able to settle their dispute through negotiation or any other means referred to in paragraph 2, the dispute shall be submitted, at the request of any of the parties to the dispute, to impartial fact-finding in accordance with paragraphs 4 to 9, unless the parties otherwise agree.
- 
- The bottom of the slide features decorative wavy lines in shades of blue, with a multi-colored line (red, orange, yellow, green, blue) curving upwards from the left towards the right.

What is provided in the global UN Conventions?

Article 22 of the Water Convention

1. If a dispute arises between two or more Parties about the interpretation or application of this Convention, they shall seek a solution by negotiation or by any other means of dispute settlement acceptable to the parties to the dispute.
2. 2. When signing, ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a Party may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1 of this article, it accepts one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:
 - (a) Submission of the dispute to the International Court of Justice;
 - (b) Arbitration in accordance with the procedure set out in annex IV.
3. If the parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2 of this article, the dispute may be submitted only to the International Court of Justice, unless the parties agree otherwise.

Thank you!

Platform for international water law

www.unige.ch/droit/eau

Geneva Water Hub

www.genevawaterhub.org

mara.tignino@unige.ch

Decorative wavy lines in shades of blue, red, yellow, and green at the bottom of the slide.