

THE IBERIAN (Portugal and Spain) TRANSBOUNDARY WATERS A CENTENNIAL HISTORY OF COOPERATION

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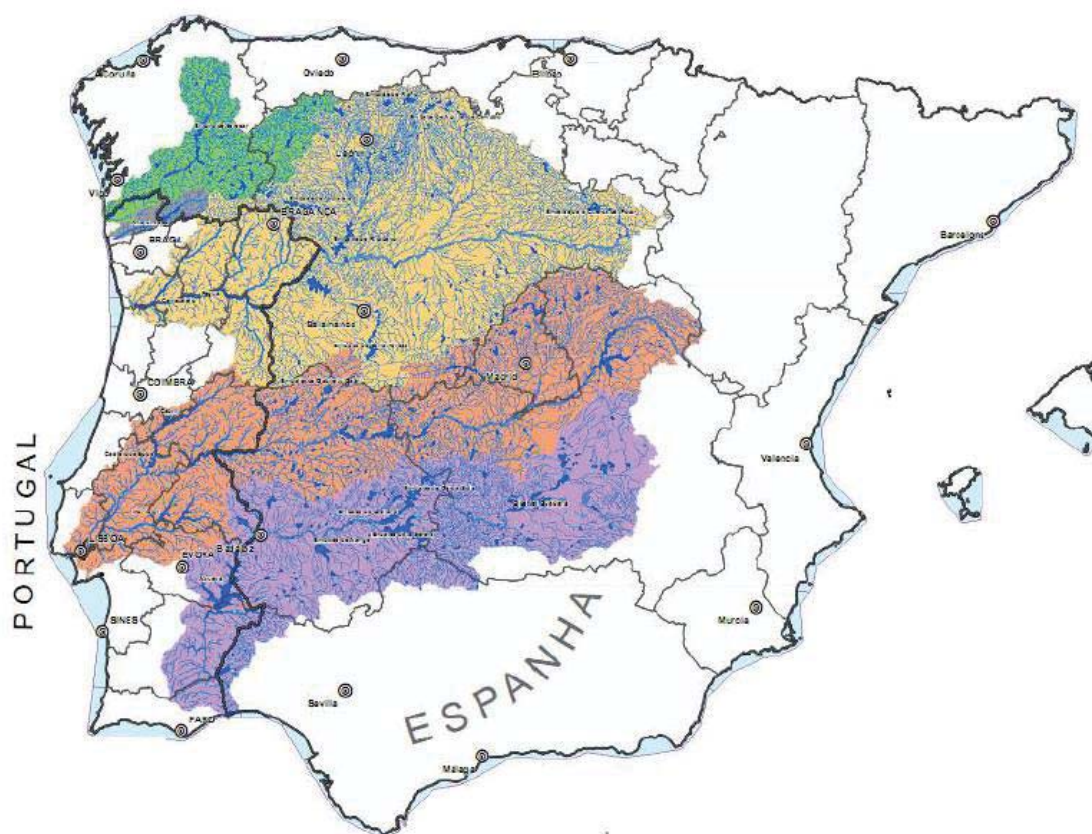
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The political frontier between Portugal and Spain dates from the end of the 13th century and rivers, as natural barriers, were important for this purpose.

But the same rivers also created links between the populations, sharing them for navigation and transportation of goods. Borders were not that important at that time for the populations living as neighbors, irrespective of nationality.



The Iberian Transboundary River Basins

Portugal and Spain adopted a convention for industrial usage of transboundary watercourses in 1912. But none of the parties exercised his rights until 1927, when a first treaty for hydropower development of the Douro boundary section was signed.

The basis of this treaty was the 1923 *Geneva Convention Relating to the Development of Hydraulic Power Affecting more than one State*, approved under the umbrella of the League of Nations.

The 2 countries decided to benefit from the hydropower potential of the mainstream border portion of the Douro River, in equal shares:

- The upstream part being allocated to Portugal
- The downstream part to Spain

Sharing the hydropower of other transboundary rivers proved to be more complicated for 2 reasons:

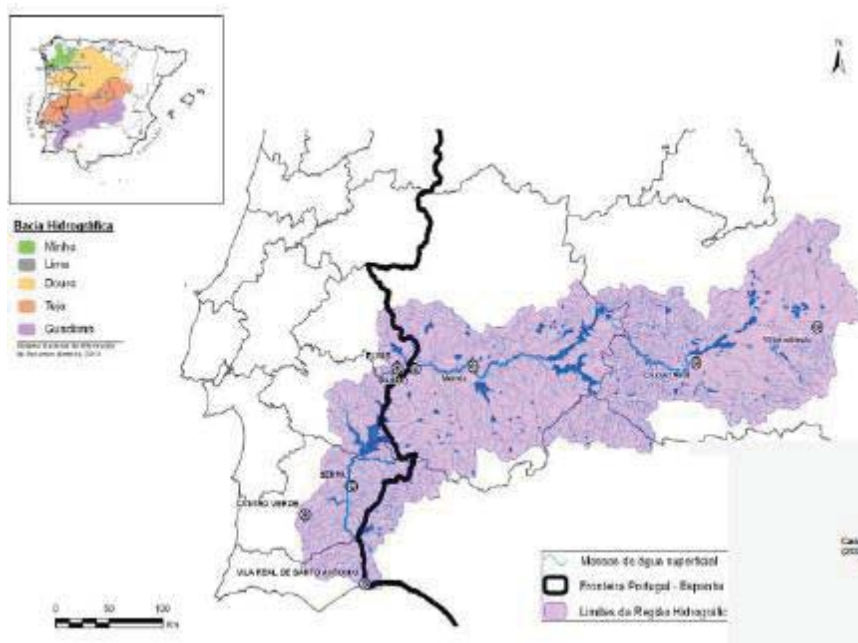
1. It was the interest of the two countries to give other uses to the waters, namely irrigation and transfers to other basins;
2. The best technical solution was no longer the sharing of the hydropower potential of each border stretch of each river in two equal parts, but the sharing of the joint potential of the border stretches of all rivers.

Finally it was possible to agree on a new treaty, signed in 1968 in these terms:

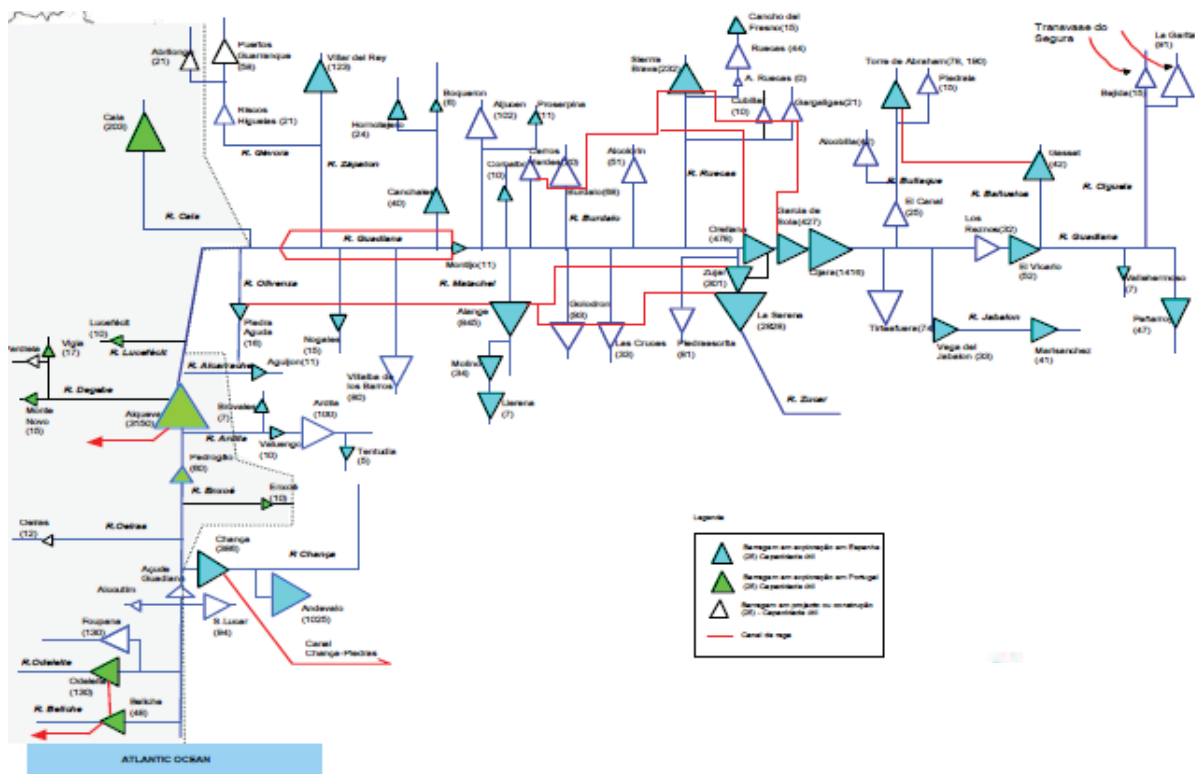
- The mainstream border stretches of the Tejo (Tagus) and Chança rivers were given to Spain;
- Those of the Lima and the Guadiana rivers to Portugal;
- The Minho River was used to balance the share of hydropower potential between the two States.

Only the mainstream border portions of the rivers were concerned and the protection of the water bodies was not considered, and the words *sustainability*, *sustainable uses*, *environment protection*, or *environmental impacts* were never used in these conventions.

In the Guadiana river basin, water is used mainly for irrigation, a highly consumptive use and one who requires very intensive seasonal regulation of flows. Guadiana basin area = 66 800 km² (Portugal – 11 500 km² ; Spain – 55 300 km²).



International Guadiana river basin



Dams and water transfers in the international Guadiana river basin

1998 Convention on the Co-operation for the Protection and the Sustainable Use of Waters of the Spanish-Portuguese River Basins (Albufeira Convention)

Between 1960 and 1993 the construction of new dams and the accompanying regulation of river flows and water consumption, mainly in irrigation and water transfers in Spain, increased and contributed to diminish the amount of water flowing into Portugal.

The same policy at a smaller scale was being adopted in Portugal and as consequence, the cumulative environmental impacts were significant downstream.

As Member-States of the EU, both States had new obligations and things could not go on as they were. Business-as-usual was no longer a legitimate option.

In 1994 the Governments of the two States decided to launch the negotiations for a new Water Convention that should be based on the concepts of environment protection and sustainable use, should encompass all the transboundary watercourses, the whole river basins and all water uses. That ambitious project took 4 years to be concluded.

The parties decided to analyze the situation in each river basin, to inventory all uses, present and foreseen in the horizons 2012 and 2020, to perform backwards reconstitution of the situation of river flows in pristine conditions and perform hydrologic and hydraulic studies to simulate future conditions for different scenarios.

Albufeira Convention: Signed in the Portuguese city of Albufeira on 30th November 1998.
Coordination Structure: *Commission for Implementation and Development of the Convention (CADC)*

Main tasks:

- Establishment of a list of common activities ruled by the Albufeira Convention and WFD
- Definition of priority areas for coordination
- Identification of all boundary and transboundary water bodies
- Harmonization of methodologies and approaches
- Definition of environmental objectives
- Coordination of the programme of measures

Key issues for the 1998 Water Convention (Spanish-Portuguese Albufeira Convention):

- Cooperation
- Coordination
- Environmental protection
- Sustainable development
- Exchange of information
- Consultation
- Impact mitigation
- Flow guarantees

Key challenges:

- Water Demand / Water Allocation
- Water Quality / Biodiversity
- Water Scarcity

Approach to cooperation:

ELEMENTS	INSTRUMENTS
Legal framework	2 bilateral treaties, EU Directives and United Nations Economic Commission for Europe (UNECE) Conventions: 1991 Convention on Environmental Impact Assessment in a Transboundary Context (<i>Espoo Convention</i>) 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes (<i>Helsinki Convention/Water Convention</i>)
Institutions for cooperation	Bilateral Joint Commission responsible for the follow up of 1964 and 1968 treaties Political willingness of both Governments to arrive to a conclusion in due time - High level meetings (Ministers of the Environment and even Prime Ministers). Working group in charge of the drafting of the new convention (Engagement of skilled hydraulic engineers, jurists and diplomats in the preparation of technical documents, drafts of the terms of agreement and the negotiations)
Information Exchange and monitoring	Each Party is responsible for monitoring a set of parameters (both quantitative and qualitative) in its own territory and reporting them to the other Party. The Parties exchange information on warnings and emergency situations and on programs and projects that may have a transboundary impact

Incentives for cooperation	Without cooperation the Parties would have to find other solutions for the disputes that would arise from the use of water in water scarce areas; Funding for projects would be problematic, with each Party raising obstacles to other Party's projects.
Benefit sharing	Portugal benefits from regulation of river flows in upstream (Spanish) reservoirs in the Douro and Tejo rivers, and water in Alqueva reservoir is used for urban water supply and irrigation in both countries.
Mediation and dispute resolution	Never happened but a mechanism for dispute resolution is foreseen in all treaties.
Others (confidence building)	Confidence building and good relationship between the administrations and the people involved has proved to be very important.

LESSONS LEARNED	COMMENT
1 Engage diplomats as soon as possible in the process	Diplomats are experts in negotiations and will bring a sense of realism to the negotiations
2 Engage experts on International Public Law in the negotiations	A river basin agreement, be it a treaty, a convention, an exchange of diplomatic notes between the two governments or whatever you call it, is always a legally binding document that will last for many years
3 Engage skilled multidisciplinary team of experts for the preparation of technical documents	A good agreement - an agreement that will last many years and respond to your expectations - must have a good technical basis
4 Try hard to accommodate all relevant issues raised by the other party	A good agreement is always a "win-win" agreement; if it is not good to one of the parties it will not work and will never be fully implemented, will never accomplish your expectations
5 Do not try to evade difficult issues by postponing them to the future, unless this is unavoidable	Reopening negotiations is always difficult. Take advantage of the mood to negotiate of the other party as political changes that may occur at any moment may change it from " <i>day to night</i> "
6 Take the chance, be opportunistic	Jump into the opportunity as it may well not present itself again for many years; all negotiation requires the good will of two parties
7 Be rigorous in drafting, avoid ambiguous formulations as much as possible	Ambiguities will create difficulties in the implementation and may jeopardize expected results

For more information about CADIC Albufeira Convention, visit: <http://www.cadc-albufeira.eu/>