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Setting the Context, Designing a legal framework for transboundary waters:  
importance and the state of the art

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# Global Workshop on the Development of Transboundary Water Cooperation Agreements or other Arrangements

7-8 November 2023 | Budapest

# What are ‘Transboundary Water Cooperation Agreements or other Arrangements’?

- Formal commitments falling under the scope of the **1969 Vienna Convention on the Law of Treaties** entered into by Parties in written form and governed by international law.
- ‘**Other arrangements**’ are seen as less formal [but still formal] types of agreements as well as other forms of cooperation and mutual understandings between Riparian Parties’
- **Many different names**, e.g. convention, charter, treaty, protocol, memorandum of understanding, declaration, exchange of letters and minutes

## Guide to Implementing The Water Convention



# Widespread recognition of the need to adopt new transboundary water cooperation agreements and revise existing ones where needed



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2023

## Interactive Dialogue 4 – Water for Cooperation Concept paper

‘...where operational arrangements are lacking or not adaptable or resilient enough to meet contemporary challenges, governments should take responsibility, in partnership with non-governmental actors and with support from the international community, for establishing such arrangements’

## One of the key messages from Interactive Dialogue 4 – Water for Cooperation

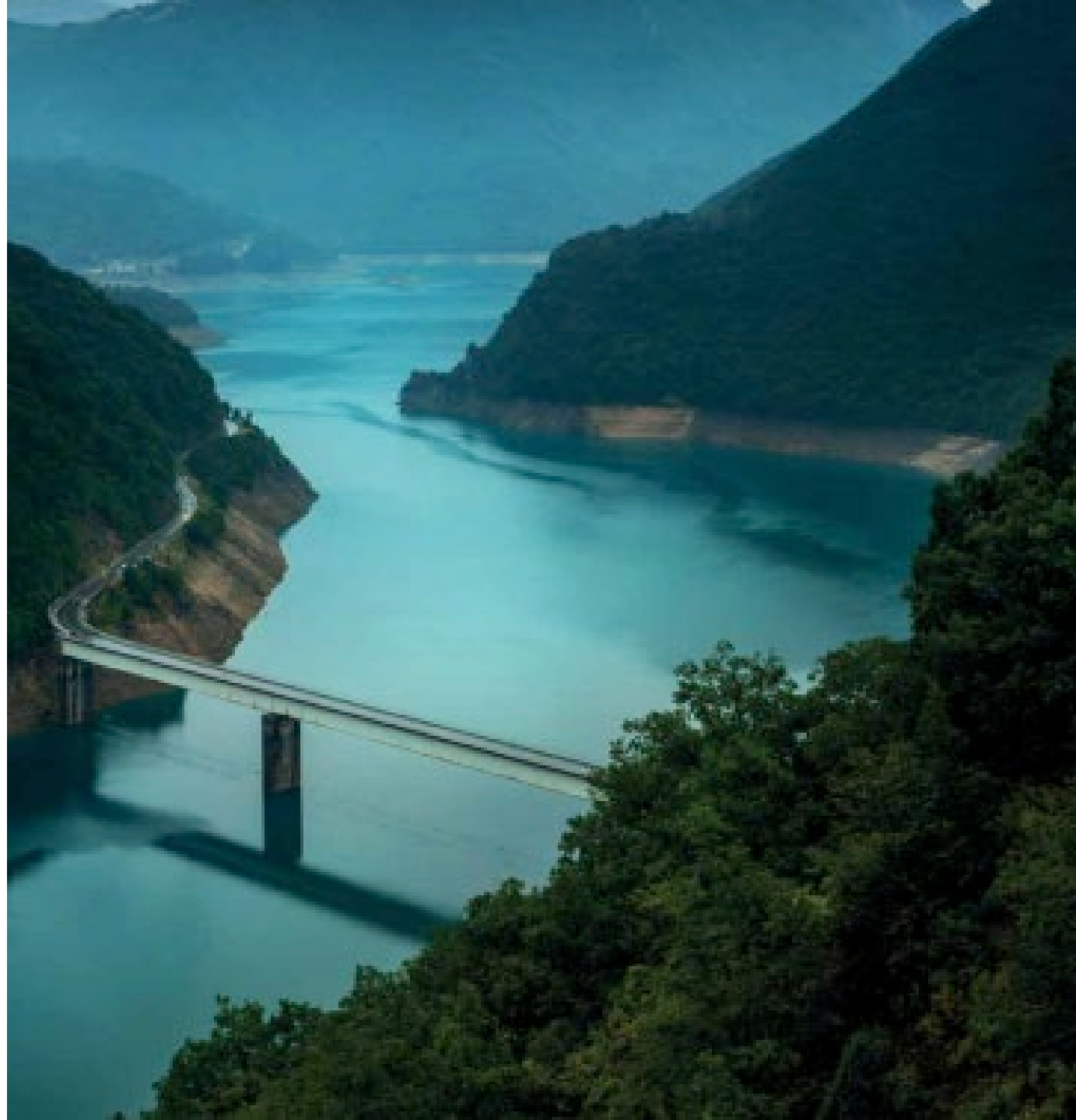
‘Speed up the establishment of cooperation agreements where they do not yet exist and strengthen existing agreements to enable them to meet growing challenges on the basis of the principles of international law and the two UN Water Conventions’



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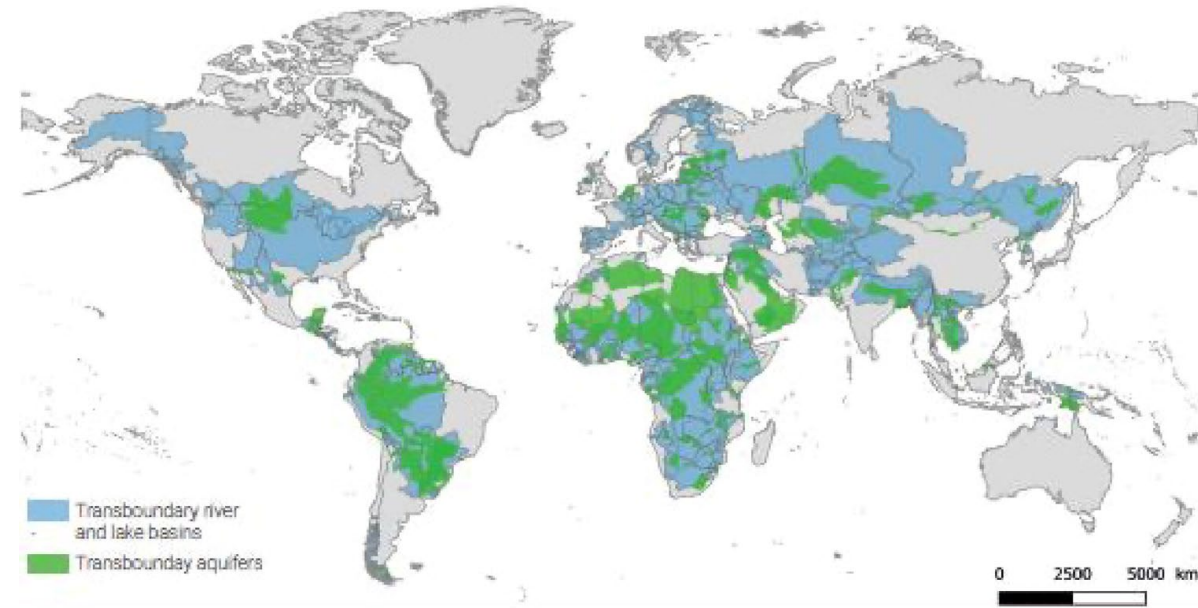
## Why are transboundary water cooperation agreements important?

- Foundation upon which long-term transboundary water cooperation and all the benefits it has to offer can flourish
- Provide predictability on the basis of commonly agreed rules and principles of international law
  - what State's are entitled to do, what they must do, or what they obliged not to (substance);
  - how they agree (process).
- Provide a means by which to avoid and/or manage disputes
- Process of negotiating agreements, if done 'properly', can be valuable in building shared knowledge and understanding, setting priorities, and building trust



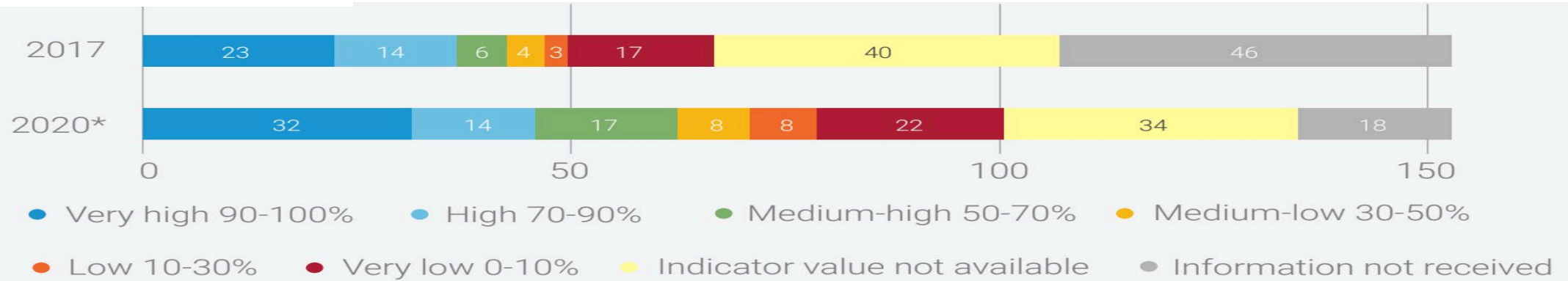
# Why are transboundary water cooperation agreements important?

There aren't enough of them ...



## SDG INDICATOR 6.5.2 TRANSBOUNDARY WATER COOPERATION

Only 32 countries out of 153 have at least 90% of their territory with transboundary basins covered by operational arrangements



\*Includes 2017 data from 19 countries, where 2020 data are not available

... although there is a long tradition of negotiating, adopting and implementing agreements!

- Lagash-Umma agreement, 25<sup>th</sup> Century BC

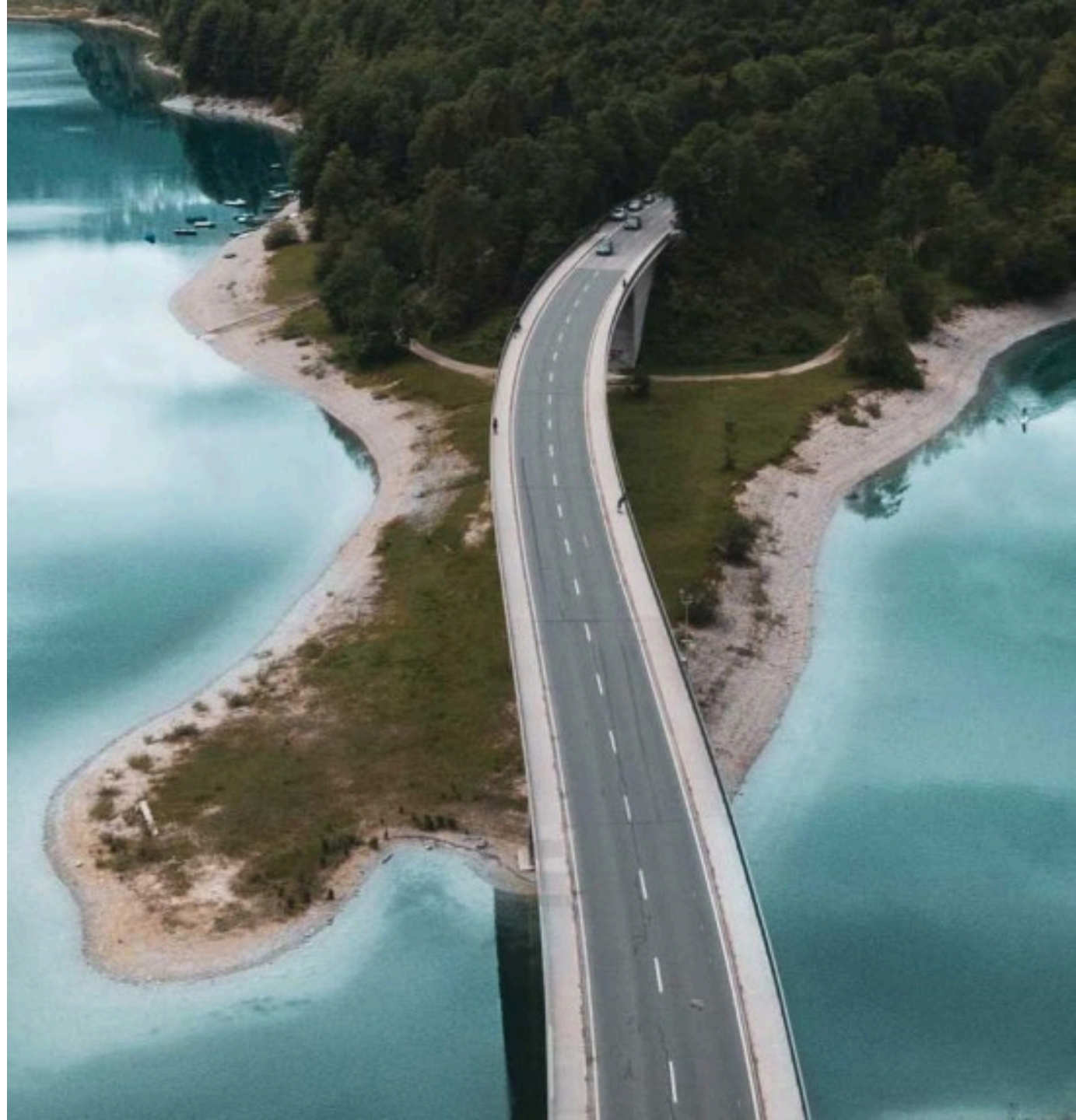
- 400+ agreements concluded since 1820

Lots of lessons to learn from this knowledge and experience



## What is the State of the Art?

- No 'one-size-fits-all'!
- Can be basin-wide, sub-basin, part of a basin or bilateral
- Content varies ...
  - Might include detailed legal and institutional provisions covering an entire basin
  - Might only include basic principles and focus on establishing a joint institution, e.g. river basin organization
  - Might only include basic principles
  - Might cover a specific project or be temporary
- ... but core principles tend to be the same
  - By and large based on principles of international law as reflected in Water Conventions



# Concluding remarks

- Transboundary Water Cooperation Agreements fundamental to promoting transboundary water cooperation
- Transboundary water cooperation fundamental to progressing sustainable development, tackling climate change, and fostering peace and prosperity
- Need to speed up the adoption of agreements
- Can build upon the many examples of Transboundary Water Cooperation Agreements and learn from the knowledge and experience gained during their negotiation and implementation
- Transboundary Water Cooperation Agreements come in all different shapes and sizes but certain key rules and principles, which reflect customary international law and the Global Water Conventions, are at the core of most agreements

