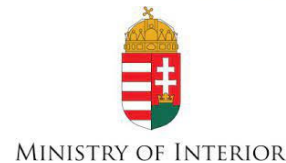


# What type of legal provisions contribute to the establishment of an effective institutional framework: the case of the Binational Commission between Ecuador and Peru

Mr. Diego Jara, Legal Officer, IUCN



# Transboundary rivers shared between Ecuador and Peru

- 9 transboundary rivers flowing from the Andes
- 6 rivers flowing into the Amazon and 3 into the Pacific
- Cover an area of approximately 400.000 square kilometres
- Approximated population of 6 million people



# Transboundary river basins shared between Ecuador and Peru:

- To the Pacific
  - Zarumilla
  - Puyango-Tumbes
  - Catamayo – Chira
  
- To the Amazon
  - Mayo-Chinchi
  - Morona
  - Santiago
  - Pastaza
  - Conambo – Tigre
  - Napo





# Challenges

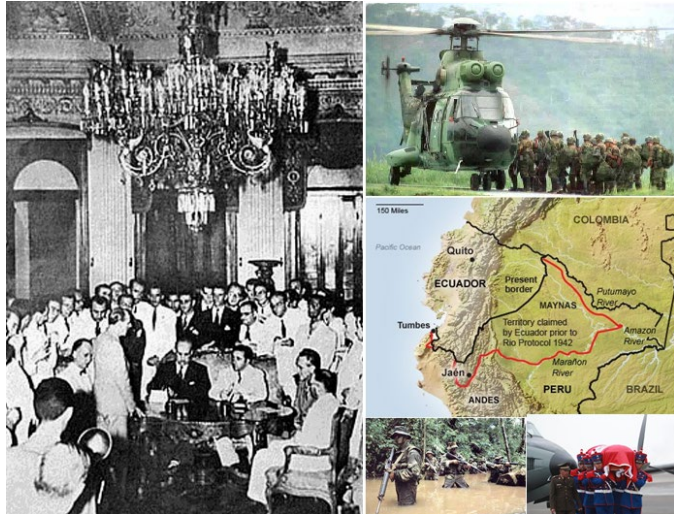
- Lack of access to safe drinking water
- 80% of wastewater is discharged into rivers without any treatment
- Pollution from agriculture, industrial and mining activities
- Inadequate development of large water infrastructure
- Climate change (El Nino) and glacier recession in the Andes
- Displacement of local and indigenous communities



*Indigenous peoples find heavy gold-mining machinery along the Aguarico river January 2018*

# Relationship between Ecuador and Peru

- From conflict



- Independences: Ecuador (1819), Peru (1821)
- Wars: 1858-1860, 1941
- Unfinished Peace Treaty (1942)
- Wars: Paquisha (1981) and Cenepa (1995)

- To cooperation



- Ecuadorian-Peruvian Peace, Integration and Development Agreement (1998)
- Agreement for the Establishment of a Binational Commission for the Management of the Zarumilla River (2009)
- Presidential Declaration on Cooperation (2010)
- Binational Presidential and Ministerial Meetings (2011, 2012, 2013, 2014, 2016, 2017)

# 2017 Binational Commission Agreement

- In 2017, Ecuador and Peru adopted the Agreement to Establish the Binational Commission for the Integrated Management of Transboundary Waters (2017)
- This Agreement regulates all transboundary river basins shared between Ecuador and Peru
- Promotes the consolidation of a bilateral cooperation for the best use and management of transboundary waters



*Agreement to Establish the Binational Commission, 2017*



# Binational Commission

- Objectives

- Consolidate bilateral cooperation
- Integrate management of shared water resources, ensuring the **participation of water users and civil society**
- Improve livelihoods and protect nature
- Joint elaboration, implementation, monitoring and evaluation of **management plans**
- Jointly address the **effects of climate change**



*Negotiation of the Binational Commission Bylaws, 2023*

# Ecuador – Peru Binational Commission

|   |   |
|---|---|
| <b>Commission</b>                       | 5 Representatives from each country (Ministries of Foreign Affairs, Environment and Water)  |
| <b>Technical Binational Secretariat</b> | 3 Representatives from each country (Ministry of Foreign Affairs, Environment and Water)  |
| <b>Basin Committees</b>                 | 9 Basin Committees with representatives from each country according to national legislation<br>(Zarumilla, Puyango – Tumbes, Catamayo – Chira, Mayo – Chinchipe, Morona, Santiago, Pastaza, Conambo – Tigre and Napo) |



# Functions of the Commission

- Develop **policies and strategies** to promote integrated management of water
  - Approve **integrated water management plans**
  - Analyse and approve **technical and finance proposals**
  - **Promote dialogue and the peaceful resolution of disputes**
  - Identify and implement **climate change adaptation and mitigation measures**
  - Establish **investment mechanisms** for the implementation of basin plans
- 

# Functions of the Technical Binational Secretariat

- Coordinate the **exchange of data and information** between Basin Committees
  - Establish **mechanisms and recommendations for monitoring and evaluating basin plans**
  - **Supervise implementation** of basin plans
  - **Coordinate the meetings** of the Binational Commission
  - **Keep the records** of the Binational Commission meetings
  - Clearinghouse for **sharing information**
- 

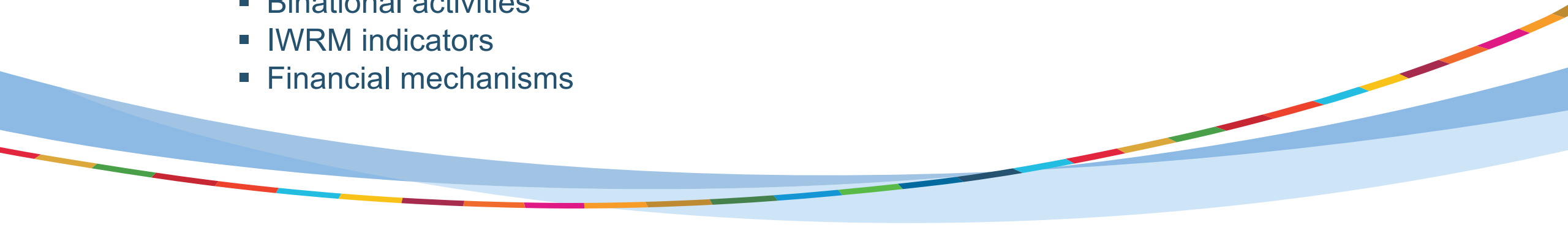
# Functions of the Basin Committees

- **Apply the policies** provided by the Binational Commission
  - Elaborate and present **draft basin plans** to the Binational Commission
  - **Elaborate financial plans** for implementation at the basin level
  - **Implement climate change adaptation** and mitigation measures
  - Design **rules of procedure** applicable for each basin
  - Designate **technical expert groups**
  - **Develop rules of procedure** applicable to the realities of a specific basin
- 



# Key provisions (I)

- Basin Management Plans

- Each Basin Committee elaborates and presents a basin management proposal
  - Plans have a scope of 5 years and are monitored by the Technical Binational Secretariat and approved by the Commission
  - Minimum content of the basin management plans
    - Current status of the basin
    - Common objectives
    - Binational activities
    - IWRM indicators
    - Financial mechanisms
- 

# Key provisions (II)

- **Information management:**
  - Parties are required to exchange data and information on a regular and permanent basis
- **Communications**
  - Each Party will notify in case of planned measures with possible averse effects
  - Such Party will present an evaluation of the potential effects and the measures to be adopted in a cooperative manner to prevent any negative impact
- **Emergency situations:**
  - Each Party will notify in case of situation of emergency that might cause imminent harm to other States such as landslides, floods, industrial accidents.
  - The Party will notify without any delay to prevent, mitigate or eliminate the negative effects derived from the emergency



*Oil spill in the Napo river*

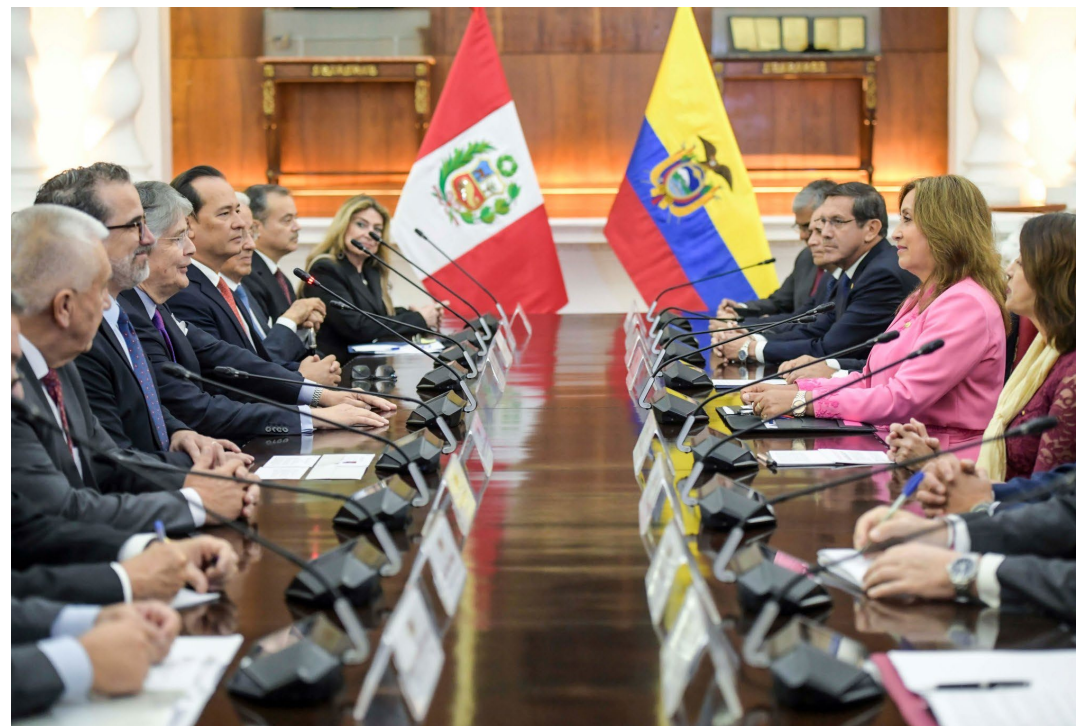
# Key provisions (III)

- **Financing:**

- Each Party will bear the costs for the implementation of the Agreement and its Bylaws.
- Other sources of funding such as allocations, donations and legacies from international cooperation agencies are considered.

- **Dispute settlement mechanism**

- Controversies will be settled in a friendly and direct manner through consultations



*Adoption of the Ecuador – Peru Binational Commission Bylaws,  
Lima, Peru 25.10.2023*



# Key messages

- **Water cooperation** relies on continuous **processes** of trust building, dialogue and consensus
- **Progressive negotiations** facilitate the development of complex agreements
- **Benefits** deriving from water cooperation can accelerate mutual gains in key strategic sectors
- The establishment of the Ecuador – Peru Binational Commission has the potential to **guide the development and reform** of basin and regional arrangements for the protection of transboundary waters in South America



Thank you!

Diego Jara

[Diego.Jara@iucn.org](mailto:Diego.Jara@iucn.org)

Environmental Law Team

Bonn, Germany

Centre for Society and Governance

IUCN

