
SAFEGUARDING SUSTAINABILITY AND EQUITY WITHIN THE CONTEXT OF HYDROPOWER DEVELOPMENTS - WHAT ROLE FOR INTERNATIONAL LAW?

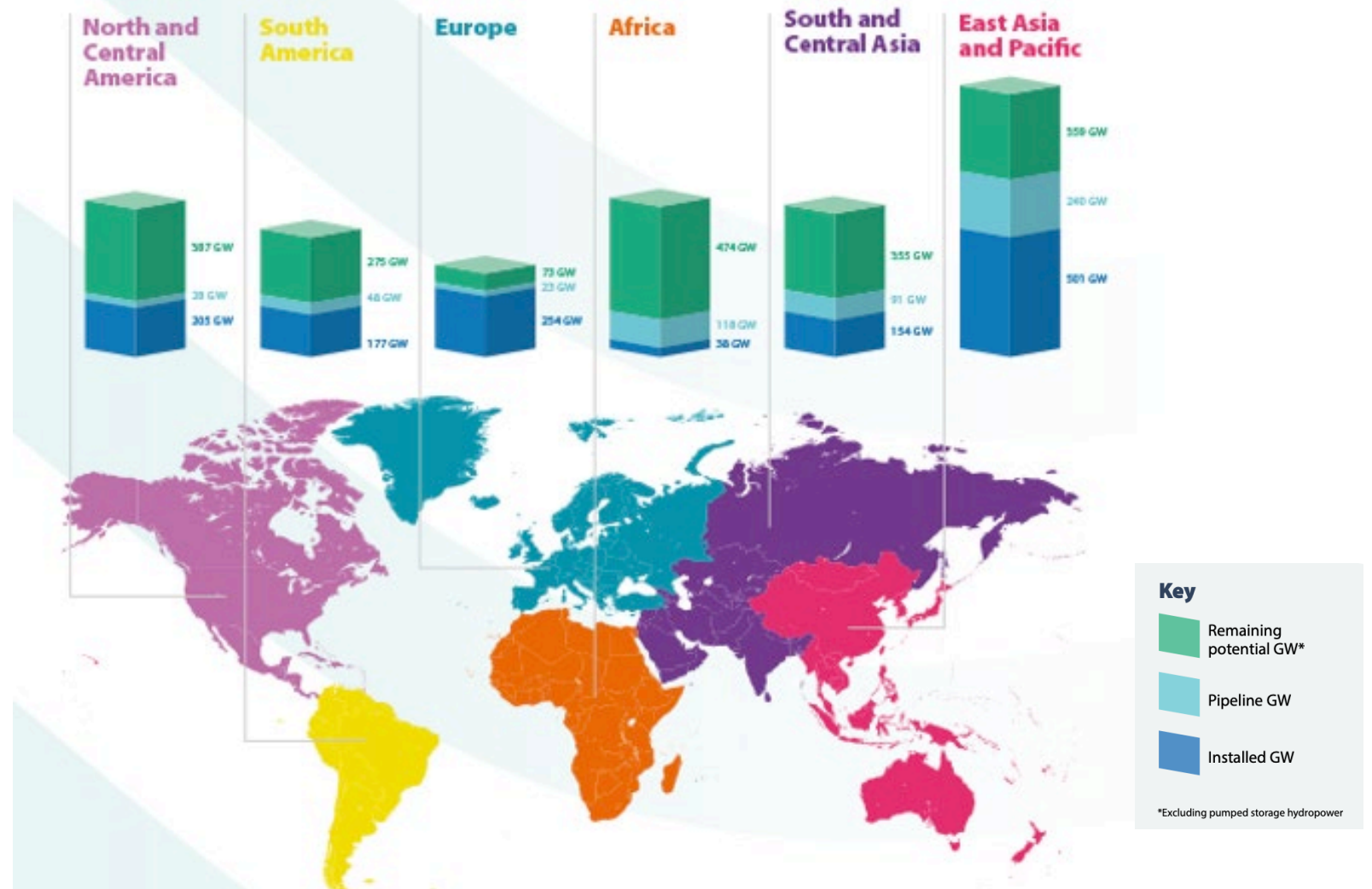
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SOME FACTS AND FIGURES

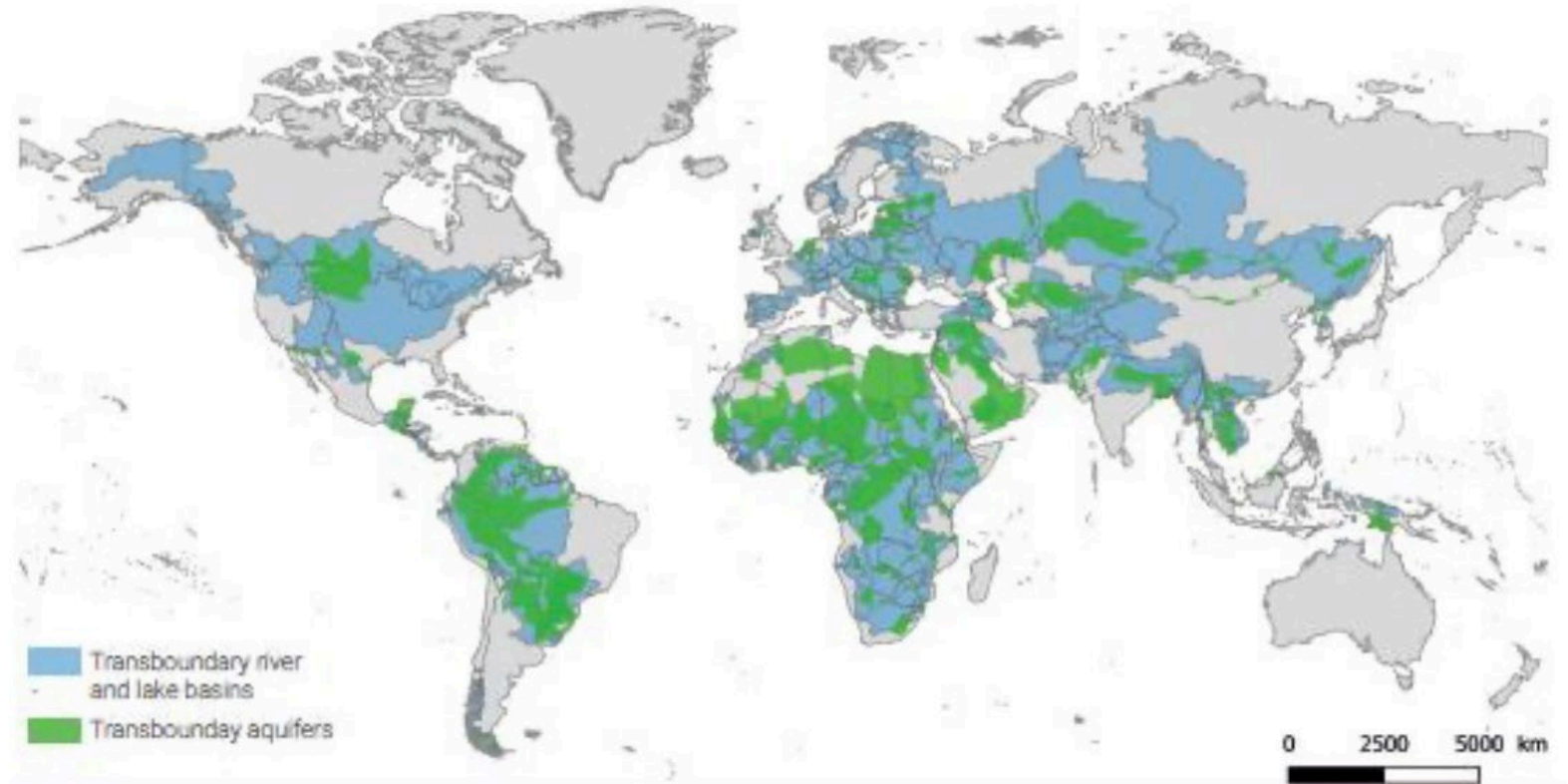
- International Energy Agency, *NetZero by 2050* report calls for doubling of hydropower capacity by 2050
- Requires increase of 850+ GW by 2050
- SDG indicator 7.2 - By 2030, increase substantially the share of renewable energy in the global energy mix
- 2015 Paris Agreement –
 - Through NDCs hold temperature increase to 2°C above pre-industrial levels and aim for 1.5°C (Art. 2 and 3)
 - ‘... intrinsic relationship that climate change actions, responses and impacts have with equitable access to sustainable development and eradication of poverty’ (Preamble)



‘...the only acceptable hydropower is sustainable hydropower’, International Hydropower Association (IHA), 2001 San José Declaration on Sustainable Hydropower

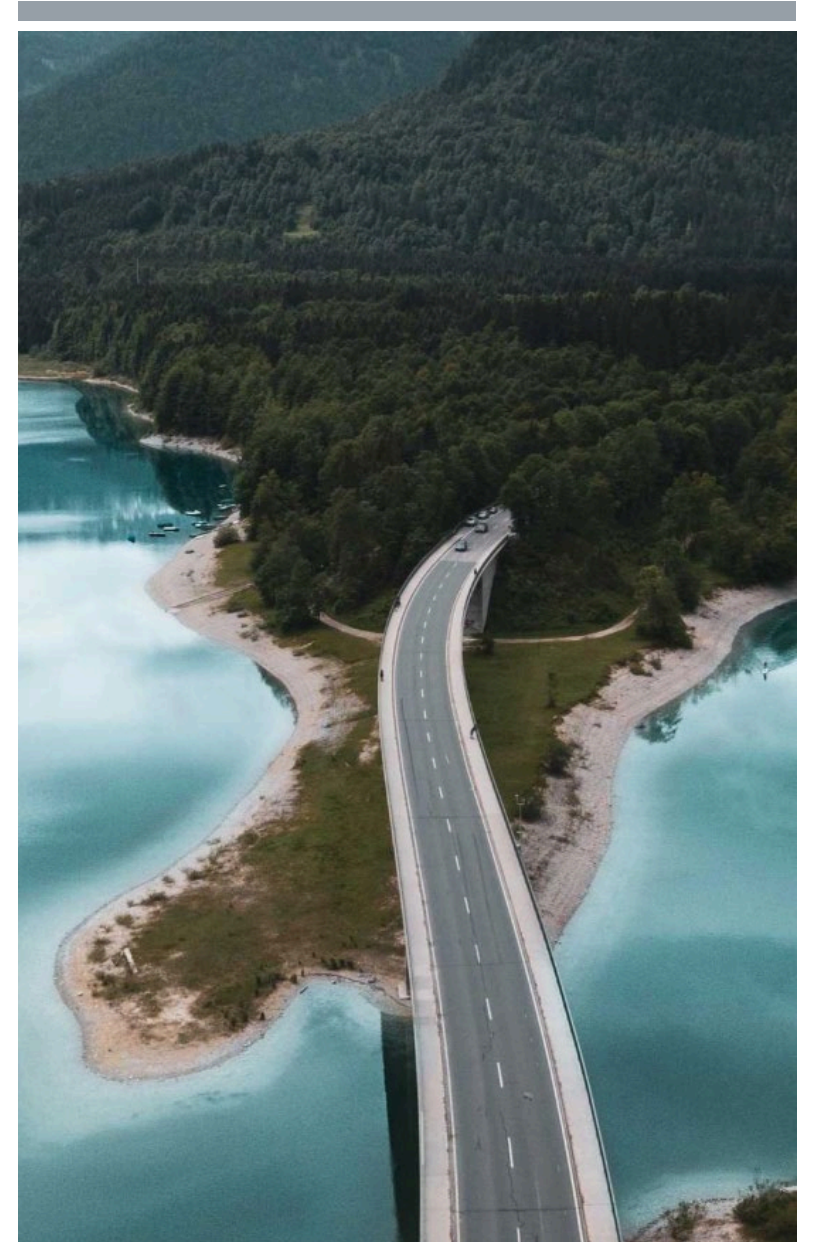
WHAT ABOUT THE TRANSBOUNDARY DIMENSION?

- 150+ countries share transboundary rivers, lakes and aquifers
- Transboundary water cooperation critical for climate change, sustainable development, and maintenance of peace and security
- Legal arrangements critical to ensure transboundary waters shared in equitably and sustainably between countries



THE APPLICABLE LAW - FRAGMENTATION OR CONVERGENCE?

- Only 32 countries report having 90% or more of their transboundary basin area covered by operational arrangements (SDG indicator 6.5.2 – 2018 Progress Report)
- In the absence of basin-specific treaty arrangements, what law applies?
 - Customary international water law
 - International human rights law
 - International investment law
- Many standards and policies may also apply but tend not to be specific to transboundary hydropower (c.f. World Bank Environmental and Social Framework and OP 7.5)



VOLUNTARY STANDARDS - SOFT LAW / DUE DILIGENCE OBLIGATION?

- World Bank Environmental and Social Framework as well as regional development banks
- Equator Principles
- UNEP Finance Initiative Principles for Responsible Banking
- OECD Guidelines for Multinational Enterprises
- UN Global Compact
- Guiding Principles on Business and Human Rights
- International Hydropower Association Sustainability Tools

What about
the
transboundary
dimension?

RESEARCH ACTIVITIES

- Need to deepen knowledge and understanding of applicable law and its implementation
 - Learn from experience
 - Enhance synergies between laws, policies and standards
- International law and transboundary hydropower projects, 9-10 March 2023, University of Bologna
- Checklist for Assessing the International Law Applicable to Transboundary Hydropower, 2023
- Special issue of *Frontiers in Climate* 2023
 - ‘Doubling global hydropower capacity by 2050 – water about the transboundary dimension?’
- ‘Due diligence’ Conference, with Northumbria University, University of Edinburgh, University College Cork, Wuhan University and others, June 2024
- Northumbria University studentship
 - [The future of international law applicable to hydropower projects on transboundary rivers \(Ref: RDF24/BL/LAW/RIEU-CLARKE\)](#)



SUMMARY AND CONCLUSIONS

- Need to strengthen international law due to increased interest in hydropower on transboundary rivers
- While significant progress existing legal architecture has its weakness
- Need a holistic interpretation and application of law across three key areas – water/environmental law, human rights and investment
- Opportunity to develop knowledge and understanding of law applicable to transboundary hydropower in collaboration with States, NGOs, international organizations and others involved in projects
 - Learn lessons from past success and failures
 - Tailor laws, policies and standards to *transboundary* hydropower context
 - Build on growing support for the Water Convention
- Critical to ensuring that future projects are implemented in an equitable and sustainable way