

UNECE

**Practical Guide for the Development of
Agreements or Other Arrangements
for Transboundary Water Cooperation**



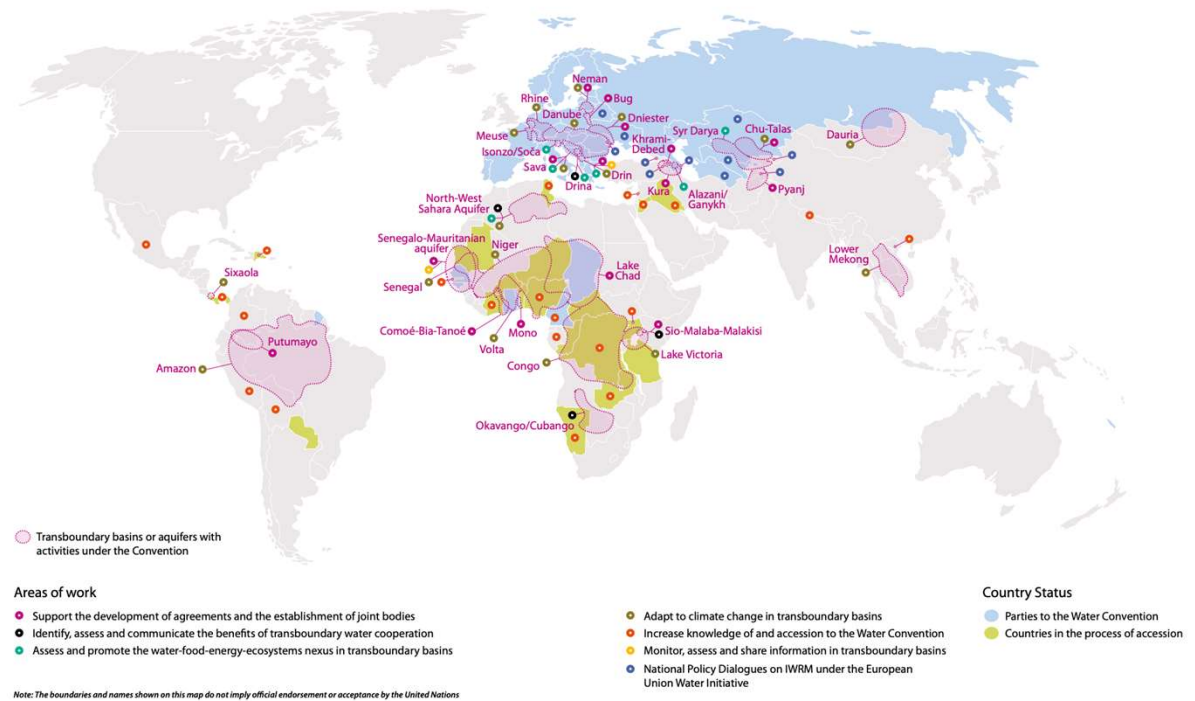
Introduction to the Practical
Guide for the Development of
Agreements and other
Arrangements for
Transboundary Water
Cooperation

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Water Convention's support for the development of agreements

- Over 100 agreements signed since the Water Convention's adoption in 1992
- Work Programme Area 1 2022-24
 - Includes supporting the development of agreements and establishment of joint bodies
- Examples include Dniester River Basin, Drin River Basin, Senegal-Mauritania Aquifer Basin, Chu-Talas River Basins...
 - Direct support for developing agreements
 - Exchanging knowledge and experiences between basins
 - Capacity development
 - Guidance materials



Introduction to the Practical Guide

Objective: support countries in the **design and drafting** of agreements or other arrangements for transboundary waters that are effective, adaptable and sustainable.

Focus: on **content and drafting options** rather than on process.

Target audience: State representatives, legal and technical experts, decision-makers involved in negotiation of agreements or other arrangements for transboundary waters, the staff of river basin organizations, regional organizations, and other stakeholders working on transboundary cooperation and water diplomacy are the target audience of the Practical Guide.

Publication available at: <https://unece.org/info/publications/pub/361821>

When is the Practical Guide useful?

- It supports legal and technical experts, decision makers involved in negotiation of agreements for transboundary waters, involving R/LBOs, regional organizations, other stakeholders working on TWC and water diplomacy
 - *Current example: Luapula River Authority Agreement & Institution (Zambia and DRC)*
- Where needed and appropriate and where agreed by parties, the guide could support a review and update of arrangements already in place
- Enhanced capacity building as basis for adopting cooperative arrangements

Elaboration of the Practical Guide



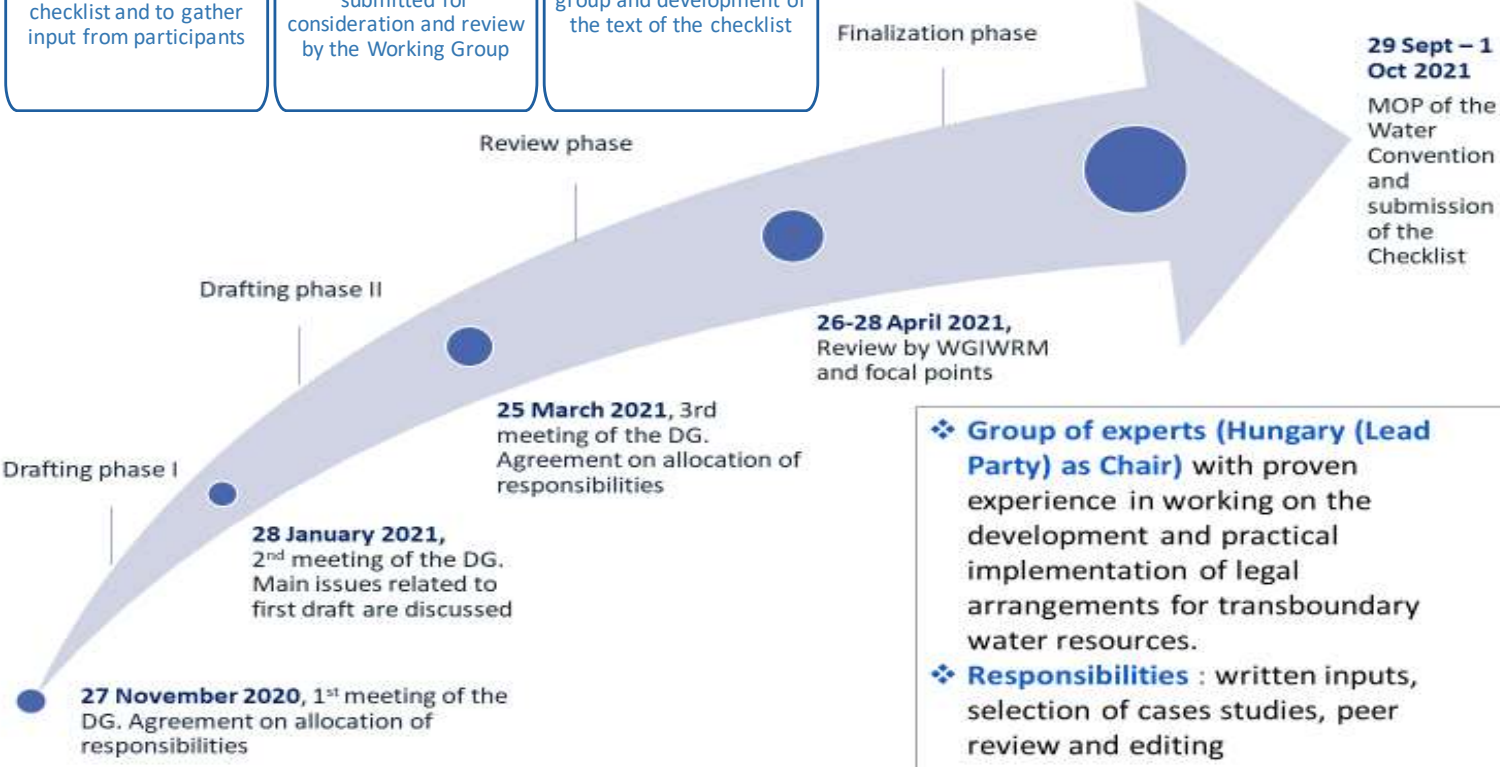
Nur-sultan, 10-12 October 2018,
Meeting of the Parties to the Water Convention adopts programme of work for 2019-2021

Programme of work includes checklist
Preparation of the first draft annotated outline (secretariat in cooperation with several partners)

28-29 July 2020, Virtual Workshop
Tailored to support the preparation of the checklist and to gather input from participants

30 September-2 October, 15th meeting of the WGIWRM
Draft annotated outline submitted for consideration and review by the Working Group

27 Nov. 2020 - Present Drafting group
Formation of a drafting group and development of the text of the checklist



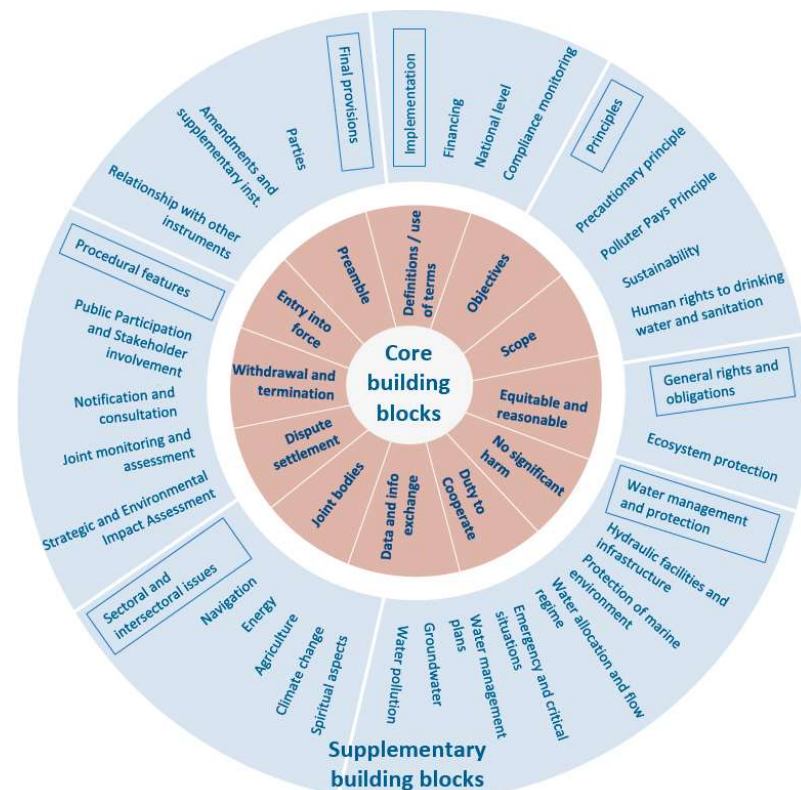
- ❖ **Group of experts (Hungary (Lead Party) as Chair)** with proven experience in working on the development and practical implementation of legal arrangements for transboundary water resources.
- ❖ **Responsibilities** : written inputs, selection of cases studies, peer review and editing



Structure of the Practical Guide

- **6 thematic modules:** Preamble; General provisions; Substantive content; Procedural features; Implementation, institutional framework and dispute settlement; Final provisions.
- **Building blocks** provisions/issues that countries may consider including within each module
- **Key aspects:** help define content of building blocks
- **Introductory text** to each building block, setting out its context and rationale;
- **Key considerations**, which explain different approaches that might be taken within the arrangements, and the implications thereof;
- **Examples from treaty practice** that illustrate how to frame a particular provision; and
- **Supporting resources**, assist in further developing the content

How to use the Practical Guide?



Identify thematic modules to structure the arrangement or the agreement

Consider which building blocks to include from each module

Decide upon the type of provision to develop within a particular building block

Rely on support resources for further details, justification and explanations

Key messages

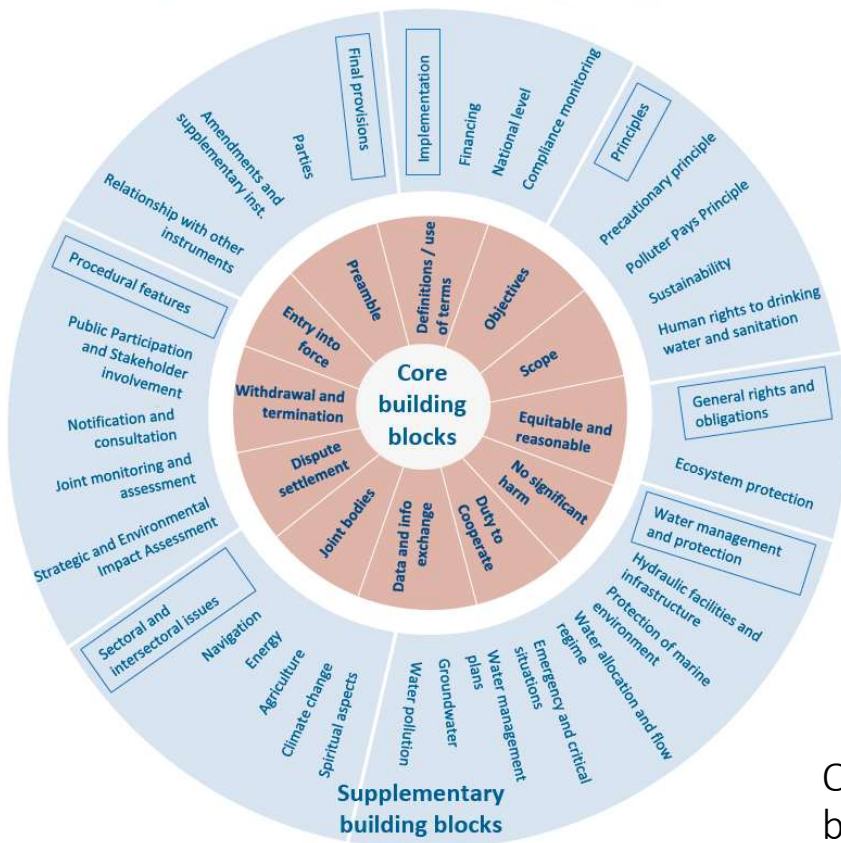
1. There are several benefits to developing agreements or arrangements for transboundary water cooperation.
2. The process of developing an agreement or other arrangement is itself an important outcome.
3. Arrangements can take many shapes and forms.
4. Consider existing national and international law and practices.

Question 1

What form might the arrangement take?

Question 2

What core building blocks should be included in the arrangement?



Overview of building blocks that might be included in an arrangement

Substantive commitments

Core building blocks

Equitable and reasonable utilization

Arrangements on transboundary waters often include a provision on equitable and reasonable utilization. Parties might decide whether to include a general provision that makes reference to the principle, or go further and include relevant factors to take into account when determining what is equitable and reasonable. When including the principle of equitable and reasonable utilization, Parties should be mindful that its implementation will be contingent on procedural rules, such as the duty to cooperate, to exchange data and information, and to notify and consult on planned measures.

See pp. 19-20 for further details.

Duty to take all appropriate measures to prevent significant harm

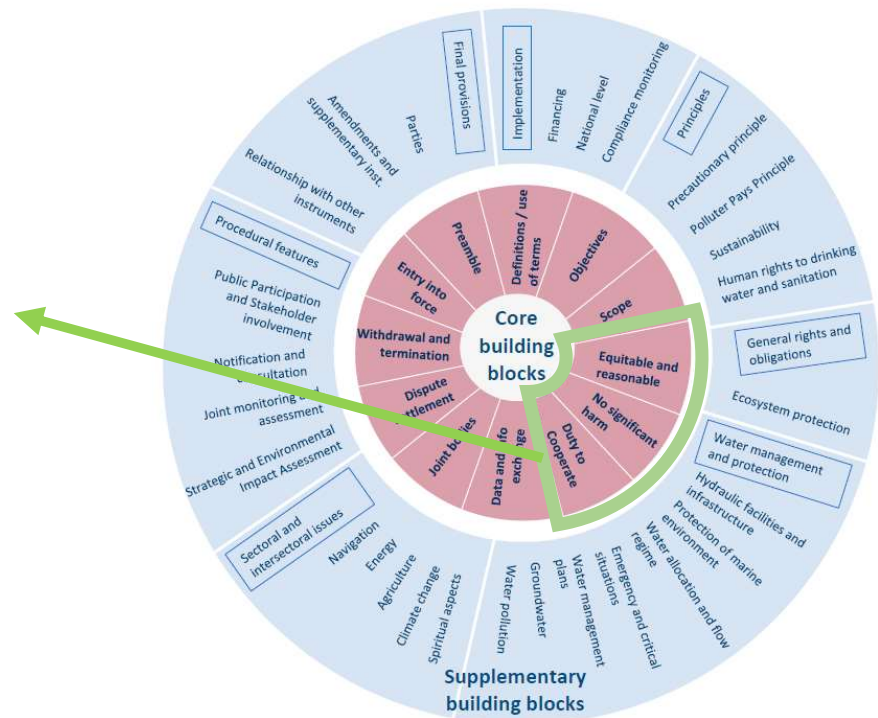
Agreements on transboundary waters often include the so-called "no-harm principle", i.e., the duty to take all appropriate measures to prevent significant harm. Parties may wish to clearly set out the type of measures that should be adopted in order to prevent, control and reduce significant transboundary harm, such as those provided in Article 3 of the 1992 Water Convention.

See pp. 21-22 for further details.

General obligation to cooperate

The obligation to cooperate, which finds its basis in the Charter of the United Nations, should underpin all arrangements for transboundary waters between countries. Such an obligation is often included in arrangements on transboundary waters.

See pp. 25-26 for further details.



Substantive commitments

Procedure and implementation

Core building blocks

Data and information exchange

Most arrangements on transboundary waters include a provision related to data and information exchange, which is a fundamental basis upon which the Parties can develop their cooperation. Arrangements may go into further detail about the type of data and information to be exchanged and the methods and frequency of exchange, or may include more specific detail in an annex or subsequent protocol to the arrangement.

See pp. 69-70 for further details.

Establishment of joint bodies

Joint bodies provide an important means by which to implement the arrangement, and are therefore commonly found within arrangements for transboundary waters. Arrangements set out the status, structure, tasks and functions of a joint body.

See pp. 87-89 for further details.

Dispute settlement

The majority of arrangements include a provision on dispute settlement, which is in line with the general requirement contained in Article 33 of the Charter of the United Nations for States to settle their disputes in a peaceful manner. States may agree on a range of different steps and means by which to settle their disputes.

See pp. 94-96 for further details.

Entry into force

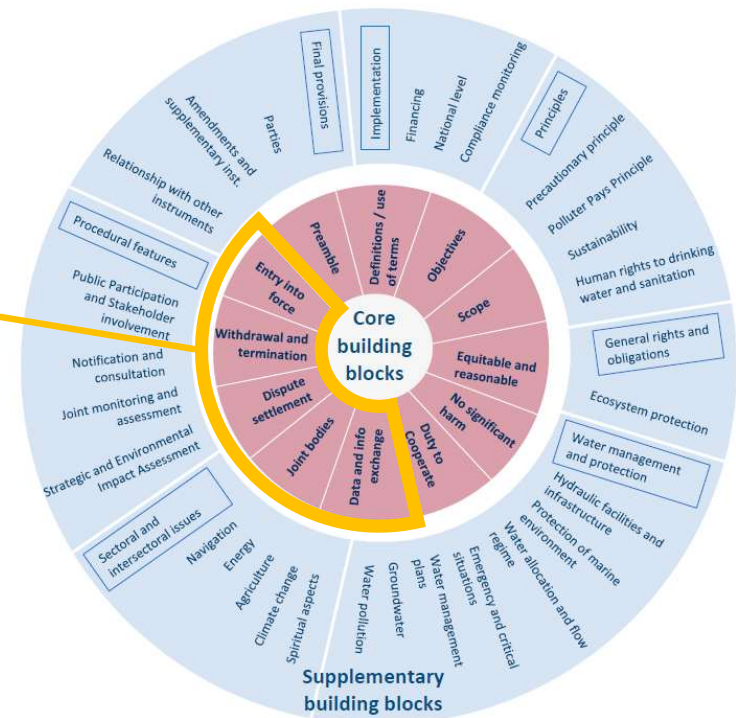
A provision for entry into force puts in place processes that trigger the coming into legal effect of an arrangement at domestic level, and is therefore an important element of an arrangement.

See pp. 105-106 for further details.

Withdrawal and termination

While different approaches exist, most arrangements provide a procedure by which a Party may withdraw from an arrangement, as well as procedures by which the arrangement may be terminated.

See pp. 107-108 for further details.



Question 3

Should the arrangement include general principles and other guiding concepts?

Question 4

Should the arrangement include provisions on general substantive rights and obligations?

Question 5

Should the arrangement include provisions on water management and protection issues?

Question 6

Should the arrangement include provisions on sectoral and intersectoral issues?

Question 7

Should the arrangement include provisions on procedural norms?

Question 8

Should the arrangement include provisions on implementation?

Question 9

Should the arrangement include final provisions?

Convention workshops / activities focused on international water law and hydro-diplomacy

PLANNED ACTIVITIES - PROGRAM OF WORK 2022-24

- **Global training workshop “From practitioner to practitioner: how to use the two global Water Conventions to promote cooperation on the ground”**
 - (3-4 July, Geneva)
- **Global workshop on developing agreements**
 - (November 2023, Budapest)

POTENTIAL ACTIVITIES - PROGRAM OF WORK 2022-24

- **Potential regional workshop on development of agreements and hydro-diplomacy**



THANK YOU

Water Convention:

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