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## ABSTRACT

Establishing and maintaining institutions that address functional necessities are critically important for good governance of transboundary waters. Form should always follow function. Institutional architecture is particularly highly dependent on political, social, economic and ecological drivers. These often competing drivers create a plethora of governance challenges. A one-size-fits-all approach to institutional architecture is neither desirable nor possible in the governance of transboundary waters. Drawing on lessons and experiences from the GEF/UNDP Good Practices and Portfolio Learning in Transboundary Freshwater and Marine Legal and Institutional Frameworks Project, this paper identifies various challenges associated with establishing and maintaining effective transboundary waters governance arrangements. This paper also identifies particular institutional architecture concepts that stakeholders and sovereigns should consider when designing governance institutions, which focus on how to balance incentives, reduce uncertainty, increase confidence and reduce costs. Further research and analysis is needed to identify more specific institutional architectures that are likely to lead to collaborative solutions to common problems in transboundary waters management. However, some preliminary observations and conclusions are presented.

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## ARTICLE INFO

*Keywords:* Transboundary Waters; Governance; Institutional Design; Architecture; Legal Frameworks

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### 1. Introduction

In establishing and maintaining institutions for good governance of transboundary waters, as in life, you can't always get what you want but you just might find you get what you need. At the core of good governance of transboundary waters is institutional architecture that effectively coordinates sustainable economic development and conservation, promotes equitable use and heightens regional security. Specific institutional provisions “can help monitor behaviour, facilitate enforcement and resolve disagreements over treaty obligations, and boost the capacity of member countries” (Tir and Stinnett, 2010).

According to Eckstein (2009), there are “significant inefficiencies in the management and conservation of shared waters, as well as occasional conflicts, which, in turn, has detrimentally impacted economic development, the environment, human health, and international relations.” A 2008 United Nations-Water report indicates that about 160 of the world's 263 transboundary waters situations “lack any type of cooperative management framework” (UN-Water, 2008).

Mere establishment of a governance institution or institutional framework, however, does not guarantee specific transboundary waters challenges will be addressed (Giordano and Wolf, 2003). While a number of institutional frameworks appear to be working successfully, many appear to be missing the full package of what seems to be key design elements for good governance.

Effective governance is even more challenging when viewed in the light of climate change. Climate change is now considered to have marked impacts on surface water, groundwater and marine water resources (Arnell, 2003; Kundzewicz et al. 2008; Perry et al. 2005). And there is mounting consensus that conflict over natural resources can be linked to extreme events as envisaged with climate change (de Ville, 2008).

The Global Environment Facility (GEF) and United Nations Development Programme (UNDP) Good Practices and Portfolio Learning in Transboundary Freshwater and Marine Legal and Institutional Frameworks Project, an applied research study conducted from 2008-2011, included a large-scale critical review of the quality and efficacy of institutional designs in transboundary waters both within, and beyond, the GEF International Waters

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