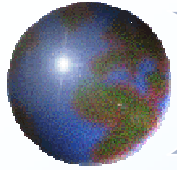


*Why does the UN Watercourses
Convention Entry into Force
Matter?*

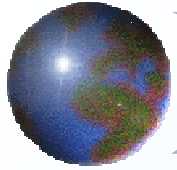
S. Salman

July 14, 2014



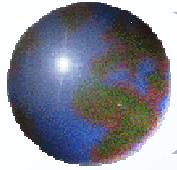
Six Reasons why entry into force of the Convention should Matter

- ✿ End of uncertainty of status of Convention
- ✿ End of characteristic of freshwater as only main shared natural resource without a treaty
- ✿ Reconfirmation of principle of equitable and reasonable utilization as the guiding principle of international water law
- ✿ Convention as a reference treaty for judicial and arbitral tribunals; IFIs
- ✿ Codification of main principles of IWL
- ✿ Global endorsements



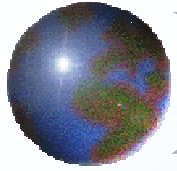
End of uncertainty of status of Convention

- ❁ Close to half a century since the start of the process in 1970
 - ❁ 12/1970 UNGA resolution referring matter to ILC
 - ❁ 23 years of work by the ILC, April 1994
 - ❁ 3 years by the UNGA, May 1997
 - ❁ 17 years for entry into force, August 2014
- ❁ State of uncertainty raised serious questions about credibility and relevance of convention
 - ❁ Strengthened hands of those opposed to convention
- ❁ This has finally ended



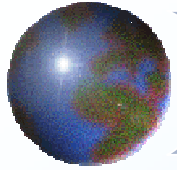
End of characteristic of freshwater

- ✿ Entry into force ended characteristic of freshwater as the only main shared natural resource/environment area without a treaty
 - ✿ Maritime waters – Law of the Sea
 - ✿ Environment - Ramsar: water, land & environ
 - ✿ Convention on Biological Diversity
 - ✿ UN Framework Convention on Climate Change
 - ✿ Kyoto Protocol



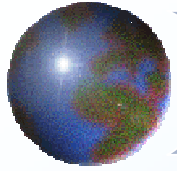
Reconfirmation of principle of equitable and reasonable utilization

- ❖ Convention enshrines principle of equitable and reasonable utilization as the guiding principle of IWL
- ❖ Subordinates obligation not to cause harm to equitable utilization
- ❖ Endorsement of this approach by ICJ
- ❖ This should put an end to debate on which of the two principles subordinates the other
- ❖ Principle is fair to all riparians, upper & lower



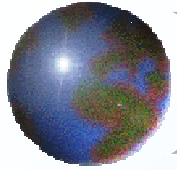
Convention as a reference treaty for judicial and arbitral tribunals

- ❖ ICJ referred to Convention and endorsed it:
 - ❖ In 9/1997, four months after adoption of Convention in Gabcikovo-Nagymaros case – Hungary v. Slovakia
 - ❖ In 2010 , Pulp Mills case, Argentina v. Uruguay
 - ❖ None was a party to the Convention
- ❖ Convention will henceforth be main reference treaty for international and regional judicial and arbitral tribunals
- ❖ Reference for International and regional financial institutions - notification



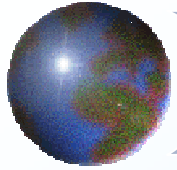
Codification of main principles of international water law

- ❖ Convention codifies main principles of international water law
 - ❖ Cooperation
 - ❖ Equitable and reasonable utilization
 - ❖ Obligation not to cause significant harm
 - ❖ Protection of the watercourse environment
 - ❖ Notification of planned measures
 - ❖ Peaceful settlement of disputes
 - ❖ Negotiations in good faith



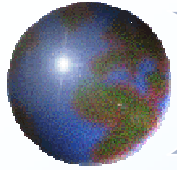
Codification of main principles of international water law

- ✿ UNGA resolution refers to codification of customary law
- ✿ ICJ referred to convention though none of the four states (Hungary, Slovakia, Argentina & Uruguay) was a party to the Convention at time of adjudication
- ✿ Binding effect of Convention go beyond the 35 states parties, because
 - ✻ Convention codifies customary international water law principles



Global Endorsements

- ❖ Clear Unequivocal endorsements for the Convention by:
 - ❖ World Commission on Dams
 - ❖ World Water Council
 - ❖ World Commission on Water for the 21st century
 - ❖ International Law Association
- ❖ Influence of Convention
 - ❖ SADC Protocol
 - ❖ Lake Victoria Protocol; Zambezi river Agreement
 - ❖ Mekong River Rules on Notification
 - ❖ Nile Basin Cooperative Framework Agreement₉



Conclusion

- ✿ Entry into force of Convention should indeed matter
 - ❑ Filled a major vacuum in treaty law for a major shared natural resource
 - ❑ Codified customary international law
 - ❑ Provided a clear and unequivocal reference to international and regional tribunals for resolution of international water disputes
 - ❑ Provided a clear and unequivocal reference for international financial institutions whether they have policies on international waters or not
 - ❑ Will influence other states to join – snowball effect



Thank You



com.gmail@salmanmasalman
org.salmanmasalman.www