IWARA Webinar

*Why does the UN Watercourses Convention entry into force matter?*

15:00-16:30 CET, 14th July 2014

Where does the UN Watercourses Convention derive its authority from?

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The UN’s Work on the UNWC – A long history!

1401 (XIV). Preliminary studies on the legal problems relating to the utilization and use of international rivers

The General Assembly,

Considering that it is desirable to initiate preliminary studies on the legal problems relating to the utilization and use of international rivers with a view to determining whether the subject is appropriate for codification,

Requests the Secretary-General to prepare and circulate to Member States a report containing:

(a) Information provided by Member States regarding their laws and legislation in force in the matter and, when necessary, a summary of such information;

(b) A summary of existing bilateral and multilateral treaties;

(c) A summary of decisions of international tribunals, including arbitral awards;

(d) A survey of studies made or being made by non-governmental organizations concerned with international law.

842nd plenary meeting,
21 November 1959.
Why was it necessary to strengthen IWL?

- ILC should codify and progressive develop international law of the non-navigational uses of international watercourses.
- Why?
  - Population growth
  - Increasing and multiplying needs and demands growing concern of humanity
  - Freshwater availability is limited
  - Need to protect and preserve water is important to all nations
  - Conscious of legal problems related to use and development of international water resources
  - Despite great number of treaties, law still based in part of general principles and rules of customary law

2669 (XXV). Progressive development and codification of the rules of international law relating to international watercourses.

The General Assembly,

Recalling its resolution 1401 (XIV) of 21 November 1959, by which it considered that it was desirable to initiate preliminary studies on the legal problems relating to the utilization and use of international rivers, and as a result of which useful legal was collected in the report submitted by the Secretary-General on 15 April 1963.\(^{13}\)

Considering that water, owing to the growth of population and the increasing and multiplying needs and demands of mankind, is of growing concern to humanity, that the available fresh water resources of the world are limited and that the preservation and protection of those resources are of great importance to all nations,

Conscious of the importance of legal problems relating to the use of international watercourses, inter alia with regard to international water resources development,


\(^{14}\) A/5409.
The work of the ILC – an extensive ‘bottom up’ approach

ILC Special Rapporteur Reports


Outcomes

- Draft articles on the law of the non-navigable uses of international watercourses. They were adopted by the Drafting Committee on Part II and III of the draft articles, articles 2, 10 and 46-59 (A/CN.4/L.159 and Add.1 and Add.2, 9 June 1999).

General Assembly resolution 51/129 of 25 May 1997 (Committee on the Law of the Non-Navigable Uses of International Watercourses)
How did States get involved in the drafting process?

- Two sessions
  - 7-25\textsuperscript{th} October 1996
  - 24\textsuperscript{th} March – 4\textsuperscript{th} April 1997
- Draft articles to be discussed on ‘article-by-article basis’
- Recorded votes on
  - Art 3 (existing agreements)
  - Arts 5-7 (equitable and reasonable utilization vis-à-vis no significant harm)
  - Art. 33 and Annex (Dispute settlement)
- Statements from 54 nations recorded
Outcome of Negotiations

- UN Resolution, 51/229, 21st May 1997, UN General Assembly adopted text of the Convention
- Recorded vote
  - 103 nations in favour (3 subsequently informed the UN GA they intended to vote in favour)
  - 27 Abstentions
  - 3 nations against (Burundi, China, Turkey)
- Statements by Tanzania, Turkey, Bolivia, Pakistan, Czech Republic, China, Slovakia, France, India, Ethiopia, Egypt, Spain and Rwanda
“Modern development of international law has strengthened this principle for non-navigational uses of international watercourses as well, as evidenced by the adoption of the Convention of 21 May 1997 on the Law of the Non-Navigational Uses of International Watercourses by the United Nations General Assembly”

International Court of Justice, Case Concerning the Gabčíkovo-Nagymaros Project (Hungary/ Slovakia), 25 September 1997, Para. 85