Why does the UN Watercourses Convention Entry into Force Matter?

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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
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
Convection 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 Agreement
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

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