



IUCN The World Conservation Union

Water Law Series – Issue 1

A Global Water Convention

Although many bilateral and regional agreements have contributed to the development of principles of international law in this area, unlike in the case of wetlands, there is no framework multilateral treaty in force that deals with the conservation and management of water resources.

The United Nations Convention on the Law of Non-navigational Uses of International Watercourses

In 1966 the International Law Association (ILA) adopted the Helsinki Rules on the Uses of Waters of International Rivers.

Four years later, the UN General Assembly (UNGA) requested the International Law Commission (ILC) to carry out a study on the law on non-navigational uses of international watercourses. More than 20 years later, the UNGA adopted the *Convention on the Law of Non-navigational Uses of International Watercourses*.

This Convention has only attracted 16 signatures and 12 ratifications since it was open for signature in 1997, and it looks unlikely that it will ever reach the required number of ratifications to enter into force. (It will enter into force 90 days following the deposit of the thirty-fifth instrument of ratification, acceptance, approval or accession.)

This framework convention is positive for several reasons, including:

- it lays down the obligations and duties of the States sharing a basin;
- it guides States in negotiating agreements on specific watercourses; and
- the principles included in the Convention are consistent with other international statements including the Helsinki Rules and the pronouncements of advisory bodies, private organisations and international courts and arbitral tribunals.

From these documents one can identify certain principles, forming the legal foundation in this area of law, namely: the duty to co-operate and negotiate in good faith; the duty of prior information; the duty not to cause significant harm to other States; and the equitable utilisation of water resources.

Other relevant developments

Many of these principles have been raised in a consistent way and put in a broader context at several international water meetings (and processes) commencing with the United Nations Water Conference in Mar del Plata (1977), the International Conference on Water and the Environment in Dublin (1992), the UN Conference on Environment and

Development (1992), the World Commission on Dams (2000 Report), and the most recent International Conference on Freshwater in Bonn (2001).

In its Recommendations for Action, the Bonn Freshwater Conference specifically addressed the areas of governance, financial resources, capacity building and knowledge sharing. Among these areas, many issues have been raised such as:

- The importance of including within water governance systems, mechanisms for the protection of ecosystems and other ecological services, and the preservation of groundwater, rivers, lakes, wetlands and associated coastal zones;
- The need to link water resource policies with climate change, wetlands, dams, desertification and marine policies;
- The role of law in ensuring equitable and sustainable allocation of water for the proper functioning and integrity of the ecosystems, recognizing the link between surface and groundwater, inland and coastal water; and
- The development of institutional and participatory mechanisms at all levels (watershed, river basin, lakes and aquifers).

Most recently, the UN Secretary General in his report on the Implementation of Agenda 21 emphasised the need to strike a balance among the increasing and competing demands for water for many uses, and stressed the necessity to establish "*mechanisms for cooperation, negotiation and conflict resolution...for achieving integrated water resources management*".

Is there a need for a Global convention on water?

Green Cross has recently joined forces with UNESCO to call for an international treaty on water resources. The value of such an undertaking is debatable, bearing in mind the multiplicity of conflicts that arise when trying to find a global solution to issues that are, in essence, influenced by their regional and local nature.

Universal guiding principles are now well known and the real and immediate challenge is to deliver on existing global commitments by implementing these guiding principles at the regional and local levels.

A better option may be to find a practical way to link all the existing instruments and initiatives in a coherent way to clearly and simply articulate common approaches and principles that can be adapted and applied to the uniqueness of each basin.

Where do I go for further assistance?

The IUCN Environmental Law Programme: see below for contact details.

IUCN Environmental Law Centre for the IUCN Environmental Law Programme

Contact the IUCN Environmental Law Centre at: waterlaw@elc.iucn.org

Visit the IUCN Environmental Law Programme Website at: www.iucn.org/themes/law