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Latest Developments of International Water Law in the Context of Integrated Water Resources Management (IWRM)

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Outline

- Introduction
- The evolution of International Water Law
- Main features of the United Nations instruments on transboundary water resources
- Contribution of International Courts and Tribunals to International Water Law
What is International Water Law?

- Law applicable to multiple uses of transboundary water resources (i.e. irrigation, production of hydro-power, human consumption)
- Regulation of the relations between States in relation to the management and protection of transboundary water resources
International Law and the Management of Transboundary Water Resources

The evolution of international regulation of uses other than navigation:


- International Law Commission’s (ILC) **Draft Articles on the Law of Transboundary Aquifers** (2008)
Transboundary Water Regulation: Scope of Application

- The UNECE Water Convention
  - "Transboundary waters" means any surface or ground waters which mark, cross or are located on boundaries between two or more States; wherever transboundary waters flow directly into the sea, these transboundary waters end at a straight line across their respective mouths between points on the low-water line of their banks (art.1.1)
Transboundary Water Regulation: Scope of Application

- The UN Watercourses Convention
  - “Watercourse” means a “system of surface waters and groundwaters constituting by virtue of their physical relationship a unitary whole and normally flowing into a common terminus” (art.2 (a))
  - “International watercourse” means “a watercourse, parts of which are situated in different States” (art.2 (b))
The ILC Draft Articles on the Law of Transboundary Aquifers

- The term “aquifer” is defined as “permeable water-bearing geological formation underlain by a less permeable layer and the water contained in the saturated zone of the formation” (art.2 (a));
- Transboundary aquifer means “an aquifer or aquifer system, parts of which are situated in different States” (art.2 (c))
Main features of the UN Instruments

- UN Watercourses Convention: framework Convention adopted at the universal level
- UNECE Water Convention originally conceived as a regional instrument now open to any UN member State
- ILC Draft Articles: codification of customary norms?
- They serve for the negotiation of specific instruments on transboundary water resources
Significance of UN Water Instruments

- Pillars of International Water Law
  - Principles on the sharing of transboundary waters
  - General duty to cooperate
  - Protection of the environment
  - Principle of public participation
  - Settlement of water disputes
Contribution of International Courts and Tribunals

- Intervention of a neutral third-party to solve a conflict of water uses based on the consent of the Parties
- Determines the facts objectively and applies legal principles to the facts
- The solution is to be considered in good faith by the Parties to the dispute
Conclusion

- Importance of institutional framework (Meeting of the Parties, Secretariat, Working Groups) to support the development of instruments of international water law
- Adoption of Protocols: evolution of instruments in accordance to the needs of the Parties (i.e. the 1999 Protocol on Water and Health to the UNECE Water Convention)
- The human right to water and the management of transboundary water resources
Thank you!

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