



WWF *for a living planet*

Media Backgrounder

WWF International

Avenue du Mont-Blanc
1196 Gland
Switzerland

Tel: +41 22 364 9111

Fax: +41 22 364 8307

www.panda.org

02 September 2010

Note:

The attached article gives the essential background to the 1997 UN Convention on the Law of the Non-Navigational Uses of International Watercourses—a vital instrument for avoiding wars over water and ensuring sustainable management regimes for shared water systems.

Steal for it, shoot for it or sign for it The stark choices facing a world running short on water

Rivers and lakes are no respecters of international boundaries – indeed they are often the basis of them. And what is true of surface water rivers is even truer of the unseen water underground.

Which competing states own the water that crosses, forms or lies under their borders? What mechanisms exist to stop water being held, diverted, or polluted by one country to the disadvantage of others? What remedies exist if this happens? What basis can there be for the sharing and management of such waters for the maximum mutual benefit? What usually happens when too many demands are placed on limited resources in the absence of any procedures or frameworks for considering claims or resolving disputes?

These are not trifling issues. Half the global land surface area and 40 per cent of global population lies in the catchments of the 276 rivers forming or crossing boundaries. Three quarters of the world's countries face potential disputes with neighbours over shared rivers, lakes, wetlands or aquifers.

And as the world becomes more and more concerned over the future of water supplies, it is pertinent to note that nearly two-thirds of freshwater flows are involved, tied up in rivers such as the Amur, separating China and Russia, and the mighty and multi-state watercourses of the Amazon, Mekong, Congo, Danube and Rhine.

In the Middle East, 5 per cent of the world's people survive on 1 per cent of its water, with control of the River Jordan and access to its water being a dominant issue in this volatile area. Egypt has been ever ready to threaten upstream states on the Nile over any plans they may have for the river. Shortages of water and agricultural land are widely understood to be a key factor underlying the conflict in Darfur and other conflicts and instability in the region.

India has exchanged harsh words with China over the latter's failure to give warning of floods and landslide events in Tibet that have caused loss of life along the Brahmaputra. And India is only one of a whole range of South and Southeast Asian states concerned about Chinese plans for power generation and water diversions in the headwaters and major tributaries of the Ganges-Brahmaputra and Mekong systems. Potentially affected are Pakistan, India, Bangladesh, Myanmar, Thailand, Laos, Cambodia and Vietnam.

But India and Pakistan have fought three wars without unduly disturbing the delicate system for distributing the waters of the Indus. This is a remarkable tribute to the potential of international and regional legal instruments to govern arrangements for sharing and caring for international water systems.

Diplomacy over water is hardly new – indeed, arrangements to share water and cooperatively build and operate irrigation systems are now believed to have been among the earliest and most influential precursors of social and political organization from China and Southeast Asia to Egypt and Mesopotamia and over to Central America.

A recent publication by UN Water also notes the placating power of water agreements, noting that in the past 60 years, there have been only 37 cases of violence between states over water, which it ascribed to the existence of around 300 international agreements on water.

Not all agreements are equal or adequate, however. Problems have endured from poorly formed and inequitable agreements, where one party gets the bulk of the water, such as those the colonial British drew up for the Nile and those over rivers shared between the United States and Mexico.

Cooperative management frameworks exist for only about 40 per cent of the world's international watercourses. Most are only partially covered, with about 80 per cent of agreements involving only two parties. The lack of unifying principles behind agreements gives multi-river states problems with administration of inconsistent arrangements from one river basin to another.

Work to resolve these issues started well over 60 years ago, with some noted international lawyers with the International Law Commission being tasked with coming up with a framework for an international agreement that could not only reduce the potential for conflict but also help shape and guide equitable sharing and appropriate management of international waters.

Their efforts came to fruition in 1997, when an overwhelming majority of countries in the UN General Assembly voted for an International Convention laying out the law of the non-navigational uses of international watercourses (the UN Watercourses Convention). Voting for the convention in 1997 were 103 countries (with another three later notifying a yes vote). Voting against were just three nations: Burundi, China and Turkey. There were 26 abstentions.

The convention aims to “ensure the utilization, development, conservation, management and protection of international watercourses and the promotion of the optimal and sustainable utilisation thereof for present and future generations.” This was to be accomplished, for example, by procedures for notification of planned measures and exchanges of information on the overall health and status of river systems, as well as cooperation mechanisms in the case of floods, likely to pose a threat to downstream neighbours.

Consistent with the UN's charter, the convention bound states to an “obligation to seek peaceful settlement of disputes.” It also encourages states to adopt compatible management schemes for shared water basins and requires them to implement measures for dealing with water pollution and for protecting the ecosystems of international watercourses.

The UN Watercourses Convention is to come into force once ratified by 35 countries. However, the convention has languished in limbo, with only 19 so far signing up: Finland, Germany, Guinea-Bissau, Hungary, Iraq, Jordan, Lebanon, Libya, Netherlands, Namibia, Norway, Portugal, Qatar, Spain, South Africa, Sweden, Syria, Tunisia and Uzbekistan.

International conventions often do take some time to gather sufficient signatories to come into force, but the slow progress of the UN Watercourses Convention has puzzled many observers of the international scene.

Possible reasons advanced have included “treaty congestion,” or a lack of knowledge about the convention in critical areas of government in some developing countries.

Only one or two countries continue to express public opposition to it, going to the extent of trying to clamp down even discussions on the convention at related international meetings. For example, among the most contentious topics being negotiated for a ministerial declaration for the 5th World Water Forum was whether to include reference to the convention, with several countries arguing for and only a few against.

Even pending entry into force, however, the convention has exerted considerable positive impact. China, a state opposing it, saying that states had “indisputable sovereignty over a watercourse which flowed through its territory,” has nevertheless adhered to some of its principles in water agreements with some of its 15 neighbours. Many other states have similarly drawn on the convention’s principles and sometimes even its language in framing bilateral and multilateral water agreements.

The International Court of Justice has also applied the convention as a reflection of international law in the field from the time it was voted on. And the International Law Commission has recently completed the drafting of guidelines giving more adequate coverage to aquifers. Their final text builds upon the UN Watercourses Convention, adjusting it to the specific case of groundwater flowing under the territory of two or more countries.

However, entry into force is necessary for the convention to consolidate its authority and continue influencing the state and the evolution of the rules governing international watersheds. Entry into force will also strengthen the convention’s moral and legal force to compel recalcitrant states to comply with its rules. Finally, an effective UN Watercourses Convention will provide a globally endorsed platform to facilitate the promotion, coordination and monitoring of cross-border water cooperation and conflict prevention.

With more advocacy from WWF and other groups, and nations that include key river states, such as Benin, Ghana and Iraq, as well as major international donor countries, such as Norway, Sweden and The Netherlands, awareness of the convention is increasing and a number of new countries are shortly expected to announce their intent to sign, taking the number of signatories past the halfway mark.

Palestine, though not yet a nation, used the occasion of the 2009 World Water Forum in Istanbul to announce that it would join the UN Watercourses Convention as a matter of priority on attaining statehood. When this happens, four out of the five states in the Jordan River basin will have acceded to the convention.

With climate change impacts increasingly affecting freshwater systems around the globe, countries also perceive that the UN Watercourses Convention could be a vital support to urgent work on climate change adaptation. WWF's own work in the field for freshwater systems has shown that the river systems most able to cope with predicted impacts will be those where natural functioning is preserved or restored.

The final word should go to Alfred A. Oteng-Yeboah, of Ghana, who noted at a recent Convention on Biodiversity meeting the high potential for conflict over water in West Africa, where the seven major water basins cross numerous boundaries: the River Niger (in 10 countries), River Senegal (in four countries), River Gambia (in four countries), the Chad Basin (encompassing three West African and two Central African countries), River Volta (in six countries) and River Koliba-Kombal (in two countries).

“Thus, in the view of Ghana, the importance of this kind of cooperation cannot be over-emphasized, and we understand that there is a strong role for the [UN Watercourses Convention] in the removal of risks of misunderstanding and conflicts associated with use of such water courses.”

“We think that we need this Convention now and urgently so and it should enter into force as soon as possible to be able to perform the roles ascribed to it.”

For further information:

Flavia Loures, Senior Program Officer – International Water Law and Policy,
flavia.loures@wwf.us, +1 202 640 9055

About WWF

WWF is one of the world's largest and most respected independent conservation organizations, with almost 5 million supporters and a global network active in over 100 countries. WWF's mission is to stop the degradation of the earth's natural environment and to build a future in which humans live in harmony with nature, by conserving the world's biological diversity, ensuring that the use of renewable natural resources is sustainable, and promoting the reduction of pollution and wasteful consumption.

www.panda.org/media for latest news and media resources