

Session of Salzburg – 1961

**Utilisation of Non-maritime International Waters
(Except for Navigation)**

(Ninth Commission, Rapporteur : Mr Juraj Andrassy)

(The French text is authoritative. The English text is a translation.)

The Institute of International Law,

Considering that the economic importance of the use of waters is transformed by modern technology and that the application of modern technology to the waters of a hydrographic basin which includes the territory of several States affects in general all these States, and renders necessary its restatement in juridical terms,

Considering that the maximum utilization of available natural resources is a matter of common interest,

Considering that the obligation not to cause unlawful harm to others is one of the basic general principles governing neighborly relations.

Considering that this principle is also applicable to relations arising from different utilizations of waters.

Considering that in the utilization of waters of interest to several States, each of them can obtain, by consultation, by plans established in common and by reciprocal concessions, the advantages of a more rational exploitation of a natural resource,

Recognizes the existence in international law of the following rules, and formulates the following recommendations :

Article 1

The present rules and recommendations are applicable to the utilization of waters which form part of a watercourse or hydrographic basin which extends over the territory of two or more States.

Article 2

Every State has the right to utilize waters which traverse or border its territory, subject to the limits imposed by international law and, in particular, those resulting from the provisions which follow.

This right is limited by the right of utilization of other States interested in the same watercourse or hydrographic basin.

Article 3

If the States are in disagreement over the scope of their rights of utilization, settlement will take place on the basis of equity, taking particular account of their respective needs, as well as of other pertinent circumstances.

Article 4

No State can undertake works or utilizations of the waters of a watercourse or hydrographic basin which seriously affect the possibility of utilization of the same waters by other States except on condition of assuring them the enjoyment of the advantages to which they are entitled under article 3, as well as adequate compensation for any loss or damage.

Article 5

Works or utilizations referred to in the preceding article may not be undertaken except after previous notice to interested States.

Article 6

In case objection is made, the States will enter into negotiations with a view to reaching an agreement within a reasonable time.

For this purpose, it is desirable that the States in disagreement should have recourse to technical experts and, should occasion arise, to commissions and appropriate agencies in order to arrive at solutions assuring the greatest advantage to all concerned.

Article 7

During the negotiations, every State must, in conformity with the principle of good faith, refrain from undertaking the works or utilizations which are the object of the dispute or from taking any other measures which might aggravate the dispute or render agreement more difficult.

Article 8

If the interested States fail to reach agreement within a reasonable time, it is recommended that they submit to judicial settlement or arbitration the question whether the project is contrary to the above rules.

If the State objecting to the works or utilizations projected refuses to submit to judicial settlement or arbitration, the other State is free, subject to its responsibility, to go ahead while remaining bound by its obligations arising from the provisions of articles 2 to 4.

Article 9

It is recommended that States interested in particular hydrographic basins investigate the desirability of creating common organs for establishing plans of utilization designed to facilitate their economic development as well as to prevent and settle disputes which might arise.

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(11 September 1961)