

CONVENTION ON THE LAW OF THE NON-NAVIGATIONAL USES OF INTERNATIONAL WATERCOURSES

The General Assembly, by resolution 2669 (XXV) of 8 December 1970, recommended that the International Law Commission should take up the study of the law of the non-navigational uses of international watercourses with a view to its progressive development and codification and, in the light of its scheduled programme of work, should consider the practicability of taking the necessary action as soon as the Commission deemed it appropriate. At its twenty-third session, in 1971, the Commission included the subject of non-navigational uses of international watercourses in its programme of work.

The General Assembly, by resolution 2780 (XXVI) of 3 December 1971, recommended that the Commission should decide upon the priority to be given to the topic. At its twenty-fourth session, in 1972, the Commission indicated its intention to take up the Assembly's recommendation when it came to discuss its long-term programme of work.

In 1974, the Secretary-General issued a supplementary report on the legal problems relating to the non-navigational uses of international watercourses (A/CN.4/274).

The same year, the Commission, pursuant to a recommendation contained in General Assembly resolution 3071 (XXVIII) of 30 November 1973, set up a Subcommittee to consider this topic. The Subcommittee submitted a report to the Commission (A/CN.4/283) that dealt with the nature of international watercourses and pointed out that preliminary questions to be examined were: the scope of the term "international watercourses" and the type of activities to be included within the term "non-navigational uses". At the same session, the Commission adopted the report without change.

The General Assembly, by resolution 3315 (XXIX) of 14 December 1974, recommended that the Commission should continue its study of the law of the non-navigational uses of international watercourses taking into account, *inter alia*, comments received from Member States on the questions mentioned in the Subcommittee's report.

The Commission proceeded with its work on the topic at its twenty-eighth, thirty-first and thirty-second sessions, from its thirty-fifth to forty-third sessions and at its forty-fifth and forty-sixth sessions, in 1976, 1979 and 1980, from 1983 to 1991 and in 1993 and 1994, respectively. The Commission appointed Richard D. Kearney, Stephen M. Schwebel, Jens Evensen, Stephen McCaffrey, and Robert Rosenstock as the successive Special Rapporteurs for the topic at its twenty-sixth, twenty-ninth, thirty-fourth, thirty-seventh and forty-fourth sessions, in 1974, 1977, 1982, 1985 and 1992, respectively. In its consideration of the topic, the Commission had before it the reports of the Special Rapporteurs, information provided by Governments as well as documents prepared by the Secretariat.

At its thirty-second session, in 1980, the Commission began the first reading of the draft articles. At its forty-third session, held from 29 April to 19 July 1991, the Commission adopted on first reading the draft articles as a whole (A/CN.4/L.458 and Corr.1 and Add.1). In accordance with articles 16 and 21 of its Statute, the Commission decided to transmit the draft articles, through the Secretary-General, to Governments of Member States for comments and observations.

The General Assembly, in resolution 46/54 of 9 December 1991, expressed its appreciation to the Commission for the completion of the first reading of the draft articles on the topic and urged Governments to present their comments and observations on the draft in writing, as requested by the Commission.

At its forty-fifth session, in 1993, and forty-sixth session, in 1994, the Commission proceeded with its second reading of the draft articles on the basis of the reports submitted by the new Special Rapporteur for the topic, Mr. Rosenstock. At its forty-sixth session, in 1994, having considered the second report of the Special Rapporteur, the Commission decided to refer the entire set of the draft articles to the Drafting Committee. At the same session, on 24 June 1994, the Commission adopted the final text of a set of thirty-three draft articles on the law of the non-navigational uses of international watercourses, with commentaries, and a resolution on confined transboundary groundwater. In accordance with article 23 of its Statute, the Commission submitted the draft articles and the resolution to the General Assembly, together with a recommendation that a convention on the subject be elaborated by the Assembly or by an international conference of plenipotentiaries on the basis of the draft articles.

The General Assembly, by its resolution 49/52 of 9 December 1994, invited States to submit written comments and observations on the draft articles adopted by the Commission, and decided that, at its fifty-first session, in 1996, the Sixth Committee would convene as a Working Group of the Whole, open to States Members of the United Nations or members of specialized agencies, to elaborate a framework convention on the law of the non-navigational uses of international watercourses on the basis of the draft articles adopted by the Commission in the light of the written comments and observations of States and views expressed in the debate at the forty-ninth session of the General Assembly.

The Working Group of the Whole of the Sixth Committee held two sessions, from 7 to 25 October 1996 and from 24 March to 4 April 1997, the second having been held pursuant to General Assembly resolution 51/206 of 17 December 1996. The Working Group of the Whole established a Drafting Committee. As mandated by General Assembly resolution 51/206, upon completion of its mandate, the Working Group reported directly to the General Assembly in its reports A/51/624 of 3 December 1996 and A/51/869 of 11 April 1997.

By its resolution 51/229 of 21 May 1997, the General Assembly, upon recommendation of the Working Group of the Whole, adopted the Convention on the Law of the Non-navigational Uses of International Watercourses.

The Convention was open for signature by all States and by regional economic integration organizations until 20 May 2000 at United Nations Headquarters in New York. Under article 36, paragraph 1, it shall enter into force on the ninetieth day following the date of deposit of the thirty-fifth instrument of ratification, acceptance, approval or accession.