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Supplementary report on the legal problems relating to the non-navigational uses of international watercourses requested by the GA in res. 2669 (XXV) - Advance report submitted by the Secretary-General pursuant to GA res.2926 (XVII)

Topic:
Law of the non-navigational uses of international watercourses

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**PRIORITY TO BE GIVEN TO THE TOPIC OF THE LAW OF THE NON-NAVIGATIONAL
USES OF INTERNATIONAL WATERCOURSES (PARA. 5 OF SECTION I OF GENERAL
ASSEMBLY RESOLUTIONS 2780 (XXVI) AND 2926 (XXVII))**

[Agenda item 5 (b)]

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**Supplementary report on the legal problems relating to the non-navigational uses of international watercourses
requested by the General Assembly in resolution 2669 (XXV)**

**Advance report submitted by the Secretary-General
pursuant to General Assembly resolution 2926 (XXVII)**

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Introduction

1. By resolution 2669 (XXV) of 8 December 1970, entitled "Progressive development and codification of the rules of international law relating to international watercourses", the General Assembly requested the Secretary-General

to continue the study initiated by the General Assembly in resolution 1401 (XIV) in order to prepare a supplementary report on the legal problems relating to the utilization and use of international watercourses, taking into account the recent application in State practice and international adjudication of the law of international watercourses and also intergovernmental and non-governmental studies on this matter.

2. By resolution 2926 (XXVII) of 28 November 1972, the General Assembly requested the Secretary-General to submit, as soon as possible, the study on the legal problems relating to the non-navigational uses of international watercourses requested by the General Assembly in resolution 2669 (XXV) of 8 December 1970, and to present to the International Law Commission at its twenty-fifth session an advance report on such study.

Pursuant to this resolution, the Secretary-General submits the present report.

A. Plan of the supplementary report

3. It should be recalled that the Secretary-General's report on "Legal problems relating to the utilization and

use of international rivers", prepared pursuant to General Assembly resolution 1401 (XIV) of 21 November 1959, was issued as a mimeographed document¹ in 1963. As requested by that resolution, the report contained: (a) information provided by Member States regarding their laws and legislation in force on the matter; (b) a summary of existing bilateral and multilateral treaties; (c) a summary of decisions of international tribunals, including arbitral awards; and (d) a survey of studies made or being made by non-governmental organizations concerned with international law. The supplementary report, which is now in process of preparation pursuant to General Assembly resolution 2669 (XXV), is intended to include the same categories of information as the initial report, together with relevant studies made by intergovernmental organizations.

B. Information received for inclusion in the supplementary report

4. In the report on the work of its twenty-third session, the International Law Commission recorded its understanding that in preparing the "supplementary report" the

¹ A/5409. To be printed in *Yearbook . . . 1974*, vol. II (Part Two). An important part of the material summarized in that document was published in a volume in the United Nations Legislative Series entitled *Legislative texts and treaty provisions concerning the utilization of international rivers for other purposes than navigation* (United Nations publication, Sales No. 63.V.4).

Secretary-General "will certainly invite Governments of Member States to provide him with additional materials regarding legislative texts and treaty provisions, as well as any other relevant information which may be useful as evidence of their practice".² On 22 November 1971, the Secretary-General addressed a circular note to Governments of Member States requesting them to send him, not later than 1 October 1972, the additional materials and information referred to in the understanding of the International Law Commission quoted above. In the report on the work of its twenty-fourth session, the Commission observed "that the problem of pollution of international waterways was of both substantial urgency and complexity. Accordingly, it requested the Secretariat to continue compiling the material relating to the topic with specific reference to the problems of the pollution of international watercourses".³ On 22 September 1972, the Secretary-General addressed a circular note to Governments of Member States by which after having referred to his first note mentioned above, requested them to send him, not later than 1 July 1973, the relevant materials and information, with specific reference to the question of the pollution of the international watercourses as indicated in the observation of the International Law Commission quoted above. On 27 December 1972, a similar circular letter was also sent to intergovernmental organizations.

5. Up to 15 April 1973, information had been received from nine Member States. Of these, eight had sent the texts of the relevant treaties to which they were parties; only one Member State had sent information regarding its national legislation in force on the matter. In addition, three international organizations had transmitted materials concerning their work on the subject.

C. Progress of work on the various parts of the supplementary report

6. The supplementary report is being prepared on the basis of the information provided by Member States and intergovernmental organizations as well as on the basis of the relevant research work undertaken by the Secretariat.

² *Yearbook . . . 1971*, vol. II (Part One), p. 350, document A/8410/Rev.1, para. 121.

³ *Yearbook . . . 1972*, vol. II, p. 324, document A/8710/Rev.1, para. 77.

7. As in the initial report, the part of the supplementary report relating to national legislation is expected to include information concerning a very limited number of Member States. So far, as already indicated,⁴ only one Member State has made available national legislative texts to be reproduced in this part.

8. A sizable number of relevant bilateral and multilateral treaties have been collected. Of these, nearly 60 treaties have been summarized and made ready for inclusion in the supplementary report. The summary of the other treaties is now being prepared.

9. As yet, no decisions of international tribunals, other than those included in the initial report, have been found. The supplementary report might, therefore, appear without containing any information of this nature.

10. As regards that part of the supplementary report concerning the studies made or being made by intergovernmental organizations, the work being done within, or under the auspices of, the United Nations has been examined. Specifically, the relevant resolutions and reports of the Economic and Social Council and the activities of the Water Resources Development Centre of the Department of Economic and Social Affairs of the Secretariat have been considered for inclusion in the supplementary report. However, the relevant work done by the regional economic commissions, by specialized agencies and by the International Atomic Energy Agency, as well as by other intergovernmental organizations, will be examined on the basis of information received in reply to the circular letters of the Secretary-General already referred to.⁵ In addition, the preparatory work for the United Nations Conference on the Human Environment held at Stockholm in 1972, as well as the relevant resolutions of that Conference, will be considered.

11. The part of the supplementary report concerning studies made or being made by non-governmental organizations concerned with international law will include the available relevant work done by the Institute of International Law, the Inter-American Bar Association and the International Law Association.

12. In conclusion, the preparation of the supplementary report is expected to be completed before the opening of the twenty-sixth session of the International Law Commission.

⁴ See para. 5 above.

⁵ See para. 4 above.