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Replies of Governments to the Commission's questionnaire

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

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INTRODUCTION

1. By paragraph 4(e) of section I of resolution 3315 (XXIX) of 14 December 1974, the General Assembly recommended that the International Law Commission should continue its study of the law of the non-navigational uses of international watercourses, taking into account General Assembly resolutions 2669 (XXV) of 8 December 1970 and 3071 (XXVIII) of 30 November 1973 and other resolutions concerning the work of the Commission on the topic, and comments received from Member States on the questions referred to in the annex to chapter V of the report of the Commission on the work of its twenty-sixth session.¹ Comments received from Member States pursuant to resolution 3315 (XXIX) were issued in document A/CN.4/294 and Add.1.²

2. By paragraph 5 of resolution 31/97 of 15 December 1976, the General Assembly urged Member States that had not yet done so to submit to the Secretary-General their written comments on the subject of the law of the non-navigational uses of international watercourses.

3. By a circular note dated 18 January 1977, the Secretary-General invited Member States that had not yet done so to submit as soon as possible their written comments referred to in resolution 31/97.

4. At the thirtieth session of the Commission replies received to this note were issued in document A/CN.4/314.³

5. The present document contains an additional reply to the above-mentioned note received from the Government of Yugoslavia. It has been organized along the same lines as documents A/CN.4/294 and Add.1 and A/CN.4/314; that is, it contains the reply mentioned, giving first the general comments and observations and then the replies to the specific questions reproduced below.

6. The text of the questionnaire is as follows:

- A. What would be the appropriate scope of the definition of an international watercourse, in a study of the legal aspects of fresh water uses on the one hand and of fresh water pollution on the other hand?
- B. Is the geographical concept of an international drainage basin the appropriate basis for a study of the legal aspects of non-navigational uses of international watercourses?
- C. Is the geographical concept of an international drainage basin the appropriate basis for a study of the legal aspects of the pollution of international watercourses?
- D. Should the Commission adopt the following outline for fresh water uses as the basis of its study:

- (a) Agricultural uses:
 1. Irrigation;
 2. Drainage;
 3. Waste disposal;
 4. Aquatic food production;
 - (b) Economic and commercial uses:
 1. Energy production (hydroelectric, nuclear and mechanical);
 2. Manufacturing;
 3. Construction;
 4. Transportation other than navigation;
 5. Timber floating;
 6. Waste disposal;
 7. Extractive (mining, oil production, etc.);
 - (c) Domestic and social uses:
 1. Consumptive (drinking, cooking, washing, laundry, etc.);
 2. Waste disposal;
 3. Recreational (swimming, sport, fishing, boating, etc.);
- E. Are there any other uses that should be included?
 - F. Should the Commission include flood control and erosion problems in its study?
 - G. Should the Commission take account in its study of the interaction between use for navigation and other uses?
 - H. Are you in favour of the Commission taking up the problem of pollution of international watercourses as the initial stage in its study?
 - I. Should special arrangements be made for ensuring that the Commission is provided with the technical, scientific and economic advice which will be required, through such means as the establishment of a Committee of Experts?

I. GENERAL COMMENTS AND OBSERVATIONS

Yugoslavia

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[13 June 1979]

Yugoslavia has concluded with neighbouring countries bilateral intergovernmental agreements on the non-navigational uses of shared water resources. The principles and rules of conduct contained in these agreements proceed from the broad significance of principle which Yugoslavia attaches to good-neighbourly relations with other countries, and are related to the agreed procedure of mutual information and consultations as well as of the settlement of all questions of mutual interest through mutual agreement. The successful functioning of mixed commissions for water-economy established by Yugoslavia with the neighbouring countries falls within the same context.

II. REPLIES TO SPECIFIC QUESTIONS

Question A

What would be the appropriate scope of the definition of an international watercourse, in a study of

¹ *Yearbook... 1974*, vol. II (Part One), pp. 301–304, document A/9610/Rev.1.

² *Yearbook... 1976*, vol. II (Part One), pp. 147–183.

³ *Yearbook... 1978*, vol. II (Part One), pp. 253–261.

the legal aspects of fresh water uses on the one hand and of fresh water pollution on the other hand?

Yugoslavia

[Original: English]
[13 June 1979]

As regards the appropriate scope of the definition of the international watercourse, the thesis that it is applied to watercourses covering or flowing through or dividing two or more States is acceptable to us. In our opinion it would be useful to adopt a definition. However, in view of the differing opinions regarding this question, we consider that in order to save time it is not necessary to press for the elaboration of a definition in the United Nations International Law Commission.

Question B

Is the geographical concept of an international drainage basin the appropriate basis for a study of the legal aspects of non-navigational uses of international watercourses?

Question C

Is the geographical concept of an international drainage basin the appropriate basis for a study of the legal aspects of the pollution of international watercourses?

Yugoslavia

[Original: English]
[13 June 1979]

We hold the view that the geographical concept of an international drainage basin is not indispensable, and that it would be more recommendable to proceed in each concrete case from a concept which would take into account all the relevant aspects, including the geographical one, leaving the final solution to the option of the States concerned.

It would be useful, in our view, if the Commission dealt with the possibility of a legal examination of the adequate international standards for the quality of waters and the regime of their quantity, which States should adhere to in their mutual relations when waters flow from the territory of one State to the territory of the other.

Question D

Should the Commission adopt the following outline for fresh water uses as the basis of its study:

- (a) *Agricultural uses:*
1. *Irrigation;*
 2. *Drainage;*
 3. *Waste disposal;*
 4. *Aquatic food production;*

(b) *Economic and commercial uses:*

1. *Energy production (hydroelectric, nuclear and mechanical);*
2. *Manufacturing;*
3. *Construction;*
4. *Transportation other than navigation;*
5. *Timber floating;*
6. *Waste disposal;*
7. *Extractive (mining, oil production, etc.);*

(c) *Domestic and social uses:*

1. *Consumptive (drinking, cooking, washing, laundry, etc.);*
2. *Waste disposal;*
3. *Recreational (swimming, sport, fishing, boating, etc.)?*

Question E

Are there any other uses that should be included?

Yugoslavia

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The list of questions contained in the questionnaire is acceptable but not as a compulsory order for considerations.

We also consider that it should be recommended to the International Law Commission to dwell on the problem of inadequate use of watercourses, which may cause changes in the climate.

Question F

Should the Commission include flood control and erosion problems in its study?

Yugoslavia

[Original: English]
[13 June 1979]

We uphold the inclusion in the mentioned study of the question of protection against flood and erosion. In this context, we feel that it would be useful to analyse simultaneously the interdependence of the maintenance of the quality and quantity of waters and the problem of afforestation and denudation.

Question G

Should the Commission take account in its study of the interaction between use for navigation and other uses?

Yugoslavia

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[13 June 1979]

In preparing its study, the Commission should have in mind the interconnection of navigable and non-navigable aspects of the use of international water-

courses, taking account of the need for maintaining the appropriate water level for safe navigation.

forms of the use of these waters, as contained in the list under Question "D" of the questionnaire.

Question H

Are you in favour of the Commission taking up the problem of pollution of international watercourses as the initial stage in its study?

Yugoslavia

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The Yugoslav Government attaches great importance to the question of pollution of international watercourses and, in this context, to the protection of the environment. However, we consider that a separate examination of pollution problems would not be practical. We are in favour of reviewing this problem simultaneously with the examination of the various

Question I

Should special arrangements be made for ensuring that the Commission is provided with the technical, scientific and economic advice which will be required, through such means as the establishment of a Committee of Experts?

Yugoslavia

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The International Law Commission should, within financial possibilities, ensure adequate advisory assistance in the technical, scientific and economic spheres.