The UNECE Water Convention from a Latin American Perspective

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A New Scenario for the UNECE Water Convention

On February 6, 2013, the Amendment to the 1992 UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes (hereinafter the Water Convention) came into force, which admitted the accession to this Convention of States outside the region of the United Nations Economic Commission for Europe. Decision VI/3 of the 6th Meeting of the Parties, held in Rome on 28–30 November, 2012\(^1\) introduced the conditions for accession of these states. The 6th Meeting of the Parties also adopted other relevant decisions, e.g., the mechanism to support ‘the implementation and application of and compliance with’ the Water Convention (Decision VI/1) and the vision for the future of the Water Convention, focused on strengthening cooperation and preventing conflicts at the transboundary level.\(^2\) The Water Convention scaled up from regional to global, making it possible for any State to become a party to the Water Convention. Such possibility provides an opportunity to contrast its content and mechanisms against existing Latin American instruments in a preliminary comparative exercise.\(^3\)

The Water Convention, enforcing the principle of the ‘community of interests’ among riparian States,\(^4\) asserts that cooperation is the indispensable foundation for transboundary water management, and draws up the mechanisms that would make its implementation feasible. To pursue its self-imposed goal of tackling transboundary impacts, the Water Convention sets forth that it is mandatory to establish joint bodies for the prevention, control and reduction

of transboundary impact (Article 9.1) and lists a number of tasks that these entities should to the smallest extent perform, without prejudice to other tasks that the riparian States consider they should carry out (Article 9.2), namely consultation (Article 10), joint monitoring and assessment (Article 11), common research and development (Article 12), exchange of information (Article 13), warning and alarm systems (Article 14) and mutual assistance (Article 15). In this regard, the Guide to Implementing the Water Convention\(^5\) underlines that these entities become the distinctive element of the Water Convention, an assertion that cannot be ignored.

On their part, a number of Latin American treaties established bilateral or multilateral bodies to carry out joint projects. Those agreements generally restated the right of riparians to use their internationally shared waters as well as the duty not to cause significant harm to other riparians and included mechanisms for dispute settlement.\(^6\) Both water quantity and quality have been a matter of concern at the regional level, with different approaches to the legal, financial and empirical aspects according to the countries and their specific features.\(^7\)

2 Inter-American System Background of Water Legal Instruments

What may be identified as the Inter-American System is made up of a group of regional bodies, some of which started at the end of the XIX Century (the Pan American Union, at present OAS General Secretariat, in 1889), others at the beginning of the XX Century (Permanent Commission of Jurisconsults of Rio de Janeiro, set up in 1906 by the 3rd American International Conference) or before WW2 (First Meeting of Consultation of Ministers of Foreign Affairs, Panamá, 1939) which in 1948 gathered under the Organization of American States (OAS). At present, the OAS comprises thirty-four countries embracing the Americas from North to South. As a regional organization within the scope of Chapter VIII (Regional Arrangements) of the United Nations Charter, the OAS’s main goal is to enhance cooperation among its members, both in the

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