

The 1966 Helsinki Rules
and
Complementary and Supplementary Rules
(1972-1996)

Foreword

The purpose of this document is to quote the *verbatim* text of the 1966 Helsinki Rules produced since 1954 by the Rivers Committee, renamed Water Resources Committee following their adoption in 1966 by the International Law Association (ILA), and those Complementary and Supplementary Rules developed since and until 1996 by the Water Resources Committee.

As from 1997, the Water Resources Committee (WRC) embarked on a consolidation of the Helsinki Rules 1966-1996 which resulted in the 1999 Campione Consolidation of the ILA Rules on International Water Resources. During that time, however, substantial changes occurred in the membership of the WRC; some of its older members had passed away and other resigned while members of the defunct ILA Committee on the Environment became new members and opposed the consolidation in favour of a proposed revision of the Helsinki Rules considered lacking the requisite environmental dimension.

As a result, the 1999 Campione Consolidation could not be submitted for adoption by the ILA and, while work is currently proceeding on a hypothetical revision of not yet adopted rules, the consolidated work of the WRC until that date may well never obtain the blessing of the ILA.

This presentation includes :

- The 1966 Helsinki Rules
- The Supplementary Rules applicable to Flood Control – 1972
- The Supplementary Rules applicable to Marine Pollution of Continental Origin – 1972
- The Complementary Rules applicable to the Maintenance and Improvement of Naturally Navigable Waterways Separating or Traversing Several States – 1975
- The Supplementary Rules applicable to the Protection of Water Resources and Water Installations in Times of Armed Conflict – 1976
- The Supplementary Rules applicable to the Administration of International Water Resources – 1976
- The Supplementary Rules applicable to the Regulation of the Flow of Water of International Watercourses – 1980
- The Supplementary Rules applicable to the Relationship of International Water Resources with other Natural Resources and Environmental Elements - 1980
- The Complementary Rules applicable to Pollution in an International Drainage Basin – 1982
- The Supplementary Rules applicable to International Groundwaters - 1986
- The Supplementary Rules applicable to Private Law Remedies for Transboundary Damage in International Watercourses - 1996
- The Complementary Rules on Pollution - 1996

For a treaties on the historical background of the work of the ILA Rivers Committee and of its successor, the Water Resources Committee, the reader is invited to consult the following master analysis from which the above Rules have been quoted :

International Law Association Rules on International Water Resources, edited by Slavko Bogdanovic, Yugoslav Association for Water Law, Yugoslav Branch of the International Law Association in Novi Sad, and the European Centre for Peace and Development (ECPD) in Belgrade, Prometej, Novi Sad, Yugoslavia, 1999, a bilingual publication, 277 pp.

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The 1966 Helsinki Rules on the Uses of the Waters of International Rivers
(Adopted by the International Law Association at its 52nd Conference held at Helsinki in 1966)

CHAPTER 1. GENERAL

Article I

The general rules of international law as set forth in these chapters are applicable to the use of the waters of an international drainage basin except as may be provided otherwise by convention, agreement or binding custom among the basin States.

Article II

An international drainage basin is a geographical area extending over two or more States determined by the watershed limits of the system of waters, including surface and underground waters, flowing into a common terminus.

Article III

A "basin State" is a State the territory of which includes a portion of an international drainage basin.

CHAPTER 2. EQUITABLE UTILIZATION OF THE WATERS OF AN INTERNATIONAL DRAINAGE BASIN

Article IV

Each basin State is entitled, within its territory, to a reasonable and equitable share in the beneficial uses of the waters of an international drainage basin.

Article V

- I. What is a reasonable and equitable share within the meaning of article IV to be determined in the light of all the relevant factors in each particular case.
- II. Relevant factors which are to be considered include, but are not limited to:
 - (a) The geography of the basin, including in particular the extent of the drainage area in the territory of each basin State;
 - (b) The hydrology of the basin, including in particular the contribution of water by each basin State;
 - (c) The climate affecting the basin;
 - (d) The past utilization of the waters of the basin, including in particular existing utilization;
 - (e) The economic and social needs of each basin State;
 - (f) The population dependent on the waters of the basin in each basin State;
 - (g) The comparative costs of alternative means of satisfying the economic and social needs of each basin State;
 - (h) The availability of other resources;
 - (i) The avoidance of unnecessary waste in the utilization of waters of the basin;
 - (j) The practicability of compensation to one or more of the co-basin States as a means of adjusting conflicts among uses; and
 - (k) The degree to which the needs of a basin State may be satisfied, without causing substantial injury to a co-basin State.
- III. The weight to be given to each factor is to be determined by its importance in comparison with that of other relevant factors. In determining what is reasonable and equitable share, all relevant factors are to be considered together and a conclusion reached on the basis of the whole.

Article VI

A use or category of uses is not entitled to any inherent preference over any other use or category of uses.

Article VII

A basin State may not be denied the present reasonable use of the waters of an international drainage basin to reserve for a co-basin State a future use of such waters.

Article VIII

1. An existing reasonable use may continue in operation unless the factors justifying its continuance are outweighed by other factors leading to the conclusion that it be modified or terminated so as to accommodate a competing incompatible use.
- 2.(a) A use that is in fact operational is deemed to have been an existing use from the time of the initiation of construction directly related to the use or, where such construction is not required, the undertaking of comparable acts of actual implementation.
- (b) Such a use continues to be an existing use until such time as it is discontinued with the intention that it be abandoned.
3. A use will not be deemed an existing use if at the time of becoming operational it is incompatible with an already existing reasonable use.

CHAPTER 3. POLLUTION

Article IX

As used in this chapter, the term "water pollution" refers to any detrimental change resulting from human conduct in the natural composition, content, or quality of the waters of an international drainage basin.

Article X

1. Consistent with the principle of equitable utilization of the waters of an international drainage basin, a State:
 - (a) Must prevent any new form of water pollution or any increase in the degree of existing water pollution in an international drainage basin which would cause substantial injury in the territory of a co-basin State;
 - (b) Should take all reasonable measures to abate existing water pollution in an international drainage basin to such an extent that no substantial damage is caused in the territory of a co-basin State.
2. The rule stated in paragraph 1 of this article applies to water pollution originating:
 - (a) within a territory of the State, or
 - (b) outside the territory of the State, if it is caused by the State's conduct.

Article XI

1. In the case of a violation of the rule stated in paragraph 1 (a) of article X of this chapter, the State responsible shall be required to cease the wrongful conduct and compensate the injured co-basin State for the injury that has been caused to it.

2. In a case falling under the rule stated in paragraph 1 (b) of article X, if a State fails to take reasonable measures, it shall be required promptly to enter into negotiations with the injured State with a view towards reaching a settlement equitable under the circumstances.

CHAPTER 4. NAVIGATION

Article XII

1. This Chapter refers to those river and lake portions which are both navigable and separate or traverse the territories of two or more States.
2. Rivers or lakes are navigable if in their natural or canalized state they are currently use for commercial navigation or are capable by reason of their natural condition of being so used.
3. In this Chapter, the term “riparian State” refers to a State through or along which the navigable portion a river flows or a lake lies.

Article XIII

Subject to any limitations or qualifications referred to in these Rules, each riparian State is entitled to enjoy rights of free navigation on the entire course of a river or lake.

Article XIV

“Free navigation”, as this term is used in this Chapter, includes the following freedoms for vessels of a riparian State on the basis of equality :

- (a) freedom of movement on the entire navigable course of the river or lake;
- (b) freedom to enter ports and to make use of plants and docks; and
- (c) freedom to transport goods and passengers, either directly or through trans-shipment, between the territory of a riparian State and the open sea.

Article XV

A riparian State may exercise rights of police, including but not limited to the protection of the public safety and health, over that portion of the river or lake subject to its jurisdiction, provided the exercise of such rights does not unreasonably interfere with the enjoyment of the rights of free navigation defined in Articles XIII and XIV above.

Article XVI

Each riparian State may restrict or prohibit the loading by vessels of a foreign State of goods and passengers in its territory for discharge in such territory.

Article XVII

A riparian State may grant rights of navigation to non-riparian States on rivers or lakes within its territory.

Article XVIII

Each riparian State is, to the extent of the means available or made available to it, required to maintain in good order that portion of the navigable course of a river or lake within its jurisdiction.

Article XIX

The rules stated in this Chapter are not applicable to the navigation of vessels of war or of vessels performing police or administrative functions, or, in general, exercising any other form of public authority.

Article XX

In time of war, other armed conflict or public emergency constituting a threat to the life of a State, a riparian State may take measures derogating from its obligations under this Chapter to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law. The riparian State shall in any case facilitate navigation for humanitarian purposes.

CHAPTER 5. TIMBER FLOATING

Article XXI

The floating of timber on a watercourse which flows through or between the territories of two or more States is governed by the following Articles except in cases in which floating is governed by rules of navigation according to applicable law or custom binding upon the riparians.

Article XXII

The States riparian to an international watercourse utilized for navigation may determine by common consent whether and under what conditions timber floating may be permitted upon the watercourse.

Article XXIII

1. It is recommended that each State riparian to an international watercourse not used for navigation should, with due regard to other uses of the watercourse, authorize the co-riparian States to use the watercourse and its banks within the territory of each riparian State for the floating of timber.
2. This authorization should extend to all necessary works along the banks by the floating crew and to the installation of such facilities as may be required for the timber floating.

Article XXIV

If a riparian State requires permanent installations for floating inside the territory of a co-riparian State or if it is necessary to regulate the flow of the watercourse, all questions connected with these installations and measures should be determined by agreement between the States concerned.

Article XXV

Co-riparian States of a watercourse which is, or is to be used for floating timber should negotiate in order to come to an agreement governing the administrative regime of floating, and if necessary to establish a joint agency or commission in order to facilitate the regulation of floating in all aspects.

CHAPTER 6. PROCEDURES FOR THE PREVENTION AND SETTLEMENT OF DISPUTES

Article XXVI

This Chapter relates to procedures for the prevention and settlement of international disputes as to the legal rights or other interests of basin States and of other States in the waters of an international drainage basin.

Article XXVII

1. Consistently with the Charter of the United Nations, States are under an obligation to settle international disputes as to their legal rights or other interests by peaceful means in such a manner that international peace and security and justice are not endangered.
2. It is recommended that States resort progressively to the means of prevention and settlement of disputes stipulated in articles XXIX to XXXIV of this Chapter.

Article XXVIII

1. States are under a primary obligation to resort to means of prevention and settlement of disputes stipulated in the applicable treaties binding upon them.
2. States are limited to the means of prevention and settlement of disputes stipulated in treaties binding upon them only to the extent provided by the applicable treaties.

Article XXIX

1. With a view to preventing disputes from arising between basin States as to their legal rights or other interest, it is recommended that each basin State furnish relevant and reasonably available information to the other basin States concerning the waters of a drainage basin within its territory and its use of, and activities with respect to, such waters.
2. A State, regardless of its location in a drainage basin, should in particular furnish to any other basin State, the interests of which may be substantially affected, notice of any proposed construction or installation which would alter the regime of the basin in a way which might give rise to a dispute as defined in article XXVI. The notice should include such essential facts as will permit the recipient to make an assessment of the probable effect of the proposed alteration.
3. A State providing the notice referred to in paragraph 2 of this article should afford the recipient a reasonable period of time to make an assessment of the probable effect of the proposed construction or installation and to submit its views thereon to the State furnishing the notice.
4. If a State has failed to give the notice referred to in paragraph 2 of this article, the alteration by the State in the regime of the drainage basin shall not be given the weight normally accorded to temporal priority in use in the event of a determination of what is a reasonable and equitable share of the waters of the basin.

Article XXX

In case of a dispute between States as to their legal rights or other interests, as defined in article XXVI, they should seek a solution by negotiation.

Article XXXI

1. If a question or dispute arises which relates to the present or future utilization of the waters of an international drainage basin, it is recommended that the basin States refer the question or dispute to a joint agency and that they request the agency to survey the international drainage basin and to formulate plans or recommendations for the fullest and most efficient use thereof in the interests of all such States.
2. It is recommended that the joint agency be instructed to submit reports on all matters within its competence to the appropriate authorities of the member States concerned.
3. It is recommended that the member States of the joint agency in appropriate cases invite non-basin States which by treaty enjoy a right in the use of the waters of an international drainage basin to associate themselves with the work of the joint agency or that they be permitted to appear before the agency.

Article XXXII

If a question or a dispute is one which is considered by the States concerned to be incapable of resolution in the manner set forth in article XXXI, it is recommended that they seek the good offices, or jointly request the mediation of a third State, of a qualified international organization or of a qualified person.

Article XXXIII

1. If the States concerned have not been able to resolve their dispute through negotiation or have been unable to agree on the measures described in articles XXXI and XXXII, it is recommended that they form a commission of inquiry or an ad hoc conciliation commission, which shall endeavor to find a solution, likely to be accepted by the States concerned, of any dispute as to their legal rights.
2. It is recommended that the conciliation commission be constituted in the manner set forth in the Annex.

Article XXXIV

It is recommended that the States concerned agree to submit their legal disputes to an ad hoc arbitral tribunal, to a permanent arbitral tribunal or to the International Court of Justice if:

- (a) a commission has not been formed as provided in article XXXIII, or
- (b) the commission has not been able to find a solution to be recommended, or
- (c) a solution recommended has not been accepted by the States concerned, and
- (d) an agreement has not been otherwise arrived at.

Article XXXV

It is recommended that in the event of arbitration the States concerned have recourse to the Model Rules on Arbitral Procedure prepared by the International Law Commission of the United Nations at its tenth session in 1958.

Article XXXVI

Recourse to arbitration implies the undertaking by the States concerned to consider the award to be given as final and to submit in good faith to its execution.

Article XXXVII

The means of settlement referred to in the preceding articles of this chapter are without prejudice to the utilization of means of settlement recommended to, or required of, members of regional arrangements or agencies and of other international organizations.

Annex

MODEL RULES FOR THE CONSTITUTION OF THE CONCILIATION COMMISSION FOR THE SETTLEMENT OF A DISPUTE (In implementation of Article XXXIII of Chapter 6)

Article I

The members of the Commission, including the President, shall be appointed by the States concerned.

Article II

If the States concerned cannot agree on these appointments, each State shall appoint two members. The members thus appointed shall choose one more member who shall be the President of the Commission. If the

appointed members do not agree, the member-president shall be appointed, at the request of the States concerned, by the President of the International Court of Justice, or, if he does not make the appointment, by the Secretary-General of the United Nations.

Article III

The membership of the Commission should include persons who, by reason of their special competence, are qualified to deal with disputes concerning international drainage basins.

Article IV

If a member of the Commission abstains performing his office or is unable to discharge his responsibilities, he shall be replaced by the procedure set out in Article I or Article II of this Annex, according to the manner in which he was originally appointed, If in the case of :

- (1) a member originally appointed under Article I, the States fail to agree as to his replacement; or
- (2) a member originally appointed under Article II, the State involved fails to replace the member;

a replacement shall be chosen, at the request of any State concerned, by the President of the International Court of Justice or, if he does not choose the replacement, by the Secretary-General of the United Nations.

Article V

In the absence of agreement to the contrary between the parties, the Conciliation Commission shall determine the place of its meetings and shall lay down its own procedure.

Supplementary Rules applicable to Flood Control

(Adopted by the International Law Association at its 55th Conference held at New York in 1972)

Article 1

In the context of the following Articles,

1. “floods” means the rising of water levels which would have detrimental effects on life n property in co-basin States; and
2. “flood control” means the taking of all appropriate steps to protect land areas from floods or to minimize damage therefrom.

Article 2

Basin States shall cooperate in measures of flood control in a spirit of good neighbourliness, having due regard to their interests and well-being as co-basin States.

Article 3

Co-operation with respect to flood control may, by agreement among basin States, include among others:

- (a) collection and exchange of data;
- (b) preparation of surveys, investigations and studies and their mutual exchange;
- (c) planning and designing of relevant measures;
- (d) execution of flood control measures;
- (e) operation and maintenance of works;
- (f) flood forecasting and communication of flood warmings;
- (g) setting up of regular information service charged to transmit the height of water levels and the discharge quantities.

Article 4

1. Basin States should communicate amongst themselves as soon as possible on any occasion such as heavy rainfalls, sudden melting of snow or other events likely to create floods and dangerous rises of water level in their territory.
2. Basin States should set up an effective system of transmission in order to fulfil the provisions contained in para. 1., and should ensure priority to the communication of flood warnings in emergency cases. If necessary, a special system of translation should be built up between the basin States.

Article 5

1. the use of the channel of rivers and lakes for the discharge of excess waters shall be free and not subject to any limitation provided this is not incompatible with the object of flood control.
2. Basin States should maintain in good order their portions of watercourses including works for flood control.
3. No basin State should be prevented from undertaking schemes of drainage, river training, conservation of soil against erosion and dredging, or from removal of stones, gravel or sand from the

beds of its portions of watercourses provided that, in executing any of these schemes, it avoids any unreasonable interference with the object of flood control, and provided that such schemes are not contrary to any legal restrictions which may exist otherwise.

4. Basin States should ensure the prompt execution of repairs or other emergency measures for minimization of damage by flooding during periods of high waters.

Article 6

1. Expenses for collection and exchange of relevant data, for preparation of surveys, investigations and studies, for flood forecasting and communication of flood warnings, as well as for the setting-up of a regular information service shall be borne jointly by the basin States co-operating in such matters.
2. Expenses for special works undertaken by agreement in the territory of one basin State at the request of another basin State shall be borne by the requesting State, unless the cost is distributed otherwise under the agreement.

Article 7

A basin State is not liable to pay compensation for damage caused to another basin State by floods originating in that basin State unless it has acted contrary to what could be reasonably expected under the circumstances, and unless the damage caused is substantial.

Article 8

In case of dispute, Articles XXX to XXXVII of the Helsinki Rules are, so far as may be, applicable.

Supplementary Rules applicable to Marine Pollution of Continental Origin
(Adopted by the International Law Association at its 55th Conference held at New York in 1972)

Article I

As used in this Chapter, “Continental sea-water pollution” means any detrimental change in the natural composition, content or quality of sea water resulting from human conduct taking place within the limits of the national jurisdiction of a State.

This conduct shall include, *inter alia*, the discharge or introduction of substances directly into the sea from pipelines, extended outlets, or ships, or indirectly through rivers or other watercourses whether natural or artificial, or through atmospheric fall-out.

Article II

Taking into account all relevant factors referred to in Article III, a State :

1. shall prevent any new form of continental sea-water pollution or any increase in the degree of existing continental sea-water pollution which would cause substantial injury in the territory of another State or to any of its rights under international law or to the marine environment; and
2. shall take all reasonable measures to abate existing continental sea-water pollution to such an extent that no substantial injury of the kind referred to in paragraph (a) is caused.

Article III

1. States should establish, as soon as possible, international standards for the control of sea-water pollution, having regard to all relevant factors, including the following :
 - the geography and hydrology of the sea (inland waters, territorial sea, contiguous zone and continental shelf);
 - climatological conditions;
 - quality and composition of affected sea-waters;
 - the conservation of the marine environment (flora and fauna);
 - the resources of the sea-bed and the sub-soil and their economic value for present and potential users;
 - the recreational facilities of the coastal area;
 - the past, present and future utilization of the coastal area and sea-water;
 - the economic and social needs of the (coastal) States involved;
 - the existence of alternative means for waste disposal;
 - the adaptation of detrimental changes to beneficial human uses;
 - the avoidance of unnecessary waste disposal.
2. Until such standards are established, the existence of substantial injury from pollution shall be determined by taking into consideration all relevant factors, including those referred to in paragraph 1.

3. The weight to be given to each factor is to be determined by its importance in comparison with that of other relevant factors.

Article IV

When it is contended that the conduct of a State is not in accordance with its obligations under these Articles, that State shall promptly enter into negotiations with the complainant with a view to reaching a solution that is equitable under the circumstances.

Article V

In the case of violation of the rules under Article II, the State responsible shall cease the wrongful conduct and shall compensate the injured State for the injury that has been caused to it.

Article VI

In case of a dispute, Articles XXXI to XXXVII of the Helsinki Rules are, so far as may be, applicable.

**Complementary Rules applicable to the Maintenance and Improvement of Naturally Navigable
Waterways Separating or Traversing Several States**

(Adopted by the International Law Association at its 56th Conference held at New Delhi in 1975)

To be inserted as Article XVIII^{bis} in the 1966 Helsinki Rules

1. A riparian State intending to undertake works to improve the navigability of the portion of a river or lake within its jurisdiction is under a duty to give notice to the co-riparian States.
2. If these works are likely to affect adversely the navigational uses of one or more co-riparian States, any such co-riparian State may, within a reasonable time, request consultation. The concerned co-riparian States are then under a duty to negotiate.
3. If a riparian State proposes that such works be undertaken in whole or in part in the territory of one or more other riparian States, it shall obtain the consent of the other co-riparian State or States concerned. The co-riparian State or States from whom this consent is required <are under a duty to negotiate.

**Supplementary Rules applicable to the Protection of Water Resources and Water Installations
in Times of Armed Conflict**

(Adopted by the International Law Association at its 57th Conference held at Madrid in 1976)

Article I

Water which is indispensable for the health and survival of the civilian population should not be poisoned or tendered otherwise unfit for human consumption.

Article II

Water supply installations which are indispensable for the minimum conditions of survival of the civilian population should not be cut off or destroyed.

Article III

The diversion of water for military purposes should be prohibited when it would cause disproportionate suffering to the civilian population or substantial damage to the ecological balance of the area concerned. A diversion that is carried out in order to damage or destroy the minimum conditions of survival of the civilian population or the basic ecological balance of the area concerned or in order to terrorize the population should be prohibited in any case.

Article IV

The destruction of water installations containing dangerous forces, such as dams and dykes, should be prohibited when such a destruction may involve grave dangers to the civilian population or substantial damage to the basic ecological balance.

Article V

The causing of floods as well as any other interference with the hydrologic balance by means not mentioned in Articles II to IV should be prohibited when it involves grave dangers to the civilian population or substantial damage to the ecological balance of the area concerned.

Article VI

1. The prohibitions contained in Articles I to V above should be applied also in occupied enemy territory.
2. The occupying power should administer enemy property according to the indispensable requirements of the hydrologic balance.
3. In occupied territories, seizure, destruction or intentional damage to water installations should be prohibited when their integral maintenance and effectiveness would be vital to the health and survival of the civilian population.

Article VII

The effect of the outbreak of war on the validity of treaties or of parts thereof concerning the use of water resources should not be termination but only suspension. Such suspension should take place only when the purpose of the war or military necessity imperatively demands the suspension and when the minimum requirements of subsistence for the civilian population are safeguarded.

Article VIII

1. It should be prohibited to deprive, by the provisions of a peace treaty or similar instrument, a people of its water resources to such an extent that a threat to the health or o the economic or physical conditions of survival are created.
2. When, as the result of the fixing of a new frontier, the hydraulic system in the territory of one State is dependent on works established within the territory of another State, arrangements should be made for the safeguarding of uninterrupted delivery of water supplies indispensable for the vital needs of the people.

Supplementary Rules applicable to the Administration of International Water Resources
(Adopted by the International Law Association at its 57th Conference held at Madrid in 1976)

Article I

As used in this Chapter, the term “international water resources administration” refers to any form of institutional or other arrangements established by agreement among two or more basin States for the purpose of dealing with the conservation, development and utilization of the waters of an international drainage basin.

Article II

1. With a view to implementing the principle of equitable utilization of the water of an international drainage basin, and consistent with the provisions of Chapter VI of the Helsinki Rules relating to the procedures for the prevention and settlement of disputes, the basin States concerned and interested should negotiate in order to reach agreement on the establishment of an international water resources administration.
2. The establishment of an international water resources administration in accordance with paragraph 1 above is without prejudice to the existence or subsequent designation of any joint agency, conciliation commission or tribunal formed or referred to by co-basin States pursuant to Article XXXI of the Helsinki Rules in the case of a question or dispute relating to the present or future utilization of the waters of an international drainage basin.

Article III

Member States of an international water resources administration in appropriate cases should invite other States, including non-basin States or international organizations, which by treaty, other instrument or binding custom enjoy a right or have an interest in the use of the waters of an international drainage basin, to participate in the activities of the international water resources administration.

Article IV

1. In order to provide for an effective international water resources administration, the agreement establishing that administration should expressly state, among other things, its objective or purpose, nature and composition, form and duration, legal status, areas of operation, functions and powers, and financial implications of such an international water resources administration.
2. The Guidelines annexed to these Articles should be taken into account when an international water resources administration is to be established.

Annex

GUIDELINES FOR THE ESTABLISHMENT OF AN INTERNATIONAL WATER RESOURCES ADMINISTRATION

(In implementation of Article IV, paragraph 2 of the Supplementary Rules applicable to the Administration of International Water Resources)

In establishing an international water resources administration, Member States should consider, on the basis of the requirements of each particular case, the elements contained in the following guidelines :

1. Form and duration of an International Water Resources Administration will depend on all relevant factors identified in these Guidelines, including :
 - (a) its duration, which may be *ad hoc* or permanent, and
 - (b) its constitution, which may take the form of : (i) separate national commissions or agencies; (ii) a joint commission or agency composed of national representatives of users; (iii) a mixed commission or agency;)iv) a commission or agency vested with supranational decision-making powers.
2. Procedures for decision-making will include :
 - (a) a *quorum* (for the validity of the meeting) which will depend on the importance of the decisions to be taken;
 - (b) the principle of either unanimity, simple or qualified majority or another combined form or decision-making.
3. The legal status of an International Water Resources Administration *vis-à-vis* both its Member States and other States not parties to the Administration as well as *vis-à-vis* international and other organizations should be defined; such legal status will cover :
 - (a) the managing body,
 - (b) the staff,
 - (c) assets, equipment and other properties,
 - (d) the whole Administration as such, including the power to sue and to be sued.
4. The territorial competence (*ratione loci*) of an International Water Resources Administration should be defined. The choice will depend on a number of factors, such as the extent of the drainage area with respect to each Member State; the contribution of water by each basin State; local interests; the other relevant factors to be considered in each particular case having regard to Article V of the Helsinki Rules.

Territorial competence may include :

- (a) The whole drainage basin, including surface water, underground water or both;
- (b) more than one drainage basin (multi-basin);
- (c) part of a drainage basin (sub-basin)
- (d) an area otherwise defined and clearly delimited; and
- (e) all or part of boundary waters.

5. The functions and powers of an International Water Resources Administration should be defined. These may vary from case to case, depending upon various factors including :

- (a) the kind of co-operation envisaged;
- (b) the desired degree of involvement in international administration;
- (c) the specific fields for which it is proposed to establish the administration.

Such functions and powers may include, without being limited to, one or more of the following :

- (a) advisory, consultative, co-ordinating or policy-making functions. In these cases, the agreement should specify the procedural rules for deciding on conflicting rights and interests, including notification, objections and timing;
- (b) executive functions, which may include the carrying out of studies, exploration, investigation and surveys, preparation of feasibility reports, inspection and control, construction, operation, maintenance or financing;
- (c) regulatory function, the implementation of the decisions of the Administration as well as law-making. Decisions in these matters may take effect directly or after acceptance by Member States;
- (d) judicial function, which may include arbitration or final dispute settlement..

6. As regards the objects and purposes (*ratione materiae*) of an International Water Resources Administration, these may include one or more of the following :

- (a) collection and exchange of hydrological, technical and other data, which may be undertaken by Member States separately or jointly, and their standardization;
- (b) plan formulation, which may include the exchange of plans prepared by Member States or jointly formulated plans;
- (c) co-ordination of plans;
- (d) construction of waterworks, which may be undertaken by Member States separately or jointly, or which may be entrusted to a non Member State or to some organization;
- (e) waterworks operation and maintenance, which may be entrusted to each Member State concerned separately or to a joint administration;
- (f) control of one or more beneficial uses of water which may include : (i) domestic and community uses; (ii) agricultural uses, including the watering of animals and agro-allied industrial uses; (iii) industrial uses, including cooling; (iv) hydropower generation and transmission; (v) Navigation; (vi) timber floating; (vii) fishing; and (viii) other beneficial uses of common interest;
- (g) control of one or more harmful effects of water which may include : (i) flood control measures, which may imply flow regulation and river training; (ii) embankment construction and maintenance; (iii) drought warning, prevention, reduction and control; (iv) soil erosion control; (v) land reclamation, including salinity control and drainage; (vi) dredging, maintenance and improvement of the navigable section of an international watercourse; (vii) saltation control; and (viii) other harmful effects of common interest;
- (h) water quality control, including such coastal sea areas of the Member States which may be adversely affected, and which may include : (i) prevention and abatement of water pollution resulting from one or more beneficial uses, and harmful effects, and the measures to be taken separately or jointly by Member States; (ii) health preservation, including human beings and

genetic resources (animals and plants), and the measures to be taken separately or jointly by Member States; and (iii) environment protection, with reference to the waters of the basin, including minimum standards and measures to be taken separately or jointly by Member States.

7. In establishing an International Water Resources Administration, one or more of the following financial and economic matters should be considered :
 - (a) internal financing of the Administration, including cost sharing and sharing criteria;
 - (b) development financing of projects and works, in particular including : (i) cost sharing and criteria for sharing (based on, e.g., at site benefit analysis, system development), procedures and criteria for compensation; (ii) sharing of benefits, including the assessment and collection of revenues, and criteria for sharing;
 - (c) external financing, with particular reference to the powers of the Administration necessary to enter into agreement for this purpose.
8. The agreement establishing an International Water Resources Administration should contain provisions for the settlement of disputes arising out of its interpretation and implementation.

**Supplementary Rules applicable to the Regulation of the Flow of Water
of International Watercourses**
(Adopted by the International Law Association at its 59th Conference held at Belgrade in 1980)

Article 1

For the purpose of these Articles, "regulation" means continuing measures intended for controlling, moderating, increasing or otherwise modifying the flow of the waters of an international watercourse for any purpose; such measures may include storing, releasing and diverting of water by means such as dams, reservoirs, barrages and canals.

Article 2

Consistent with the principle of equitable utilization, basin States shall co-operate in a spirit of good faith and neighbourliness in assessing needs and possibilities and preparing plans for regulation. When appropriate, the regulation should be undertaken jointly.

Article 3

When undertaking a joint regulation, basin States should settle all matters concerning its management and administration by agreement. When necessary, a joint agency or commission should be established and authorized to manage all relevant aspects of the regulation.

Article 4

Unless otherwise agreed, each basin State party to a regulation shall bear a share of its costs proportionate to the benefits it derives from the regulation.

Article 5

1. The construction of dams, canals, reservoirs or other works and installations and the operation of such works and installations required for regulation by a basin State in the territory of another can be carried out only by agreement between the basin States concerned.
2. Unless otherwise agreed, the costs of such works and their operation should be borne by the basin States concerned.

Article 6

A basin State shall not undertake regulations that will cause other basin States substantial injury unless those States are assured the enjoyment of the beneficial uses to which they are entitled under the principle of equitable utilization.

Article 7

1. A basin State is under a duty to give the notice and information and to follow the procedures set forth in Article XXIX of the Helsinki Rules.
2. When appropriate, the basin State should invite other basin States concerned to participate in the regulation.

Article 8

In the event of objection to the proposed regulation, the States concerned shall use their best endeavour with a view to reaching an agreement. If they fail to reach an agreement within a reasonable time, the States should seek a solution in accordance with Chapter 6 of the Helsinki Rules.

Article 9

The application of these Articles to regulation for controlling floods is without prejudice to the application of the relevant Articles on Flood Control adopted by the Association in 1972.

**Supplementary Rules applicable to the Relationship of International Water Resources with
other Natural Resources and Environmental Elements**
(Adopted by the International Law Association at its 59th Conference held at Belgrade in 1980)

Article 1

Consistent with Article IV of the Helsinki Rules, States shall ensure that :

- (a) the development and use of water resources within their jurisdiction do not cause substantial injury to the environment of other States or of areas beyond the limits of national jurisdiction; and
- (b) the management of their natural resources (other than water) and other environmental elements located within their own boundaries does not cause substantial injury to the waters of other States.

Article 2

Articles XXVI to XXXVII of the Helsinki Rules shall apply to matters covered by Article 1.

Complementary Rules applicable to Pollution in an International Drainage Basin (Adopted by the International Law Association at its 60th Conference held at Montreal in 1982)

Article 1

Consistent with the Helsinki Rules on the equitable utilization of the waters of an international drainage basin, States shall ensure that activities conducted within their territory or under their control conform with the principles set forth in these Articles concerning water pollution in an international drainage basin. In particular, States shall :

- (a) prevent new or increased water pollution that would cause substantial injury in the territory of another State;
- (b) take all reasonable measures to abate existing water pollution to such an extent that no substantial injury is caused in the territory of another State; and
- (c) attempt to further reduce an such water pollution to the lowest level that is practicable and reasonable under the circumstances.

Article 2

Notwithstanding the provision of Article 1, States shall not discharge or permit the discharge of substances generally considered to be highly dangerous into the waters of an international drainage basin.

Article 3

In order to give effect to Articles 1 and 2 above, States shall enact all necessary laws and regulations and adopt efficient and adequate administrative measures and judicial procedures for the enforcement of these laws and regulations.

Article 4

In order to give effect to the provisions of these Articles, States shall cooperate with the other States concerned.

Article 5

Basin States shall :

- (a) inform the other States concerned regularly of all relevant and reasonably available data, both qualitative and quantitative, on the pollution of the waters of the basin, its causes, the damage resulting from it, and the preventive measures;
- (b) notify the other States concerned in due time of any activities envisaged in their own territories that may involve a significant threat of, or increase in, water pollution in the territories of those other States; and
- (c) promptly inform States that might be affected, of any sudden change of circumstances that may cause or increase water pollution in the territories of those other States.

Article 6

Basin States shall consult one another on actual or potential problems of water pollution in the drainage basin so as to reach, by methods of their own choice, a solution consistent with their rights and duties under international law. This consultation, however, shall not unreasonably delay the implementation of plans that are the subject of the consultation.

Article 7

In order to ensure an effective system of prevention and abatement of water pollution in an international drainage basin, basin States should set up an appropriate international administrative machinery for the entire basin. In any event, they should :

- (a) coordinate or pool their scientific and technical research programs to combat water pollution;
- (b) establish harmonized, coordinated or unified networks for permanent observation and pollution control; and
- (c) establish jointly water quality objectives and standards for the whole or part of the basin.

Article 8

States should provide remedies for persons who are or may be adversely affected by water pollution in an international drainage basin. In particular, States should, on a non-discriminatory basis, grant these persons access to the judicial and administrative agencies of the State in whose territory the pollution originates and should provide, by agreement or otherwise, for such matters as the jurisdiction of courts, the applicable law and the enforcement of judgments.

Article 9

In the case of a breach of a State's international obligations relating to water pollution in an international drainage basin, that State shall cease the wrongful conduct and shall pay compensation for the injury resulting therefrom.

Article 10

When it is contended that the conduct of a State is not in accordance with its obligations under these Articles, that State shall promptly enter into negotiations with the complaining State with a view to reaching a solution that is equitable under the circumstances.

Article 11

In the case of a dispute concerning water pollution in an international drainage basin, Article XXI to XXXVII of the Helsinki Rules shall, as far as possible, be applicable.

Supplementary Rules applicable to International Groundwaters

(Adopted by the International Law Association at its 62nd Conference held at Seoul in 1986)

Article 1

The waters of international aquifers*

The waters of an aquifer that is intersected by the boundary between two or more States are international groundwaters and such an aquifer with its waters forms an international basin or part thereof. Those States are basin States within the meaning of the Helsinki Rules whether or not the aquifer and its waters form with surface waters part of a hydraulic system flowing into a common terminus.

* *The term "aquifer" as here employed comprehends all underground waters bearing strata capable of yielding water on a practical basis, whether these are in other instruments or context called by another name*

such as “groundwater reservoir”, “groundwater catchment area”, etc., including the waters in fissured or fractured rock formations and the structures containing deep, so-called “fossil waters”.

Article 2
Hydraulic interdependence

1. An aquifer that contributes water to, or receives water from, surface waters of an international basin constitutes part of that international basin for the purpose of the Helsinki Rules.
2. An aquifer intersected by the boundary between two or more States that does not contribute water to, or receive water from, surface waters of an international drainage basin constitutes an international drainage basin for the purpose of the Helsinki Rules.
3. Basin States, in exercising their rights and performing their duties under international law, shall take into account any interdependence of the groundwaters and other waters, including any interconnections between aquifers, and any leaching into aquifers caused by activities in areas under their jurisdiction.

Article 3
Protection of groundwaters

1. Basin States shall prevent or abate the pollution of international groundwaters in accordance with international law applicable to existing, new, increased and highly dangerous pollution. Special consideration should be given to the long term effects of the pollution of groundwater.
2. Basin States shall consult and exchange relevant information and data at the request of any one of them :
 - (a) for the purpose of preserving the groundwaters of the basin from degradation and protecting from impairment the geologic structure of the aquifers, including recharge areas; and
 - (b) for the purpose of considering joint or parallel quality standards and environmental protection measures applicable to international groundwaters and their aquifers.
3. Basin States shall co-operate, at the request of any one of them, for the purpose of collecting and analysing additional needed information and data pertinent to the international groundwaters or their aquifers.

Article 4
Groundwater management and surface waters

Basin States should consider the integrated management, including conjunctive use with surface waters, of their international groundwaters at the request of any one of them.

Complementary Rules applicable to International Water Resources

(Adopted by the International Law Association at its 62nd Conference held at Seoul in 1986)

Article I
Substantial injury

A basin State shall refrain from and prevent acts or omissions within its territory that will cause substantial injury to any co-basin State, provided that the application of the principle of equitable utilization as set forth in Article IV of the Helsinki Rules does not justify an exception in a particular case. Such an exception shall be determined in accordance with Article V of the Helsinki Rules.

Article II
Measures within the territory of other basin states

If an undertaking, to be executed by a basin State, requires works or installations within the territory of a co-basin State, or the utilization of water resources in that territory, all questions connected with these measures are to be determined by agreement. The States concerned shall use their best endeavours to reach a just and reasonable agreement in accordance with the principle of equitable utilization.

Article III
Notification and objection

1. When a basin State proposes to undertake, or to permit the undertaking of, a project that may substantially affect the interests of any co-basin State, it shall give such State or States notice of the project. The notice shall include information, data and specifications adequate for assessment of the effects of the project.
2. After having received the notice required by paragraph 1, a basin State shall have a reasonable period of time, which shall be not less than six months, to evaluate the project and to communicate its reasoned objection to the proposing State. During that period the proposing State shall not proceed with the project.
3. If a basin State does not object to the project within the time permitted under paragraph 2, the proposing State may proceed with the project in accordance with the notice.
4. If a basin State objects to the project, the States concerned shall make every effort expeditiously to settle the matter consistent with the procedures set forth in Chapter 6 of the Helsinki Rules. The proposing State shall not proceed with the project while these efforts are continuing provided that they are not unduly protracted. If these efforts become unduly protracted, or an objecting State has refused to have resort to third party procedures for settlement of the remaining differences, the proposing State may, on its own responsibility, proceed with the project in accordance with the notice.
5. The notice and other communications referred to in this Article shall be transmitted through appropriate official channels unless otherwise agreed.

**Supplementary Rules applicable to Private Law Remedies for Transboundary Damage
in International Watercourses**

(Adopted by the International Law Association at its 67th Conference held at Helsinki in 1996)

Article 1

1. For the purpose of these Articles, “damage” includes *inter alia* :
 - (a) loss of life or personal injury;
 - (b) loss of or injury to property; and
 - (c) the costs of reasonable measures to prevent or minimize such loss or injury.
2. For the purpose of these Articles, “damage to the environment” means :

- (a) harm to the environment of the drainage basin, the costs of reasonable measures to prevent or minimize such harm, and any further loss or damage caused by such measures; and
 - (b) the costs of reasonable measures of reinstatement or restoration of the environment of the drainage basin actually undertaken or to be undertaken.
3. Except where these Articles otherwise provide, “person” means any natural or juridical person.

Article 2

1. States, individually, or jointly, shall ensure the availability of prompt, adequate, and effective administrative and judicial remedies for persons in another State who suffer or may suffer damage arising from the inequitable or unreasonable use of the waters of an international drainage basin in their territories.
2. For the purpose of giving effect to these Articles, State shall ensure cooperation between their competent courts and authorities, and shall take measures to ensure that any person who suffers or may suffer damage resulting from the use in another State of the waters of an international drainage basin shall have access to such information as is necessary to enable them to exercise their rights under these Articles in a prompt manner.

Article 3

1. Any person who suffers or may suffer damage resulting from the use in another State of the waters of an international drainage basin shall be entitled in that State to the same extent and on the same conditions as a person in that State :
 - (a) to participate in any environmental impact assessment procedure;
 - (b) to institute proceedings before an appropriate court or administrative authority of that other State in order to determine whether the damaging use or activity should be permitted;
 - (c) to obtain preventive remedies;
 - (d) to obtain compensation; and
 - (e) to obtain information necessary for the above purposes.
2. Public bodies and non-governmental associations established in the State which are or may be affected by damage, including damage to the environment, caused by the use of waters of an international drainage basin in another State shall be entitled on condition of reciprocity to initiate proceedings or participate in procedures in that other State to the same extent and on the same conditions as public bodies and non-governmental associations established in that State.

Complementary Rules on Pollution

(Adopted by the International Law Association at its 67th Conference held at Helsinki in 1996)

Article 1

In using the waters of an international drainage basin, States shall, consistent with the rules on international water resources subsequently adopted by the International Law Association, individually or jointly take all reasonable measures to prevent or minimize significant transboundary pollution of another environmental medium.

Article 2

Consistent with applicable international rules and standards, States shall insofar as technically and economically feasible, ensure that waste, pollutants, and hazardous substances handled, treated, and disposed of in the manner that produces the least transboundary environmental harm.

Article 3

In using the waters of an international drainage basin, States individually or jointly as appropriate shall ensure prior assessment of the impact of programs or projects that may have a significant transboundary effect on the environment or on the sustainable use of the waters.

Article 4

States shall use their best effort to achieve integrated management of the water resources of their international drainage basins.

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