



Session 3. Main Obligations of the UN Watercourse Convention and the ECE Water Convention: Notification and Environmental Impact Assessment

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From Practitioner to practitioner: training on how to use the two global Water Conventions to promote cooperation on the ground

UN Watercourses Convention

- Articles 11 through 19 of the UN Watercourses Convention provides detailed provisions related to the notification of planned measures.
- **Article.12 Notification concerning planned measures with possible adverse effects** “Before a watercourse State implements or permits the implementation of planned Measures ...it shall provide those States with timely notification thereof.... **including the results of any environmental impact assessment**”.

UN Watercourses Convention

- Notification essentially triggers a **process of consultation and potentially negotiation**.
- Once a State has been notified of a planned measure the **notified State has six months to evaluate the data and information and this period can be extended (Art .13)**.
- The notifying State agrees **not to go ahead with the planned measure** during that period of time and to provide with **any additional information if needed (Art. 14)**

UN Watercourses Convention

- **Art. 15 Reply to notification** “... If the notified State finds the implementation of the planned measures inconsistent with provisions of the Convention (Art. 5 and Art.7) it shall attach a documented explanation.
- **Art. 16 Absence of reply to notification** if within the period established in Art. 13, there is no communication, the State may proceed with the planned measures (subject to Art. 5 and Art. 7).

Art. 5 Equitable and reasonable utilisation and participation

Art.7 Obligation not to cause significant harm

UN Watercourses Convention

- **Article. 17 Consultations and negotiations concerning planned measures** “1. If a communication is made under article 15 that implementation of the planned measures would be inconsistent with the provisions of articles 5 or 7, the notifying State and the State making the communication **shall enter into consultations and, if necessary, negotiations...**”

Art. 5 Equitable and reasonable utilisation and participation

Art.7 Obligation not to cause significant harm

ECE Water Convention

- **Article. 3 Prevention, Control and Reduction**
- **Paragraph 1 (h)** “To prevent, control and reduce transboundary impact, the Parties shall develop, adopt, implement and, as far as possible, render compatible relevant ...measures... in order to ensure, inter alia, that: **Environmental impact assessment and other means of assessment are applied;...**”

ECE Water Convention

- **Article 10 Consultation** “**Consultations shall be held between the Riparian Parties** on the basis of reciprocity, good faith and good-neighbourliness, at the request of any such Party....”

Other Important Relationship

- **Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention)**
- Sets out the obligations of Parties to **assess the environmental impact of certain activities at an early stage of planning**. It also lays down the general obligation of States to notify and **consult each other on all major projects** under consideration that are likely to have a significant adverse environmental impact across boundaries

Relationship between Conventions and articles



Case Study and Importance

- The International Court of Justice (ICJ) in the Pulp Mills on the River Uruguay case affirmed that **Environmental Impact Assessment is an element of the due diligence requirement not to cause significant harm.**