

# Issues of International Water Law



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# Conventions: Questions to be Addressed

- Scope of joint actions: watershed or TBWR or International Watercourses.
- Criteria of “reasonable and equitable water use”.
- Where is the “Do not harm” principle?
- Responsibility for damage to river ecosystems.
- Where is the boundary between “acceptable damage” and “non-acceptable damage”?

# Comparison of Principle International Documents

	Helsinki Rules 1966 ILA	European Convention 1992	UN Convention 1997 ILC
Object of management	International river basin including rivers, tributaries, lakes, glaciers, ground water, space.	Transboundary waters.	Watercourse –surface and ground water system in their physical interaction as a whole running in the same direction
Commitments	<ul style="list-style-type: none"> <li>- Obligatory compensation of the damage</li> <li>- Prevention of <u>significant</u> harm</li> </ul>	<ul style="list-style-type: none"> <li>- Prevention, limitation and reduction of transboundary return water pollution</li> </ul>	<ul style="list-style-type: none"> <li>- To prevent significant damage to riparian countries.</li> <li>- To collaborate on base of sovereignty, equality, territorial integrity, mutual benefit for optimal watercourse utilization.</li> </ul>
Principles of water use and distribution	Reasonable and equal participation in joint water use.	<ul style="list-style-type: none"> <li>- Polluter pays.</li> <li>- Management should satisfy needs of present generation without damage to future ones.</li> </ul>	Equitable and reasonable shared natural resources.

# Comparison of Principle International Documents (cont.)

	Helsinki Rules 1966 ILA	European Convention 1992	UN Convention 1997 ILC
Ecological requirements	To prevent any new pollutions or any pollution exceeding.	- Ecologically grounded and rational water resources management. - Ecosystems maintenance.	Watercourse protection and conservation
Information exchange	Appropriate information about watercourses, their use and development.	Broad information exchange	Easily accessible data
Priority of use	Is denied	Is not mentioned	Any type of use does not use priority.
Arbitrage	Arbitrage Commission, International Court	Special arbitrage. Court is not mentioned	Commission and International Court
Right maintenance on existing reasonable water use.	Yes	Not mentioned	Not mentioned

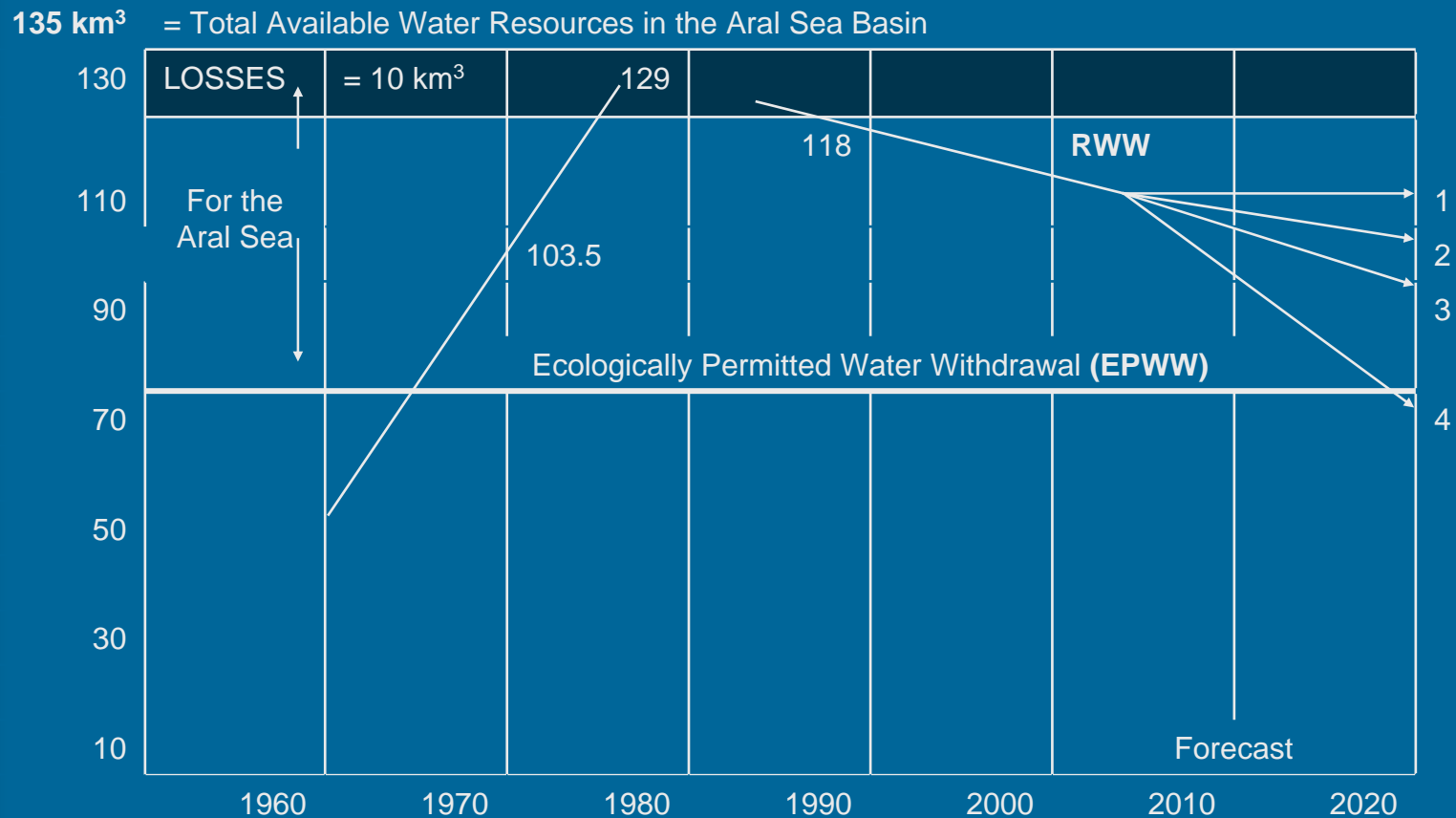
# Shortcomings of International Water Law

- Absence of the nature's right to water (rivers, lakes, streams, etc.)
- Absence of determination principle provisions of international water organizations.
- Ignoring the possible actions against harm to riparian states.
- Border between “sovereignty” and “transboundary”.
- Absence of obligations concerning access to information, knowledge and transparency among riparian states.

# What should be done?

1. Water and associated natural resources within the geographic watershed should be subject of joint water resources management, use, conservation and development.
2. Strict observance of limited water releases to users – ecologically permitted water withdrawal.

# Variations of Total Water Withdrawal in the Aral Sea Basin in Comparison with the Ecological Permitted Water Usage



**Note:** Future Ways of Development: 1- preserve the current water withdrawal; 2 – pessimistic; 3 – optimistic; 4 – unreal.

3. River flows should not be less in summer times and not be more in winter times than values of waters recorded at the same time during the observation period
4. Strict definition of “transboundary” and “national” water resources



# Transboundary Water Resources

- ❑ Surface waters-river runoff, tributaries and their combination; formed and located along the boundaries or crossing boundaries between two or more states as well as resources of artificial water bodies originating due to human activity;
- ❑ Ground waters-deposits located on the territory of two or more states or linked with transboundary surface waters;
- ❑ Return waters-changing quality and (or) amount of transboundary waters or formed on the territory of two or more states.

# National Water Resources

- ❑ Local river runoff within the states, not connected with transboundary waters, as well as lakes, glaciers and snow packs;
- ❑ Ground waters located within one state and not connected with transboundary surface and ground waters;
- ❑ Return waters within the state not influencing any transboundary waters.

# Sharing of Permitted Water Resources in the Aral Sea Basin

Aspects, Indicators	Countries						Total Sum
	Afghanistan*	South Kazakhstan*	Kyrgyz tan	Tajikistan	Turkmenistan	Uzbekistan	
Population (mln. inhabitants)							
2001	4.5	2.84	2.81	6.10	4.60	25.0	46.05
2020	5.0	3.51	3.64	7.60	6.20	31.7	57.60
Water Level in 1960 – ecologically balanced level of water withdrawal (mln. m <sup>3</sup> / year)	2.0	8.5	2.2	9.2	10.6	43.5	75.4
Water Share proportionally to number of population in 2020 (mln. m <sup>3</sup> )	6.77	4.84	4.97	10.39	8.4	42.90	78.27
Final Recommendation for Water Sharing (mln. m <sup>3</sup> )	6.77	8.5	4.97	10.39	10.60	43.5	84.65

\* Afghanistan and S. Kazakhstan, the Aral Sea Basin only

5. Equitable and rational water use.
6. National water rights to use water from TBWR should follow Items 2 and 3 and do not touch the present & future interests of other riparians and nature.
7. Transboundary return waters - as subject of common responsibility.
8. All types of activities on international water watershed, connected with TBWR, should be coordinated by all interested parties.
9. Any damage to the international watershed should be thoroughly assessed and compensated.

10. Obligate basin organizations (BOs) to IWRM on international watersheds.
11. Diplomatic status of BO.
12. Public participation in BO.
13. Responsibility of riparians for political and financial support of BO.
14. Rights of riparians to sell or transfer part of their limit to others.
15. Common hydro-meteorological services and interstate information system