

International Regulation regarding the Use of International Watercourses for Purposes other than Navigation

Declaration of Madrid, 20 April 1911

Statement of Reasons

Riparian States with a common stream are in a position of permanent physical dependence on each other which precludes the idea of the complete autonomy of each State in the section of the natural watercourse under its sovereignty.

International law has dealt with the right of navigation with respect to international rivers but the use of water for the purposes of industry, agriculture, etc. was not foreseen by international law.

It therefore seems expedient to remedy this lack by noting the rules of law resulting from the interdependence which undoubtedly exists between riparian States with a common stream and between States whose territories are crossed by a common stream.

With the exception of the right of navigation, as already established or to be established by international law:

The Institute of International Law is of the opinion that the following regulations should be observed from the point of view of (any) use of international streams.

I. When a stream forms the frontier of two States, neither of these States may, without the consent of the other, and without special and valid legal title, make or allow individuals, corporations, etc. to make alterations therein detrimental to the bank of the other State. On the other hand, neither State may, on its own territory, utilize or allow the utilization of the water in such a way as to seriously interfere with its utilization by the other State or by individuals, corporations, etc. thereof.

The foregoing provisions are likewise applicable to a lake lying between the territories of more than two States.

II. When a stream traverses successively the territories of two or more States:

1. The point where this stream crosses the frontiers of two States, whether naturally, or since time immemorial, may not be changed by establishments of one of the States without the consent of the other;

2. All alterations injurious to the water, the emptying therein of injurious matter (from factories, etc.) is forbidden;

3. No establishment (especially factories utilizing hydraulic power) may take so much water that the constitution, otherwise called the utilizable or essential character of the stream shall, when it reaches the territory downstream, be seriously modified;

4. The right of navigation by virtue of a title recognized in international law may not be violated in any way whatsoever;

5. A State situated downstream may not erect or allow to be erected within its territory constructions or establishments which would subject the other State to the danger of inundation;

6. The foregoing rules are applicable likewise to cases where streams flow from a lake situated in one State, through the territory of another State, or the territories of other States;

7. It is recommended that the interested States appoint permanent joint commissions, which shall render decisions, or at least shall give their opinion, when, from the building of new establishments or the making of alterations in existing establishments, serious consequences might result in that part of the stream situated in the territory of the other States.