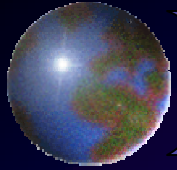


# *International Law of Water Resources*

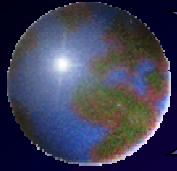
## *Lecture 5: Institutional Mechanisms*

**Dr. Patricia Wouters**



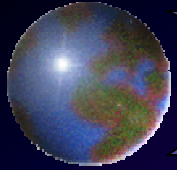
# *Course Outline & Timetable*

- **Lecture 1: Evolution of IWL**
- **Lecture 2: Legal Entitlement -- Scope**
- **Lecture 3: Substantive Rules**
- **Lecture 4: Procedural Rules**
- **Lecture 5: Institutional Mechanisms**
- **Lecture 6: Compliance / Dispute Settlement; Danube Case**
- **Reading List – indicative / updated?**



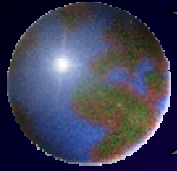
# *Institutional Mechanisms*

- ⊗ Definition?
- ⊗ Rule of Customary International Law?
- ⊗ Progressive Development?
- ⊗ State practice?
- ⊗ Regional models?



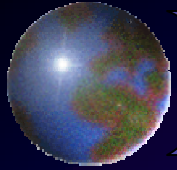
# *Institutional Mechanisms*

- ⊗ What is the role?
- ⊗ What is the mandate?
- ⊗ Contentious Issues?
- ⊗ Operational?
- ⊗ Problems?



# *International Practice*

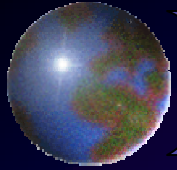
- UN Watercourses Convention
- Mekong Agreement
- European (UNECE & EU)
- International (North America; Indus)



# *1997 UN Watercourses Convention*





## Article 8 (2)

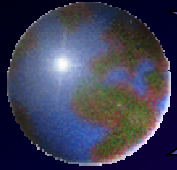
In determining the manner of such cooperation (Art. 8(1)), watercourse States **may consider** the establishment of **joint mechanisms or commissions**, as **deemed necessary** by them, to facilitate cooperation on relevant measures and procedures in the light of experience gained through cooperation in existing joint mechanisms and commissions in various regions.



# *1997 UN Watercourses Convention*

## **Article 8 (2)**

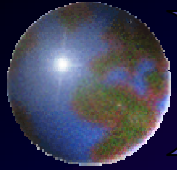
-  When was this added?
-  Does not appear in Schwebel's or McCaffrey's reports; not in the 1994 Report of Commission with Commentaries
-  Must go to the records of New York Working Group of the Whole
-  Why was this added?



## *ILA 1966 Helsinki Rules, 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.



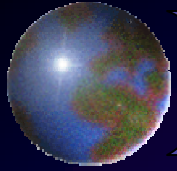


# *1992 Helsinki Convention*

## Article 1. Definition

“Joint Body” means any bilateral or multilateral **commission** or **other appropriate institutional arrangements** for **cooperation** between the Riparian Parties

(Riparian Parties = Parties bordering the same transboundary waters)

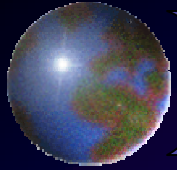


# *1992 Helsinki Convention*

## Article 9(2) Bilateral and Multilateral Cooperation

The agreements or arrangements mentioned in paragraph 1 of this article **shall provide** for the establishment of **joint bodies**. The **tasks** of these joint bodies **shall be**, inter alia, and without prejudice to relevant existing agreements or arrangements, **the following**:

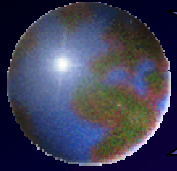
(see provisions (a) to (i))



# 1992 Helsinki Convention

## Article 9 Bilateral and Multilateral Cooperation (cont'd)

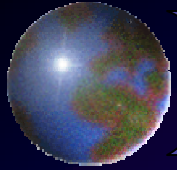
- ☉ Art. 9 (3) "... **invite** that coastal State to be involved in an **appropriate manner in the activities** of multilateral joint bodies..."
- ☉ Art. 9(4) "... joint bodies ... **shall invite** joint bodies established by coastal States..."
- ☉ Art. 9(5) "where **2 or more joint bodies** exist in the same catchment area, they shall **endeavour to coordinate** their activities..."
- ☉ Art. 10 "... **consultations shall be** conducted through a **joint body** established under Art. 9..."



# 1992 Helsinki Convention

## Article 17 Meeting of Parties (MOP)

- ☉ Art. 17 (1) – regular meetings
- ☉ Art. 17 (2) – “... the Parties shall keep under continuous review the implementation of this Convention and with this purpose in mind shall: (see (a) to (f))
- ☉ Art. 18 – voting rights (RIEO voting)
- ☉ Art. 19 – Secretariat (role)



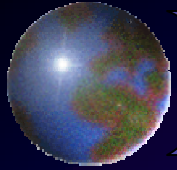
# *1998 Rhine Convention*

## Article 1 Definitions

“Commission”: the International Commission on the Protection of the Rhine (ICPR)

## Article 6 Commission

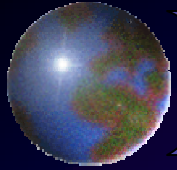
The Commission possesses juridical personality. In particular, it has legal and contractual capacity conferred on legal persons according to national law. It is represented by its President.



# *1998 Rhine Convention*

## Article 7 Organisation of the Commission

- ❑ Delegation of Contracting Parties
- ❑ May be accompanied by experts
- ❑ Revolving Presidency
- ❑ Drafts internal and financial rules
- ❑ Decides on matters of internal organisation, working structure deemed necessary and the annual budget

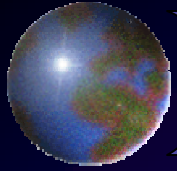


# 1998 Rhine Convention

## Article 8 Tasks of the Commission

In order to achieve the tasks according to **Art. 3**:

- ❑ Prepare international monitoring programmes & analyses ... and to evaluate ... in cooperation with scientific institutions
- ❑ Elaborate proposals for measures ... eventually including economic instruments
- ❑ Coordinate ... warning and alarm plans
- ❑ Evaluate effectiveness of measures ... on basis of reports and results of monitoring & analyses...
- ❑ ... any other tasks ...



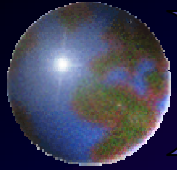
# *1998 Rhine Convention*

## Article 8 Tasks of the Commission (cont'd)

To this end, the Commission takes **decisions** according to Articles 10 and 11.

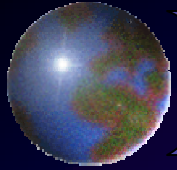
- ❑ presents annual report
- ❑ informs the public on the state of the Rhine and its work
- ❑ may draft and publish reports





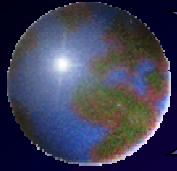
# 1998 Rhine Convention

- ❁ Article 9 Plenary Sessions of Commission
- ❁ Article 10 Decision Making in the Commission
- ❁ Article 11 Implementation of the Commission Decisions (see details)
  - ❁ addresses its **decisions** on measures as **recommendations**
  - ❁ **implementation** of decisions
  - ❁ keeps a **list** of its decisions



# *1998 Rhine Convention*

- ❖ Article 12 Secretariat
- ❖ Article 13 Distribution of Expenses
- ❖ Article 14 Cooperation with other States, other Organisations and External Experts (see details)



## *Mekong Agreement, Art. 24*

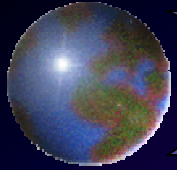
### Article 18. Functions of Council

### Article 24. Functions of Joint Committee (JC)

(C) To regularly obtain, update and exchange **information and data necessary** to implement this Agreement.

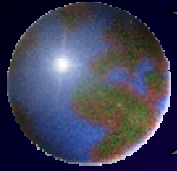
(D) To conduct appropriate studies and assessments ...

(E) ... including the **maintenance of databases and information necessary** ...



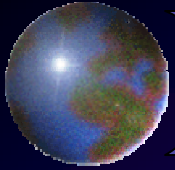
## *State Practice*

- ❁ Latin America (Rio de la Plata? Amazon?)
- ❁ Canada – USA (IJC)
- ❁ USA – Mexico (IBWC)
- ❁ Africa (OMVS; NBA; etc..)
- ❁ SADC (Shared Watercourse Systems Protocol 1994; 2000)
- ❁ India (Indus; Ganges)
- ❁ EU Framework Directive



## *Next Lecture*

- ✚ **L6: Compliance; Dispute Avoidance / Settlement (Dr. Vinogradov - Danube case)**
- ✚ **Paper topics? Presentations??**
- ✚ **Office hours**



# *Questions*

- ❖ 1999 Protocol on Water & Health?
- ❖ Hague Ministerial Declaration (March 2000)?
- ❖ World Water Vision?
- ❖ Global Water Partnership? (TAC Reports?)
- ❖ World Bank and Regional Development Banks?
- ❖ DFID and donor country policies & strategies?
- ❖ Integrated Water Resources Management?
- ❖ UN work (UN CSD? HELP? UN IHP? UNEP? FAO?)
- ❖ Human Rights?