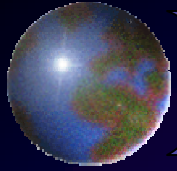




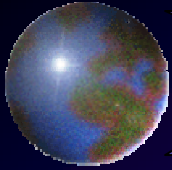
International Law of Water Resources
Lecture 6: Compliance & Dispute
Avoidance / Settlement

Dr. Patricia Wouters



Course Outline & Timetable

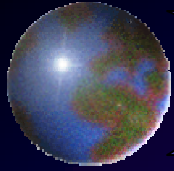
- **Lecture 1: Evolution of IWL**
- **Lecture 2: Legal Entitlement -- Scope**
- **Lecture 3: Substantive Rules**
- **Lecture 4: Procedural Rules**
- **Lecture 5: Institutional Mechanisms**
- **Lecture 6: Compliance / Dispute Settlement**
- **Reading List - indicative**



Duty to Cooperate - Art. 8

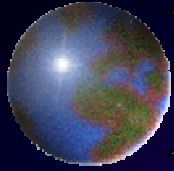
Watercourse States shall cooperate on the basis of sovereign equality, territorial integrity, mutual benefit and good faith in order to attain optimal utilization and adequate protection of an international watercourse.

8(2) “may consider the establishment of joint mechanisms or commissions...”



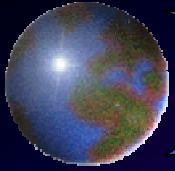
Non-discrimination

Art. 32 - "suffer . . . significant transboundary harm . . . watercourse State shall not discriminate on the basis of nationality or residence or place where the injury occurred. . . in granting access to judicial or other procedures"



Dispute Settlement

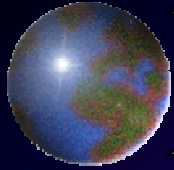
- ✿ Art. 33 - by agreement, or negotiation, good offices, mediation, conciliation, arbitration, ICJ or compulsory fact-finding (conciliation procedure)
- ✿ objections by some States



Helsinki Convention

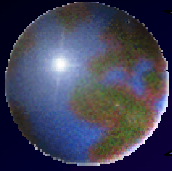
Dispute Settlement

- ✚ Art. 22 - negotiation or as agreed to by the Parties; ICJ or arbitration
- ✚ common formula utilised in all UNECE conventions



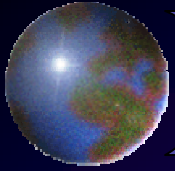
Issues of implementation

- ❖ **Implementation and compliance**
- ❖ **Compliance: the entire range of activities promoting implementation**
- ❖ **The compliance regime may have both positive (i.e. incentive-based) and negative (i.e. sanctions-based) focus**
- ❖ **Emphasis on non-confrontational, non-judicial approach**
- ❖ **Compulsory dispute settlement strengthens the compliance regime**



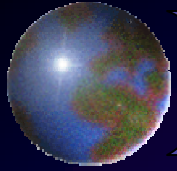
Reasons for non-compliance

- ❖ **Intentional breach of international obligations - very rare**
- ❖ **Lack of political will**
- ❖ **Lack of technical capacity and expertise**
- ❖ **Lack of financial resources**



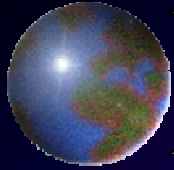
Compliance Strategy

- ❖ clear primary rules
- ❖ a compliance information system,
and
- ❖ a non-compliance response
procedure



Compliance verification systems

- ⊗ Formal and informal methods of compliance verification
- ⊗ Exchange of information
- ⊗ Monitoring and assessment
- ⊗ Reporting and review
- ⊗ Institutional mechanisms (implementation bodies)
- ⊗ Incentives: technical and financial support



Water instruments

- ✚ 1992 Helsinki Convention
- ✚ 1999 Water and Health Protocol
- ✚ 1998 Aarhus Convention