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SUPPLEMENTARY REPORT ON THE LEGAL PROBLEMS RELATING TO THE
NON-NAVIGATIONAL USES OF INTERNATIONAL WATERCOURSES
REQUESTED BY THE GENERAL ASSEMBLY IN RESOLUTION 2669 (XXV)
OF 8 DECEMBER 1970

Advance report submitted by the Secretary-General pursuant to
General Assembly resolution 2926 (XXVII) of 28 November 1972

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INTRODUCTION

1. By resolution 2669 (XXV) of 8 December 1970, entitled "Progressive development and codification of the rules of international law relating to international watercourses", the General Assembly requested the Secretary-General "to continue the study initiated by the General Assembly in resolution 1401 (XIV) in order to prepare a supplementary report on the legal problems relating to the utilization and use of international watercourses, taking into account the recent application in State practice and international adjudication of the law of international watercourses and also intergovernmental and non-governmental studies on this matter".
2. By resolution 2926 (XXVII) of 28 November 1972, the General Assembly requested the Secretary-General "to submit, as soon as possible, the study on the legal problems relating to the non-navigational uses of international watercourses requested by the General Assembly in resolution 2669 (XXV) of 8 December 1970, and to present to the International Law Commission at its twenty-fifth session an advance report of such study". Pursuant to this resolution, the Secretary-General submits the present report.

A. PLAN OF THE SUPPLEMENTARY REPORT

3. It should be recalled that the Secretary-General's report on "legal problems relating to the utilization and use of international rivers", prepared pursuant to General Assembly resolution 1401 (XIV) of 21 November 1959, was published in 1963 in a mimeographed document (A/5409, three volumes). 1/ As requested by that resolution, the report contained: (a) information provided by Member States regarding their laws and legislation in force on the matter; (b) a summary of existing bilateral and multilateral treaties; (c) a summary of decisions of international tribunals, including arbitral awards; and (d) a survey of studies made or being made by non-governmental organizations concerned with international law. The supplementary report, which is now in process of preparation pursuant to General Assembly resolution 2669 (XXV), is intended to include the same categories of information contained in the initial report, together with relevant studies made by intergovernmental organizations.

B. INFORMATION RECEIVED FOR INCLUSION IN THE SUPPLEMENTARY REPORT

4. In paragraph 121 of the report on the work of its twenty-third session, 2/ the International Law Commission recorded its understanding that in preparing the

1/ An important part of the information contained in that document was published in a volume of the United Nations Legislative Series issued in 1963 and entitled "Legislative texts and treaty provisions concerning the utilization of international rivers for other purposes than navigation" (ST/LEG/SER.B/12).

2/ Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 10 (A/8410/Rev.1).

"supplementary report" the Secretary-General "will certainly invite Governments of Member States to provide him with additional materials regarding legislative texts and treaty provisions, as well as any other relevant information which may be useful as evidence of their practice". On 22 November 1971, the Secretary-General addressed a circular note to Governments of Member States requesting them to send him, not later than 1 October 1972, the additional materials and information referred to in the understanding of the International Law Commission quoted above. In paragraph 77 of the report on the work of its twenty-fourth session, 3/ the International Law Commission observed "that the problem of pollution of international waterways was of both substantial urgency and complexity. Accordingly, it requested the Secretariat to continue compiling the material relating to the topic with specific reference to the problems of the pollution of international watercourses". On 22 September 1972, the Secretary-General addressed a circular note to Governments of Member States by which, after having referred to its first note mentioned above, requested them to send him, not later than 1 July 1973, the relevant materials and information, with specific reference to the question of the pollution of the international watercourses as indicated in the observation of the International Law Commission quoted above. On 27 December 1972, a similar circular letter was also sent to intergovernmental organizations.

5. Up to 15 April 1973, information had been received from nine Member States. Of these, eight had sent the texts of the relevant treaties to which they were parties; only one State Member had sent information regarding its national legislation in force on the matter. In addition, three international organizations had transmitted materials concerning their work on the subject.

C. PROGRESS OF WORK ON THE VARIOUS PARTS OF THE SUPPLEMENTARY REPORT

6. The supplementary report is being prepared on the basis of the information provided by Member States and intergovernmental organizations as well as on the basis of the relevant research work undertaken by the Secretariat.

7. As in the initial report, the part of the supplementary report relating to national legislation is expected to include information concerning a very limited number of Member States. So far, as indicated in paragraph 5 above, only one Member State has made available national legislative texts to be reproduced in this part.

8. A sizable number of relevant bilateral and multilateral treaties have been collected. Of these, nearly 60 treaties have been summarized and made ready for inclusion in the supplementary report. The summary of the other treaties is now being prepared.

9. As yet, no decisions of international tribunals, other than those included in the initial report, have been found. The supplementary report might, therefore, appear without containing any information of this nature.

3/ Ibid., Twenty-seventh Session, Supplement No. 10 (A/8710/Rev.1).

10. As regards that part of the supplementary report concerning the studies made or being made by intergovernmental organizations, the work being done within, or under the auspices of, the United Nations has been examined. Specifically, the relevant resolutions and reports of the Economic and Social Council and the activities of the Water Resources Development Centre of the Department of Economic and Social Affairs of the Secretariat have been considered for inclusion in the supplementary report. However, the relevant work done by the regional economic commissions, by specialized agencies and by the International Atomic Energy Agency, as well as by other intergovernmental organizations, will be examined on the basis of information received in reply to the circular letters of the Secretary-General referred to in paragraph 4 above. In addition, the preparatory work for the United Nations Conference on the Human Environment, as well as the relevant Conference resolutions, will be considered.

11. The part of the supplementary report concerning studies made or being made by non-governmental organizations concerned with international law will include the available relevant work done by the Institute of International Law, the Inter-American Bar Association and the International Law Association.

12. In conclusion, the preparation of the supplementary report is expected to be completed before the opening of the twenty-sixth session of the International Law Commission.
