



The international dimension of the EU water policy. Links between the Espoo Convention and the UN Watercourses Convention

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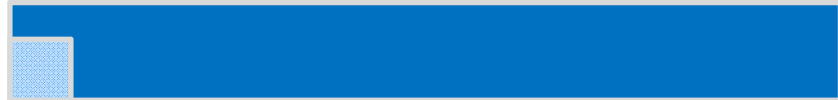
Outline of the presentation

The international dimension of the EU Water Policy



- Policy background
- Legal background

The Espoo Convention and the UN Watercourses Convention



- Similarities
- Differences
- Case law





The international dimension of the EU Water Policy (1/2)

2012 EC Communication:

"A Blueprint to Safeguard Europe's Water Resources"

- The European market, EU common policies and MSs' policies have significant impacts on water status.
- Water is a local issue but it is also a global problem interlinked with food security, desertification, climate change, etc. All these have significant economic, social and environmental dimensions.
- International dimension of water governance.
- The blueprint is supposed to support integrated water resource management.



The international dimension of the EU Water Policy (2/2)

The 7th Environmental Action Programme

- Tackling international challenges: Many of the priority objectives can only be achieved through co-operation with partner countries or as part of a global approach.
- The EU is committed to reduce impacts on the environment beyond EU borders.
- Fully implementing the Blueprint to Safeguard Europe's Water Resources.
- Priority Objective 9, p. 96: Increase the Union's effectiveness in addressing international environmental [...] challenges. [...] such challenges require that international action be taken in a number of areas, such as water, oceans ...





The international dimension of the EU Water Legislation (1/2)

Water Framework Directive (Directive 2000/60/EC, WFD)

- Where a river basin district extends beyond the territory of the EU MS shall endeavour to establish appropriate coordination with the relevant non-MS, with the aim of achieving the objectives of this Directive throughout the river basin district (Art. 3(5) WFD).
- MS are encouraged to coordinate with non-MS with a view to producing a single river basin management plan.
- In the case of an international river basin district extending beyond the boundaries of the EU, MS shall endeavour to produce a single river basin management plan (Art. 13(3) WFD).



The international dimension of the EU Water Legislation (2/2)

Marine Strategy Framework Directive (Directive 2008/56/EC, MSFD)

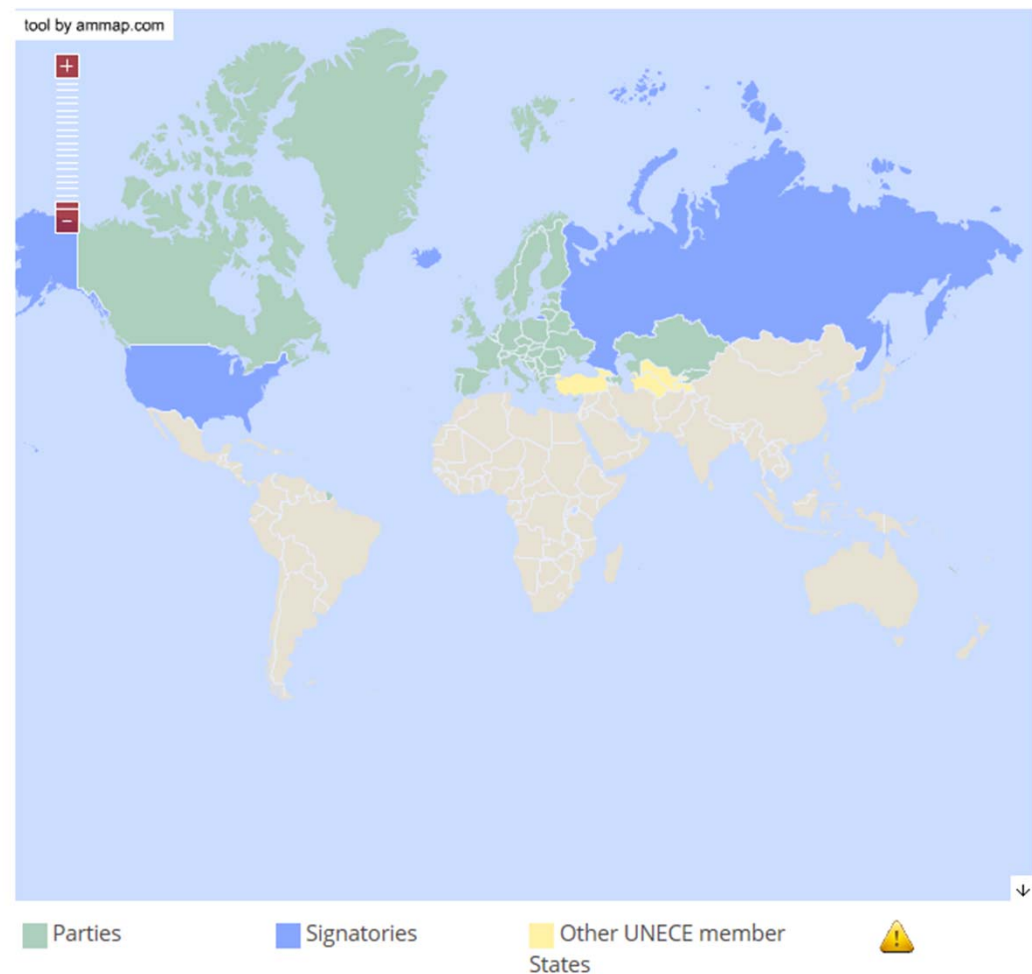
- Third countries with waters in the same marine region or sub-region as a MS should be invited to the process laid down in the Directive, thereby facilitating achievement of good environmental status in the marine region or sub-region concerned.



- Ensure coordination with non-MS and action at international level.
- Scope and regional co-operation (Arts 2 and 6).

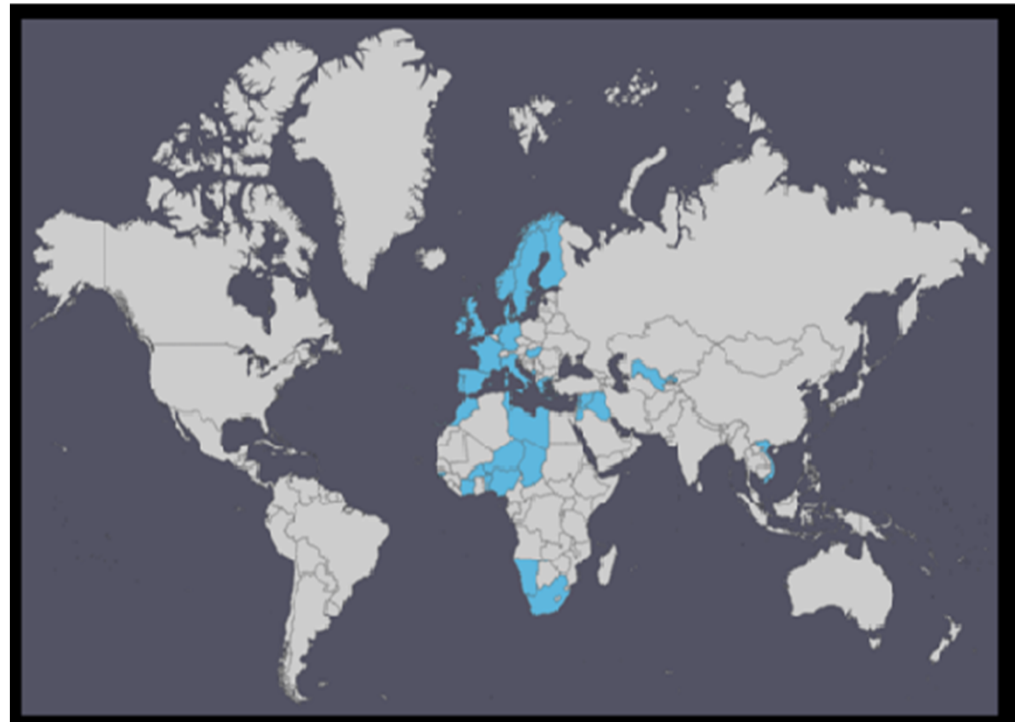
The Espoo Convention

- Negotiated and adopted in 1991 as a regional instrument.
- Entered into force on 10 September 1997.
- Since 24 June 1997 the **EU is Party to the Convention.**
- Since 2008 the EU is Party to the two amendments of the Convention.



UN Watercourses Convention

- Adopted on 21 May 1997 [UN Resolution 51/229]
- Entered into force on 17 August 2014
 - 36 Parties (14 EU MSs);
 - EU is not Party to UNWC.





UN Watercourses Convention – Contents (1/2)

- General Principles:
 - Equitable and reasonable utilization and participation;
 - Obligation not to cause significant harm;
 - Obligation to cooperation on the basis of sovereign equality, territorial integrity, mutual benefit and good faith.
 - Regular exchange of information and data.
- Notification of the planned measures which may have significant adverse effect upon other watercourse State
 - The notification shall be accompanied by available technical data and information, *"including the results of any environmental impact assessment"* (Article 12 UNWC).






UN Watercourses Convention – Contents (2/2)

- Joint protection and preservation of the ecosystems of international watercourses.
- Provisions concerning harmful conditions and emergency situations
- Settlement of disputes.
- Article 35: enables regional economic integration organizations to ratify the Convention.



The Espoo Convention and UNWC

Similarities

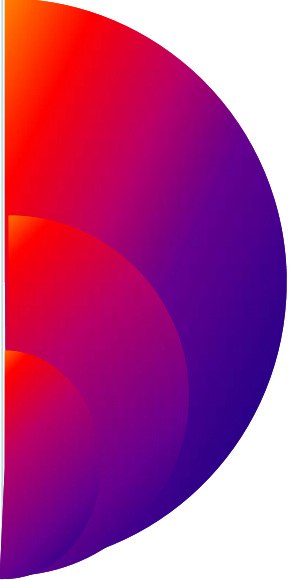


Common objective:
environmental protection

No Harm Rule

Assessment of significant
impact

Differences

- 
- Scope and content of the procedures
 - Scope of the activities:
 - Appendix I of the Espoo Convention v.
 - "*Planned measures*" UNWC
 - ...



ICJ case law:

EIA & sustainable use of water resources

Gabčíkovo-Nagymaros case

- In its judgment the ICJ enhanced the importance of adopting preventive measures for the sustainable development of water resources.
- One of the tools for attaining this objective is the EIA, which is a pertinent measure under Article 7 of the UNWC as regards the obligation of the states to avoid causing significant harm.

Pulp Mills case

- The ICJ bound the interstate notification of planned measures to the satisfaction of the due diligence obligation to prevent significant transboundary harm.
- It established that conducting an EIA **"may now be considered a requirement under general international law"** with regard to activities which *"may have a significant adverse impact in a transboundary context"*.

