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《中华人民共和国水污染防治法》已于2008年2月28日修订通过，并于2008年6月1日起施行。您认为应从哪些方面加强水污染防治工作？

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The development of International rivers is much more complicated than that of domestic International rivers, as it will directly affect the integrated interests in the social, economic, This paper endeavors to provide a general view of International laws pertinent to the utilization interests at conflict in utilizing International rivers and offer a new structure of management disputes occurred in development of International rivers by means of International law.

1 Viewing the development track of International rivers from the evolvement of International R: The definition of “river” in *Encyclopaedia Britannica* is that “any natural stream of water that fl”. Along with the familiarity of human beings with hydrologic science, the concept of I evolvement from the International River and International course to International basin^[2].

1.1 International river emphasizes “navigable”

The “Reglement pour la Libre Navigation des Rivieres” made by the Congress of Vienna in 18 States can navigate freely on certain rivers in Europe and defined that “International river me traverses different states”. This concept emphasizing “navigable” has remained for more th “Rules for Navigation in the International Rivers” broadened the concept by bringing the tribut specified that “International River means navigable waterways and the tributaries that separate tributaries, especially those of boundary rivers commonly flow along within the territory of concept of International River then the applicable range of the “Rules for Navigation in the Inte inland rivers of state, i.e. any States can freely navigate on them.

1.2 International waterway emphasizes “navigable and with commercial value”

In 1921, 41 States inclusive of China worked out the first special and common statute, i.e. “ Concerning the Regime of Navigable Waterways of International Concern”. It specifies that ‘ following are declared to be navigable waterways of International concern:

a. All parts which are naturally navigable to and from the sea of a waterway which in its co the sea, separates or traverses different States, and also any part of any other waterway nat which connects with the sea a waterway naturally navigable which separates or traverses natural waterway or part of a natural waterway is termed 'naturally navigable' if now used fo: capable by reason of its natural conditions of being so used.

b. Waterways, or parts of waterways, whether natural or artificial, expressly declared to be pl Convention regarding navigable waterways of International concern either in unilateral Acts of or authority these waterways or parts of waterways are situated, or in agreements made wi States.

There is no significant difference with that determined in the “Rules for Navigation in the Inte on the ordinary commercial navigation value.

1.3 International drainage basin emphasizes on “overall and sustainable development”

Article II of “Rules on the Uses of the Waters of International Rivers” (also called the Helsinki Law Association in 1966, says that “An International drainage basin is a geographical area determined by the watershed limits of the system of waters, including surface and undergro terminus”. This definition has the epoch-making significance, firstly, it accommodates the 1 broadens the range of International river from the main current and tributaries to both the surfa main current and tributaries; secondly, it breaks through the navigable requirement of Intern for more than 100 years and forms the basis and conditions for the overall development an well as the protection of ecological environment^[3].

The “Seoul Rules on International Groundwaters” (hereinafter called Seoul Rules) prepared 1986 is a supplement to the Helsinki Rules. It accepts the applicability of Helsinki Rules to the the confined groundwater without forming any surface water. Both the articles I and II in Seo

contributes water to, or receives water from, surface waters of an International basin constitute the purposes of the Helsinki Rules and even if an aquifer that does not contribute water to, or receive water from, an International drainage basin constitutes an International drainage basin for the purposes of the Helsinki Rules, the International basin includes the groundwater intersected by the boundary between two International drainage basins that contribute water to, or receive water from surface water, i.e. confined groundwater.

In addition, in the “Berlin Rules on Water Resources” (hereinafter called “Berlin Rules”) adopted by the International Association in 2004, it is specified in Section 5 of Article 3 that “Drainage basin means an area of a system of interconnected waters, the surface waters of which normally share a common terminus. An International drainage basin is a drainage basin extending over two or more States; and in the Berlin Rules, the provisions applicable to Internationally shared waters apply to an aquifer if it is connected to surface waters of a drainage basin, or it is intersected by the boundaries between two or more States even without forming an International drainage basin”, which are in full accord with the specification of Seoul Framework Convention. Article 1.4 International watercourses emphasize “balancing the interests of upper reach- and lower reach States”. In 1997, at the 51st session UN General Assembly “The Convention on the Law of the Non-Navigational Uses of International Watercourses” passed through, in which the contents, principles, manners and regulatory provisions of International watercourses are thoroughly specified. The *Convention on the Law of the Non-Navigational Uses of International Watercourses* is the first one reached specially for the non-navigational uses of International watercourses. In the *Convention on the Law of the Non-Navigational Uses of International Watercourses*, the definition of “International Watercourse” was used instead of “International River”. “Watercourse means a system of surface waters and groundwaters constituting by virtue of their common flow, a whole and normally flowing into a common terminus.” While “International watercourse means a watercourse situated in different States.” This is the clearest concept, with legal effect, of International watercourse. In addition, International rivers and International lakes, the International watercourse includes “any other part of a system of surface or underground, including rivers, lakes, aquifers, glacier, reservoirs and canals” and “tributaries of International rivers, but also the International surface waters such as International lakes and groundwater (normally share a common terminus with the surface waters) are included^[4]”.

As the conventions issued by the UN need to balance the interests of the States concerned with the development of International River, the definition of International River and most States have accepted the concept of International Water Resource in certain applicable range. As also, the definition of International River and the concept of “territory” and the “International watercourse” can avoid the close restraint of “International River” on upper reach States in utilizing water resources within their territory, and the conflicts between “International River” and “sovereignty” and the “absolute territorial unity” held by the upper and lower reach States can be avoided. The concept evolution of International River reflects the track and idea on development of International River in the past period, i.e. from the initial emphasis on navigational uses to navigational uses and non-navigational uses, from development to multipurpose development, and from the development within one State to the development of International rivers has achieved a comprehensive and sustainable level on balancing the rights and obligations of upper and lower reach States.

2 Looking back upon the disputes caused by development of International rivers

What is the so-called dispute on International rivers takes disputes among States here as referring to the disagreement among States concerning the right to waters as the main, with it including the disputes on water rights and infringement between authorities against the users such as boat-owners and their crew, and residents along the rivers.

As the basins of International rivers crossover the boundaries of different States, many international disputes exist among the concerned States, interagency disputes within one State and the disputes among individual exist in the development of International basins. In this paper we lay emphasis on

States. All the States referred here have their own diverse demands on developing the transboundary rivers in geographical locations and economic development levels, among which some States emphasize the development of hydropower and navigation while some in the lower reach give importance to flood control.

The goal conflicts lie in the following four aspects:

a. Dispute on borderline as the first one, which is not only a question on territory but also economic interest of the States concerned, and the solution needs a long time due to the international politics and so forth to be considered, for which the Lake Lymon is quoted often as an example of a borderline state;

b. Dispute on water allocation is another one, in which allocation of river water for agriculture is currently, in many areas lacking of water, has been the intriguer and reflection of the conflicts between the States. For the Arabian only for the lifeline water so that some Arabian theorists would credit the water allocation as the main cause of the conflicts;

c. Dispute arouse with the development and utilization of the water resource is a further one. The fields of navigation, agricultural irrigation, aquatic and fish culture, hydropower development, flood control are often seen. For an instance, the overexploit on upper reach that results in water shortage in the lower reach. Furthermore, the disputes with allocation of water benefits also arise, and the dispute between the States on the Columbia River is a typical one;

d. Dispute on water environment is the last one, which is shown in two aspects, i.e. the hydrological process. The water pollution includes the water source pollution caused by soil erosion and by the production waste drainage and domestic sewage discharged within the basins, sewage treatment, shipping and the incidental pollution caused by dumper of shipping with chemicals and so on. The SonghuaJiang River in China imposed influence on Russia in 2005 can be taken as an example. The water pollution process means the remarkable changes of hydrological process in the lower reach taking place such as the vegetation in river source area and the soil erosion caused by the States in upper reach.

The essentials of disputes on International rivers are that on the exercise sovereignty of river by the States. The so-called 'water rights' refer to the sovereign right of coastal States to the International rivers under their jurisdiction, right of use and right to obtain compensation on the rivers in their territory, as well as the rights of the States in the lower-reach of International rivers. The different understandings and advocates of water rights on the lower-reach of International rivers cause continuous disputes on the use of International rivers. The coming part cause combined impact on the disputes.

3 Searching for the reasons of the disputes on International rivers

3.1 Natural quality reasons

As a kind of natural resource and essential factor of environment water has some identical and different characteristics with other natural resources, and it is the natural quality of water that causes the continuous disputes on the use of International rivers.

Firstly, as a kind of natural resource and an essential factor of environment, water is indispensable for human business and good environment. The volume of water is scarce, too. The scarce is reflected in the increasing demands for finite water resources, and the waste, pollution, global climate warming and so on. The conflict, thus the continuous disputes arouse on the use of International rivers. The States in the upper-reach of International rivers are often the main cause of the disputes. The States in the lower-reach of International rivers are often the victims of the disputes. The International Conference on Water and Environment sponsored by the World Water Council defined the seven water issues that are facing the world is threatening the peace and security of the world. Secondly, differed from the soil, forest and mines, water is dynamic. River is an entity connecting different geology units. Just as the indivisible sea water, the natural state of International rivers can't be divided into different States. The different uses of the States related to the same International river will cause the disputes on the sovereignty on the river.

3.2 Political nature reasons

The transboundary feature of International rivers make the development on them not only t also the regional political and military issues, especially for the basin-related States with hosti can be taken as an example.

3.3 Legal reasons

In view of the International Law, the territory of a State includes the territorial waters and territory and territorial waters of a State). On one hand, the International rivers belong to the States have the proprietary right over the reaches on their territory. The permanent sovereign rivers on their territory includes possession, right to use and disposition, and the States are freely. This was declared in 1962 in “Declaration on the Permanent Sovereignty of Natural F “Charter of Economic Right and Liability of States”, and it is an established principle of cus own the sovereignty to full length to the reach of the International river lasting from the upp on the other hand, the sovereignty is of relativity for the rationale of International law fort International rivers crossover the political frontiers of the related States and the river-related over the sections of the rivers within their territory, and when developing or using the rivers other States on lower reaches of the rivers should be considered and protected. The differ water rights possessed by the river-related States cause continuous disputes on the use of l Absolute Sovereignty over territory, any State is entitled to limitless rights to capitalize beneficial to the States at the upper reach. However, in virtue of the principle of Absolute Te harm the States at the lower reach when making use of the resources, thus the interest of the § here. The disagreement between the above-mentioned principles and the vague and unreason disputes on the International rivers.

3.4 Human factors

The natural conditions and impact of climate conditions decrease the amount of freshwater pollution makes it worse. At the same time, the development of industrial production and increa of freshwater progressively. The water supply and demand gap intensifies the disputes on the I

4 Possible solutions to the disputes on International rivers

4.1 Reconcilability exists in the disputes on International rivers

The conflict of interests among the river-related States during the development of Internation relative difference between the interest groups and environmental conditions in river-related States share certain common points, one of them is the sustainable region development and the be achieved through identical manner or method. For an instance, the States both on upper- : controlling the amount of water, i.e. generally, the States on upper reach tend to the nonexpend and that on lower reach tend to the expendable use (such as irrigation), therefore, reconcilabilit

4.2 Existing International water law fails to keep up with the step of International river develop

The International Water Law with the principle of just and reasonable use is helpful in resolvin resources. As the issue of transboundary water resources is very complicated and the existing to resolve and deal with the water disputes, it only provides the basis for the negotiation ar over the use of International rivers^[8].

The limitations of existing International water law in resolving disputes on International rivers a Firstly, failure to identify the sovereignty of related States. There are many factors that im International water resources, such as sovereignty, ownership of watercourse equipment, ju limitation etc. The essential reason is that there is no article relating to the sovereignty o sovereignty issue becomes the origin of disputes on International rivers and a hindrance to sy International rivers.

Secondly, the existing “one system for one river” results in lacking of uniform system on the

Secondly, the existing "one system for one river" results in lack of uniform system on the International rivers are mainly made by signing agreements among riparian States. The Food and Agriculture Organization has concluded that 305 agreements concerning non-navigational use of water such as management of water quality, control, water power development, and expendable and nonexpendable water allocation etc. Among them 149 agreements with water concerned in full text^[9]. "One system for one river" and the individuality of International rivers, and this condition increases the cost for constituting the diversity of river systems will cause difficulty in legislation of domestic rivers for a State with one of them has a special system, within its territory. Although the "Convention on Law of Non-Navigational Uses of Watercourses" has the features of framework convention and the function of milestone for the management, some States on upper reaches disagree on certain principles and system specification hasn't been taken effect due to the less number of contracting parties. Consequently, there is still a lack of the management of International rivers.

Thirdly, the workability of basic system of International rivers is not good. "One system for one river" is the basic system of International rivers. While in practice, the river systems of various types share the same principles, rules and regulations in common are formed. The International Water Law is to resolve the conflicts and disputes on water resources utilization among riparian States in International long-term development, seven basic principles in International water law have been come out: equitable utilization, no significant harm, general obligation to cooperation, regular exchange of data, protection of water resources and its ecosystem, navigation freedom and compensation rule. These principles form the framework of basic problems of International rivers, but in practice it is lacking of workability. Among the principles, the "equitable and reasonable utilization" is the core of Helsinki Framework Convention on International Rivers adopted by the International Law Association at the fifty-second conference. It advocates sharing the water resources. It requires that a basin State may make its needs be balanced with the injury to a co-basin State, each basin State is entitled, within its territory, to a reasonable and equitable share of the waters of an International drainage basin, with relevant factors to be considered such as: hydrology of the basin, climate affecting the basin, the past and existing utilization of waters of the basin, the needs of each basin State, the population dependent on the waters of the basin, the comparative economic and social needs of each basin State, the availability of other resources in the basin, and to one or more of the co-basin States as a means of adjusting conflicts among uses. Due to the Helsinki Convention haven't been well carried out and implemented and been substituted by the principle of "equitable and reasonable participation" specified in the Convention on the Law of Non-Navigational Uses of International Watercourses. The system of International rivers changed from emphasizing rights to emphasizing both rights and responsibilities. In the Convention on International rivers, the Convention on the Law of Non-Navigational Uses of International Watercourses, articles to resolve the water resources allocation only some factors need to be considered and mentioned.

The complexity and multiple interests concerned as well as the high-tech feature in the dispute resolution mechanism to avoid and resolve disputes on the International rivers, therefore, the dispute resolution mechanism should be improved.

4.3 Key to resolving the disputes on use of International rivers is to balance the sovereignty and interests of International river basins.

As mentioned above, the essential of conflicts over International rivers is that between water users and riparian States. In case the key to resolving the disputes on use of International rivers is to balance the sovereignty and interests of International river basins. In practice, the Columbia River Treaty established the principle of "equitable and reasonable participation", which directly represented and used the principle of "equitable and reasonable participation". When States are trying to resolve the disputes on International rivers through equitable share of water resources, the key is to transform the adversaries into potential cooperators. When doing so the development of equitable and reasonable participation, especially the convenient equitable participation of all the States within the basins

especially the conventional equitable participation of all the states within the basin. As a unitary aquatic ecosystem, the International rivers are facing many transboundary protection of ecology and biological diversity, and poverty etc. All these problems can't be resolved unless the overall basin should be considered, and the development of International rivers should be according to the characteristics of the ecosystem to achieve sustainable development.

4.4 Advocates peaceful methods against imperative methods to resolve the disputes on International rivers. The systems for resolving disputes on International rivers appeared before the World War I. In Europe and America, among them the well-known ones are the Meuse River Case (between Belgium and the Netherlands by the Permanent Court of International Justice in 1937; the Lake Lanoux Arbitration (between France and Switzerland by the International Court of Justice in 1957. In practice, both political and legal methods are used with equal importance. The outstanding contribution of "Helsinki Rules of 1966 on the Uses of the Waters of International Rivers" developed by the International Law Association is that it specified the procedures for the peaceful settlement of disputes with the following aspects included, i.e. States are under an obligation to settle international disputes peacefully; the recommendation of how to prevent the disputes arising from the use of international rivers; the recommendation of settling the disputes through peaceful means such as inviting a joint fact-finding organization or a qualified person to carry out inspection on the disputes, or submitting the dispute to arbitration, etc.

The "Convention on the Law of the Non-navigational Uses of International Watercourses" is the latest development of legal system of the use and protection of international rivers and can be regarded as the most comprehensive of international rivers with highest protective level up to now. It is for the first time the imperative means to settle disputes specified in the "Convention". In the Article 33 of the "Convention" almost all the means to settle disputes are divided into political and legal means, imperative and noncompulsory means, the legal means are further divided into compulsory and noncompulsory means. The "Convention" that when the parties cannot reach agreement by negotiation or any other means, they may request of any of the parties to the dispute, to impartial fact-finding. In addition, it recognizes as a special agreement in relation to any party accepting the same obligation, that the submission of disputes to the International Court of Justice. The imperative means with no doubt are contrary to the national sovereignty and the characteristics of international rivers system, consequently, they are not acceptable to us.

5 Development of international rivers in China

5.1 Characteristics of international rivers within territory of China

The international rivers within territory of China have the following characteristics 1) large area and long length. Most of the international rivers within China distribute in the border areas on Southwest, North and East. Many of them flow through more than one adjacent State and cause the difficulties in the development of international rivers; 2) with upper reaches of international rivers situate in China while the lower reaches are in other countries. As a result, river sections within China have the features of steep gradient, quick water flow, and frequent floods. These features are also one of the reasons of water loss, more than $4 \times 10^{11} \text{m}^3$ -water loss occurs each year. 3) abundant water resources. In China, there are rivers fed by rain, snow melt on high mountains and seasonal snowmelt. In the river basins in China there are abundant resources of water, soil, forest, mine and energy, biological and cultural diversity, which will definitely play an important role in the sustainable development of international rivers.

5.2 Limitation of development system of international rivers in China

With the impact of natural conditions and economic strength, the development of international rivers in China has a short history, low use degree, indistinct background of water resources, and lacking of scientific management and planning^[11]. In a long period, the development of international rivers in China has been planned with the mode or idea of that of domestic rivers without knowing the international principles. Furthermore, due to the shortage of research on international water law and without knowing the international obligations during the cooperative development of international rivers we have been at a disadvantage in settling disputes.

5.3 Means to settle international disputes

Firstly, emphasizing the prevention. The prevention principle is the “Golden Principle” in International Environment Law the prevention principle is the extension of national sovereignty environment beyond borders principle, and a fundamental principle of International Environment aspects are included in the prevention principle, one is to carry out preventive measures to avoid and disputes on environment, the other is to settle the disputes through negotiation and signing the basins, for an instance, the long-term disputes on waters in African area were settled by agreements on water resources between the Mandela Government and 12 related states, and through negotiation they can be submitted for arbitration. Finally, the regional cooperation can exert the function of coordination. The international financial organizations such as World Bank can promote the development and utilization of international rivers by economic means. This is an important factor for the development of international rivers in China.

The author recommends dealing with the problems relating to the development of international rivers with the principle of “Shelving the disputes and seeking common development”. On the allocation of international rivers, the principle of “equitable and reasonable utilization” can be applied for dealing with the disputes on international rivers by regarding the water resources as a common good. For instance, the disputes arouse from the development of international rivers among China and Sri Lanka can be settled by adopting the principle of “fairly share the profit from the downstream” established in Columbia River Treaty.

摘要：水是社会经济发展和人类生活不可或缺的自然资源。世界范围内的水资源短缺导致国家之间的冲突时有发生。除了政治和外交努力之外，运用国际法的手段来解决国际河流冲突成为各国的普遍做法。本文分析了国际河流开发过程中的各种国际利益冲突，并提出了一个新的框架，以期解决国际河流开发引发的国际冲突。

关键词：国际河流 国际法

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