

Convention relating to the Development of Hydraulic Power affecting more than one State and Protocol of Signature

Geneva, 9 December 1923

Adopted by the International Law Association at the fifty-second conference, held at Helsinki in August 1966. Report of the Committee on the Uses of the Waters of International Rivers (London, International Law Association, 1967)

Austria, Belgium, The British Empire (with New Zealand), Bulgaria, Chile, Denmark, The Free City of Danzig, France, Greece, Hungary, Italy, Lithuania, Poland, Kingdom of the Serbs, Croats and Slovenes, Siam and Uruguay:

Desirous of promoting international agreement for the purpose of facilitating the exploitation and increasing the yield of hydraulic power;

Having accepted the invitation of the League of Nations to take part in the Conference which met at Geneva on November 15, 1923;

Wishing to conclude a General Convention for the above purpose;

The High Contracting Parties have appointed as their plenipotentiaries:

who, after communicating their full powers, found in good and due form, have agreed as follows:

Article 1

The present Convention in no way affects the right belonging to each State, within the limits of international law, to carry out on its own territory any operations for the development of hydraulic power which it may consider desirable.

Article 2

Should reasonable development of hydraulic power involve international investigation, the Contracting States concerned shall agree to such investigation, which shall be carried out conjointly at the request of any one of them, with a view to arriving at the solution most favourable to their interests as a whole, and to drawing up, if possible, a scheme of development, with due regard for any works already existing, under construction or projected.

Any Contracting State desirous of modifying a programme of development so drawn up shall, if necessary, apply for a fresh investigation, under the conditions laid down in the preceding paragraph.

No State shall be so obliged to carry out a programme of development unless it has formally accepted the obligation to do so.

Article 3

If a Contracting State desires to carry out operations for the development of hydraulic power, partly on its own territory and partly on the territory of another Contracting State or involving alterations on the territory of another Contracting State, the States concerned shall enter into negotiations with a view to the conclusion of agreements which will allow such operations to be executed.

Article 4

If a Contracting State desires to carry out operations for the development of hydraulic power which might cause serious prejudice to any other Contracting State, the States concerned shall enter into negotiations with a view to the conclusion of agreements which will allow such operations to be executed.

Article 5

The technical methods adopted in the agreements referred to in the foregoing articles shall, within the limits of the national legislation of the various countries, be based exclusively upon considerations which might legitimately be taken into account in analogous cases of development of hydraulic power affecting only one State, without reference to any political frontier.

Article 6

The agreements contemplated in the foregoing articles may provide, amongst other things, for:

- a. General conditions for the establishment, upkeep and operation of the works;
- b. Equitable contributions by the States concerned towards the expenses, risks, damage of the works, as well as for meeting the cost of upkeep;
- c. The settlement of questions of financial cooperation;
- d. The methods for exercising technical control and securing public safety;
- e. The protection of sites;
- f. The regulation of the flow of water;
- g. The protection of the interests of third parties;
- h. The method of settling disputes regarding the interpretation or application of the agreements.

Article 7

The establishment and operation of works for the exploitation of hydraulic power shall be subject, in the territory of each State, to the laws and regulations applicable to the establishment and operation of similar works in that State.

Article 8

So far as international waterways are concerned which, under the terms of the general Convention on the Régime of Navigable Waterways of International Concern, are contemplated as subject to the provisions of that Convention, all rights and obligations which may be derived from agreements concluded in conformity with the Convention shall be construed subject to all rights and obligations resulting from the general Convention and the special instruments which have been or may be concluded, governing such navigable waterways.

Article 9

This Convention does not prescribe the rights and duties of belligerents and neutrals in time of war. The Convention shall, however, continue in force in time of war so far as such rights and duties permit.

Article 10

This Convention does not entail in any way the withdrawal of facilities which are greater than those provided for in the Statute and which have been granted to inter-national traffic by rail under conditions consistent with its principles. This Convention also entails no prohibition of such grant of greater facilities in the future.

Article 11

The present Convention does not in any way affect the rights and obligations of the Contracting State arising out of former conventions or treaties on the subject matter of the present Convention, or out of the provisions on the same Subject-matter in general treaties, including the Treaties of Versailles, Trianon and other treaties which ended the war of 1914-18.

Article 12

If a dispute arises between Contracting States as to the application or interpretation of the present Statute, and if such dispute cannot be settled either directly between the Parties or by some other amicable method of procedure, the Parties to the dispute may submit it for an advisory opinion to the body established by the League of Nations as the advisory and technical organization of the Members of the League in matters of communications and transit, unless they have decided or shall decide by mutual agreement to have recourse to some other advisory, arbitral or judicial procedure.

The provisions of the preceding paragraph shall not be applicable to any State which represents that the development of hydraulic power would be seriously detrimental to its national economy or security.

Article 13

It is understood that this Convention must not be interpreted as regulating in any way rights and obligations inter se of territories forming part of or placed under the protection of the same sovereign State, whether or not these territories are individually Contracting States.

Article 14

Nothing in the preceding articles is to be construed as affecting in any way the rights or duties of a Contracting State as Member of the League of Nations.

Article 15

The present Convention, of which the French and English texts are both authentic, shall bear this day's date, and shall be open for signature until October 31, 1924, by any State represented at the Conference of Geneva, by any Member of the League of Nations and by any States to which the Council of the League of Nations shall have communicated a copy of the Convention for this purpose.

Article 16

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the League of Nations, who shall notify their receipt to every State signatory of or acceding to the Convention.

Article 17

On and after November 1, 1924, the present Convention may be acceded to by any State represented at the Conference of Geneva, by any Member of the League of Nations, or by any State to which the Council of the League of Nations shall have communicated a copy of the Convention for this purpose.

Accession shall be effected by an instrument communicated to the Secretary-General of the League of Nations to be deposited in the archives of the Secretariat. The Secretary-General shall at once notify such deposit to every State signatory of or acceding to the Convention.

Article 18

The present Convention will not come into force until it has been ratified in the name of three States. The date of its coming into force shall be the ninetieth day after the receipt by the Secretary-General of the League of Nations of the third ratification. Thereafter, the present Convention will take effect in the case of each Party ninety days after the receipt of its ratification or of the notification of its accession.

In compliance with the provisions of Article 18 of the Covenant of the League of Nations, the Secretary-General will register the present Convention upon the day of its coming into force.

Article 19

A special record shall be kept by the Secretary-General of the League of Nations showing, with due regard to the provisions of Article 21, which of the Parties have signed, ratified, acceded to or denounced the present Convention. This record shall be open to the Members of the League at all times; it shall be published as often as possible, in accordance with the directions of the Council.

Article 20

Subject to the provisions of Article 11 above, the present Convention may be denounced by any Party thereto after the expiration of five years from the date when it came into force in respect of that Party. Denunciation shall be effected by notification in writing addressed to the Secretary-General of the League of Nations. Copies of such notification shall be transmitted forthwith by him to all the other Parties, informing them of the date on which it was received.

A denunciation shall take effect one year after the date on which the notification thereof was received by the Secretary-General and shall operate only in respect of the notifying State.

Article 21

Any State signing or adhering to the present Convention may declare, at the moment either of its signature, ratification or accession, that its acceptance of the present Convention does not include any or all of its colonies, overseas possessions, protectorates, or overseas territories, under its sovereignty or authority, and may subsequently accede, in conformity with the provisions of Article 17, on behalf of any such colony, overseas possession, protectorate or territory excluded by such declaration.

Denunciation may also be made separately in respect of any such colony, overseas possession, protectorate or territory, and the provisions of Article 20 shall apply to any such denunciation,

Article 22

A request for the revision of the present Convention may be made at any time by one-third of the Contracting States.

Protocol of Signature

At the moment of signing the Convention of to-day's date relating to the development of hydraulic power affecting more than one State, the undersigned, duly authorised, have agreed as follows:

The provisions of the Convention do not in any way modify the responsibility or obligations imposed on States, as regards injury done by the construction of works for development of hydraulic power, by the rules of international law.

The present Protocol will have the same force, effect and duration as the Convention of to-day's date, of which it is to be considered as an integral part.

In faith whereof the above-named Plenipotentiaries have signed the present Protocol.

Done at Geneva, the ninth day of December one thousand nine hundred and twenty-three, in a single copy, which will remain deposited in the archives of the Secretariat of the League of Nations; certified copies will be transmitted to all the States represented at the Conference.