

International Law Association
Recommendations on the Procedures concerning the Non-Navigational Uses
Hamburg, August 1960

from
Report of the Forty-Ninth Conference, held in Hamburg, 8-12 August 1960 (London, 1961), pp. xvi-xviii

The International Law Association, having taken into consideration the importance of resolving by peaceful means differences between co-riparian States as regards their rights in respect of the waters of a drainage basin, and in furtherance of the second sentence of the first agreed recommendation of the 1958 New York Resolution on the Uses of the Waters of International Rivers, recommends, in the absence of other agreement, the following procedures:

1. In case of a difference as to the legal rights or other interests of co-riparian States they should consult one another.
2. If such consultation has not produced agreement, the States should agree to form an ad hoc Commission which shall endeavour to find a solution, likely to be accepted by the States involved, of differences as to their rights.
3.
 - (a) The members of the Commission and among them the President of the Commission shall be appointed by the States involved.
 - (b) If the States involved do not agree about these appointments, each State shall appoint two members. The members thus appointed shall choose one more member who shall be the President of the Commission. If the appointed members do not agree, the member-president, shall be appointed, at the request of any State involved, by the President of the International Court of Justice or, if he does not make an appointment, by the Secretary-General of the United Nations.
 - (c) If a member of the Commission dies or abstains from performing his office, such member shall be replaced by the procedure set out in paragraph (a) or paragraph (b) of this recommendation, according to the manner in which he was originally appointed. If, in the case of:
 - (i) a member originally appointed under paragraph (a) of this recommendation, the States fail to agree as to a replacement; or
 - (ii) a member originally appointed under paragraph (b) of this recommendation, the State involved fails to replace the member;a replacement shall be chosen, at the request of any State involved, by the President of the International Court of Justice or, if he does not choose a replacement, by the Secretary-General of the United Nations.
 - (d) The States involved shall determine the place of the meetings of the Commission and settle the rules of procedure. If they do not agree, the Commission shall determine these matters.

4. If within a reasonable time a Commission has not been formed or has not been able to find a solution to be recommended or a solution recommended has not been accepted by the States involved nor an agreement between them has been otherwise arrived at, the States should agree to submit the dispute to an arbitral tribunal to be formed or to a permanent court of arbitration or, if they do not do so, to the International Court of Justice.

5. If the dispute is submitted to the arbitration of a tribunal to be formed, the rules of recommendation 3(d) concerning the method of determining the place of meetings and of settling the rules of procedure shall apply to the method of the formation of the arbitral tribunal and of determining its meetings and procedure. No person who has been a member of the Commission may be a member of the arbitral tribunal.

6. The Award of the Arbitral Tribunal shall be rendered in writing and signed by the President of the Tribunal. The Tribunal shall in the Award give reasons for its decision.

The Award, besides giving a decision on the dispute, shall liquidate expenses and decide which of the States shall have to bear their payments or in which proportion the expenses shall be borne by the States.

The compensation of the arbitrators shall be fixed by the Tribunal.

7. Recourse to arbitration implies the undertaking by the States involved to consider the award to be given as final and to submit in good faith to its execution.