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Green Cross International, UNESCO Centre for Water Law, Policy and Science, and WWF urge DENMARK to accede to the UN CONVENTION ON THE LAW OF THE NON-NAVIGATIONAL USES OF INTERNATIONAL WATERCOURSES

- The UN Watercourses Convention requires states to cooperate on the equitable and reasonable use and management of international watercourses, with a view to attaining their sustainable utilization, thereby enabling the achievement of meaningful, long-lasting, and large-scale conservation and development goals.

- Once in force and widely implemented, the UN Watercourses Convention will prevent conflict between watercourse states over shared water resources and offer a stronger enabling environment for the European Union and partner countries to implement and monitor water and development cooperation policies.

- The convention’s legal principles and policy instruments will build up Denmark’s involvement in transboundary water problems that call for stronger cooperation among basin countries in the context of an improved system of global freshwater governance.

The UN General Assembly adopted the UN Watercourses Convention in 1997 by an overwhelming majority. Denmark was among the states that sponsored the convention and the more than 100 nations that voted for its adoption. Yet, Denmark has since not become a party to the convention. Since its adoption, the UN Watercourses Convention has been overshadowed by debates over the Kyoto Protocol and the World Summit on Sustainable Development. Counting 16 contracting states, the convention requires 35 parties to become effective.

Now, in the United Nations “Decade for Action: Water for Life” and ahead of the UN International Year of Transboundary Waters, the time is right to push for the entry into force of the UN Watercourses Convention, as a necessary framework for improving interstate cooperation on the management and use of international watercourses.

For further information, please visit www.panda.org/freshwater/unconventions or contact Flavia Loures, WWF, at flavia.loures@wwfus.org, Dr. Alistair Rieu-Clarke, UNESCO Centre for Water Law, Policy and Science, at a.rieuclarke@dundee.ac.uk; Ms. Marie-Laure Vercambre, Green Cross, at marie-laure.vercambre@greencross.fr.
National Context: The entry into force of the UN Watercourses Convention is in the core of Denmark’s 2005-2009 development cooperation priorities. After its adoption in 1997, the convention triggered negotiations on a revised, improved SADC Protocol on Shared Watercourses, with support from the Danish International Development Agency (DANIDA). Once in force, the convention will create a more supportive environment for Denmark’s efforts in the water sector, e.g., by informing the adoption of a binding agreement in the context of the Nile Basin Initiative and supplementing existing agreements in West Africa.

For example, the Revised Convention setting up the Niger Basin Authority contains a number of regulatory gaps. It fails to incorporate principles and rules on water allocation and benefit-sharing; does not contain a general requirement on the prevention of significant transboundary harm; is silent on a detailed procedure for consultations, negotiations, and information exchange in regards to planned measures potentially harmful to the Niger river; and does not establish a general duty on regular information exchange. These gaps are of even greater concern in a scenario of global warming, increasing water scarcity, and rising demands in the region.

Similarly, many existing watercourse agreements fail to incorporate adequate dispute settlement procedures. In this sense, during the recent Thematic Conference on Climate Change in Africa (Nairobi, 18 September 2008), organized by the Danish Government’s Africa Commission, participants underscored the need for mechanisms to prevent and peacefully settle conflicts over scarce water resources. With its well-developed body of procedural rules, the UN Watercourses Convention is an adequate and necessary response to that widely recognized need, in the context of Danish development aid.

Relevance and Applicability of the UN Watercourses Convention to EU Member States:

- The EU and its Member States have the opportunity to lead the process for entry into force of the UN Convention, leaving the world a lasting legacy of improved transboundary water resources governance at the global level and honoring their commitment to universally agreed goals and targets on environment and development (e.g., Paragraph 26 of the Johannesburg Plan of Implementation; target 10, on access to water and sanitation, under the Millennium Development Goals; 2010 target, under the Convention on Biological Diversity).

- Many EU Member States participated actively in the drafting of the UN Convention, highlighting the value of codifying and developing the law on the non-navigational uses of international watercourses as a mechanism for governing shared river basins and informing the adoption and revision of watercourse agreements, thereby promoting interstate cooperation and preventing conflict. Denmark, Finland, Germany, Greece, Hungary, Italy, Latvia, Netherlands, Portugal, Sweden, and the United Kingdom sponsored the convention. Only Finland, Germany, Hungary, Netherlands, Portugal, and Sweden are parties to it. Luxembourg is a signatory, but has never become a contracting state. No EU country voted against the convention and only three abstained.
While there are no disadvantages for EU countries becoming party to the UN Convention, such countries would benefit from its entry into force and implementation:

- It would be relatively straightforward for EU countries to become parties to the UN Convention. The UN Watercourses Convention is in harmony with the WFD & the UNECE Water Convention. As a global instrument, the UN Convention’s provisions are more general and flexible than the more detailed requirements under the ECE Convention and the WFD, which most EU Member States have already adopted and transposed into national legislation.

- Becoming a contracting state to the UN Watercourses Convention is a key first step as countries outside the UNECE region prepare to accede to the UNECE Water Convention. The latter convention was amended in 2003 to admit accession by non-UNECE Members, but some countries may resist its stricter provisions. Until that amendment becomes effective, the UNECE Water Convention can provide lessons for the implementation of the UN Watercourses Convention.

- EU Member States have accumulated valuable experience through implementing the UNECE Water Convention and EU Water Law and Policy. The UN Watercourses Convention could serve as an effective, common platform by which EU countries would share such tremendous wealth of knowledge and experience with other regions of the world where freshwater agreements or joint water institutions are weak or non-existent.

- The UN Watercourses Convention requires interstate cooperation and offers policy and legal guidance for states to engage in transboundary integrated river basin management. The convention’s entry into force and implementation will advance EU WATER AND DEVELOPMENT COOPERATION POLICIES:

a) The EU 1998 Guidelines on Water Resources Development Cooperation refer to the UN Watercourses Convention as a key framework for transboundary IRBM.

b) The EU 2002 Communication on Water Management in Developing Countries identifies transboundary water development cooperation as a priority area.

c) The EU Water Initiative lacks a widely accepted and effective legal and policy framework to support and coordinate implementing and monitoring activities in a transboundary context.

d) Once in force and extensively implemented, the UN Watercourses Convention will contribute to the achievement of the Millennium Development Goals, as noted under UNSGAB’S Hashimoto Action Plan. The MDGs are in the core of the European Consensus. By adopting the MDGs, the international community has recognized the need to address freshwater-related issues at the global level to support regional, national, and local activities.