

## **Resolution on Confined Transboundary Groundwater**

**1994**

Adopted by the Commission at its forty-sixth session, in 1994, and submitted to the General Assembly as a part of the Commission's report covering the work of that session on the topic *Law of the non-navigational uses of international watercourses*. The report, which also contains the text of, and commentaries on, the draft articles on the law of the non-navigational uses of international watercourses, appears in *Yearbook of the International Law Commission, 1994*, vol. II (Part Two).



Where a Commission is composed of a single member the report is that of the single member. The Commission is required to submit its report to the States concerned and should set forth its findings and give reasons thereof. It may also provide recommendations, if it deems it appropriate to do so.

(10) The rule provided in *subparagraph (vi)* requires the expenses of the Commission to be borne equally by the watercourse States concerned. The parties may of course agree on a different arrangement.

(11) *Subparagraph (c)* sets out a rule for the submission of the dispute to arbitration or judicial settlement. In the event that there are more than two watercourse States parties to a dispute and some but not all of those States have agreed to submit the dispute to a tribunal or ICJ, it is to be understood that the rights of the other watercourse States who have not agreed to the referral of the dispute to the tribunal or ICJ cannot be affected by the decision of that tribunal or ICJ.

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#### RESOLUTION ON CONFINED TRANSBOUNDARY GROUNDWATER

*The International Law Commission,*

*Having completed its consideration of the topic "The law of the non-navigational uses of international watercourses",*

*Having considered in that context groundwater which is related to an international watercourse,*

*Recognizing that confined groundwater, that is groundwater not related to an international watercourse, is also a natural resource of vital importance for sustaining life, health and the integrity of ecosystems,*

*Recognizing also the need for continuing efforts to elaborate rules pertaining to confined transboundary groundwater,*

*Considering its view that the principles contained in its draft articles on the law of the non-navigational uses of international watercourses may be applied to transboundary confined groundwater,*

1. *Commends* States to be guided by the principles contained in the draft articles on the law of the non-navigational uses of international watercourses, where appropriate, in regulating transboundary groundwater;

2. *Recommends* States to consider entering into agreements with the other State or States in which the confined transboundary groundwater is located;

3. *Recommends also* that, in the event of any dispute involving transboundary confined groundwater, the States concerned should consider resolving such dispute in accordance with the provisions contained in article 33 of the draft articles, or in such other manner as may be agreed upon.