

Explanatory Memorandum on the Convention on the Law of the Non-Navigational Uses of International Watercourses

Title of Agreement

Convention on the Law of the Non-Navigational Uses of International Watercourses

Command Paper Number: 8590

Subject matter

Attached to this explanatory memorandum is the Convention on the Law of the Non-Navigational Uses of International Watercourses. This was adopted by the General Assembly of the United Nations on 21 May 1997. The Convention is intended to strengthen national measures for the protection and ecologically sound management of transboundary surface waters and groundwaters. The Convention obliges Parties to prevent, control and reduce transboundary impact, use transboundary waters in a reasonable and equitable way and ensure their sustainable management. Parties bordering the same transboundary waters shall cooperate by entering into specific agreements and establishing joint bodies. The Convention includes provisions on monitoring, research and development, consultations, warning systems, mutual assistance, and exchange of information, as well as access to information by the public.

For the Convention to enter into force and become legally binding on its Parties, at least 35 nations must ratify or accede to it. Currently, 30 have done so, with more nations actively engaged in the ratification/accession process.

Timing

At the United Nations Conference on Sustainable Development (Rio+20) held in June 2012, the UK announced its intention to accede to the Convention before the end of 2013. 2013 is the UN International Year of Water Cooperation.

Ministerial responsibility

The Secretary of State for Environment Food and Rural Affairs, The Rt Hon Owen Patterson MP has overall responsibility for the conclusion and implementation of environmental treaty obligations and responsibility for their application in Overseas Territories.

The Secretary of State for Foreign & Commonwealth Affairs, The Rt Hon William Hague, and the Secretary of State for International Development, The Rt Hon Justine Greening, also have a policy interest. The Secretary of State for International Development indicated support for UK accession to the Convention in response to a write round in June 2012 prior to the Rio+20 Summit.

Policy implications

(i) General

Until now it has not been a priority for the UK to accede to the Convention because of its limited relevance to the UK. The extent of our cross border watercourses is limited to loughs and rivers on the border with Ireland, and these are already subject to the EU's Water Framework Directive and other domestic 'agreements'. Accordingly it was also appropriate that any decision on UK accession should be taken in consultation with the Irish Government and taking account of the latter's own intentions on accession. Finally participation in the Convention was thought to have possible resource implications for both Northern Ireland and UK authorities that might outweigh the actual substantive benefits of accession.

With this in mind, but with a view to investigating the possibility of accession, the Northern Ireland Department of the Environment, working with the World Wildlife Fund (WWF), commissioned an expert report on the legal and resource implications of accession to the Convention. The report concluded that accession would not have any impact on existing constitutional powers and would have negligible resource implications. The Northern Ireland Executive confirmed that the report had addressed their previous reservations and were content with UK accession to the Convention. Ireland also made an announcement at the Rio summit of its intention to accede.

The World Wildlife Fund and other environmental NGOs have written to support UK accession to the convention. The delay in UK accession has been criticised by NGOs who support the objectives of the Convention and have assisted in the evidence to establish that there are no undue legislative or resource barriers to prevent UK accession. WWF considers that UK accession will:

- send a strong signal to encourage other states to accede and bring the Convention into force;
- in combination with international lobbying, may help reduce political tensions arising from international water resources;
- assist in development goals for poorer nations;
- assist biodiversity gains in water environments through better management; and
- benefit UK food security in relation to imported foodstuffs.

Ministers have responded to various correspondents on the issue of UK accession, most recently Lord Cameron of Dillington wrote to ministers to support UK accession.

Internationally, the Convention will reinforce the UK position on sustainability and biodiversity, particularly with regard to sustainable water use. It will also contribute to DfID development goals for poorer nations. Once we have acceded to the Convention, the UK will be in good company, since Norway as well as 12 EU Member States are already parties and three more are likely to join soon.

The list of 30 countries which have already ratified or acceded are:

Benin, Burkina Faso, Chad, Denmark, Finland, France, Germany, Greece, Guinea-Bissau, Hungary, Iraq, Italy, Jordan, Lebanon, Libya, Luxembourg, Morocco, Namibia, Netherlands, Niger, Nigeria, Norway, Portugal, Qatar, South Africa, Spain, Sweden, Syria, Tunisia, and Uzbekistan.

List of countries (other than the U.K.) believed to be actively engaged in the ratification/accession process are:

Ghana, Honduras, Ireland, Papua New Guinea, Poland, Romania, Senegal, and Vietnam.

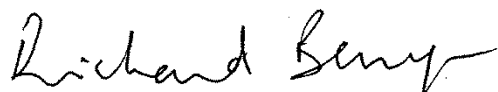
ii) Implementation

Defra and DFID have considered the case for accession from the domestic and international perspectives. Domestically our only trans-boundary watercourses are those in Northern Ireland which are shared with the Republic of Ireland. Management of the cross-border watercourses is a feature of the cross-border river basin plans established by domestic legislation and additional provisions within the Water Framework Directive.

An Impact Assessment will not be required as the proposal is to ratify an international treaty where the sole burden is on Government through reporting to the relevant UN secretariat (other requirements are already fulfilled by what is currently done under the Water Framework Directive).

Consultation

Following the completion of the reports on constitutional and resource impact, discussions were held with colleagues Department for Environment Communities and Local Government in ROI, Department of Environment NI, Foreign and Commonwealth Office, Department for International Development, and Devolved Administrations. All Departments consulted are content with the revised policy of UK accession..

A handwritten signature in black ink, reading "Richard Benyon". The signature is fluid and cursive, with the first name "Richard" and the surname "Benyon" clearly distinguishable.

The Rt Hon Richard Benyon MP
Parliamentary Under Secretary for Natural Environment, Water and Rural affairs