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JOINT OWNERSHIP OF WATER INFRASTRUCTURE IN INTERNATIONAL LAW

Dams have often been viewed as instruments of development: they help to meet water and energy needs, foster industry and create jobs. Yet, dam construction and operation can also have serious negative impacts. They can divide aquatic ecosystems, alter natural water flow cycles and transform the biological and physical characteristics of both rivers and floodplains. They have an impact not only in the watersheds but also on the often complex ecosystems of river estuaries. Moreover, the creation of reservoirs associated with large dam constructed has caused the displacement of hundreds of thousands of people.

In November 2000 the World Commission on Dams (WCD) issued its report, *Dams and Development: A New Framework for Decision-Making*. Among the Commission's many findings was a clear articulation of the significant contribution to improved cooperation and conflict avoidance in relation to the implementation of dam projects that can be made concluding international agreements on shared watercourses. However, 16 years later, it remains difficult to identify common principles of international law related to the development of dam projects. Beyond the 1923 *Convention relating to the development of hydraulic power affecting more than one State* (Geneva), there are no universal treaties governing the construction and operation of dams. Numerous international agreements—bilateral, multilateral, regional—nonetheless exist that directly or indirectly regulate the potential impact of dams on shared watercourses. Examples are the 1963 Convention between France and Switzerland for the Development of the Emosson Basin and the 1986 Lesotho Highlands Water Project between Lesotho and South Africa.

The presentation will explore some examples of international agreements dealing with the management and protection of water infrastructure. In so doing, the focus will be on current trends of international regulations highlighting the examples of joint water infrastructures. For example, the Convention on the Legal Statute of the Common Infrastructures in the Senegal River of 1978 (*Convention relative au statut juridique des ouvrages communs*) establishes that member States of the OMVS (i.e. Guinea, Mali, Mauritania and Senegal) hold the common ownership of the Diama and Manantali dams. Beyond some agreements on specific water infrastructures such as those in the Senegal, Senqu/Orange and Paraná rivers, some universal agreements establish cooperative mechanisms on hydraulic works. This is the case of the UN Convention on the Law of the Non-Navigational Uses of International Watercourses of 1997 (articles 25-26) entered into force in 2014.