

Equitable and Reasonable Utilization of Shared Waters by China: Interplay between National and International Water Laws

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Transboundary waters - China

Key messages:

- 1) 14 neighbouring States and 3 States further downstream;
- 2) Upper stream;
- 3) Outflow > inflow;
- 4) 1/3 of the land borders cross transboundary waters (7300 km).



International and national laws applicable to China's transboundary waters

1) Water agreements (about 65)

a. Comprehensive/Generic

- i. 1994 China-Mongolia Agreement on the Utilization and Protection of *Boundary Waters*; 2001 China-Kazakhstan Agreement on the Utilization and Protection of *Transboundary Rivers*; 2008 China-Russia Agreement on the Utilization and Protection of *Transboundary Waters*

b. Topic-specific: navigation, river bridge, exchange of hydrological information...

2) Water-related agreements

a. Land boundary agreements (delimitation and management)

b. Environmental cooperation agreements

c. MEAs

3) National laws

Water Law; Law on Water and Soil; Water and Soil Conservation Law; Flood Control Law; Waterway Law...

Codification of the principle of equitable and reasonable utilization

- 1) This principle is written into: China-Mongolia Boundary Waters Agreement; China-Russia Transboundary Waters Agreement; China-Kazakhstan Transboundary Rivers Agreement ;
- 2) Applicable scope: water bodies and channels ;
- 3) Sustainable utilization?



Key message 1: international and national laws - consistent definitions of shared waters

International laws

Transboundary water agreements

Boundary agreements

Transboundary water (river): Lakes, rivers, streams and other water bodies that **cross or rest on** boundary lines.

Boundary water (river): Lakes, rivers, streams and other water bodies that **cross and located on** national borders.

Commonality:
Ground water? Water 'system' concept?

Individuality:
Geographical scope;
Applicable laws;

National laws:

Water Law (2016 revised)

Land Boundary law (2021)

Interim Measures for Water Allocation (2007)

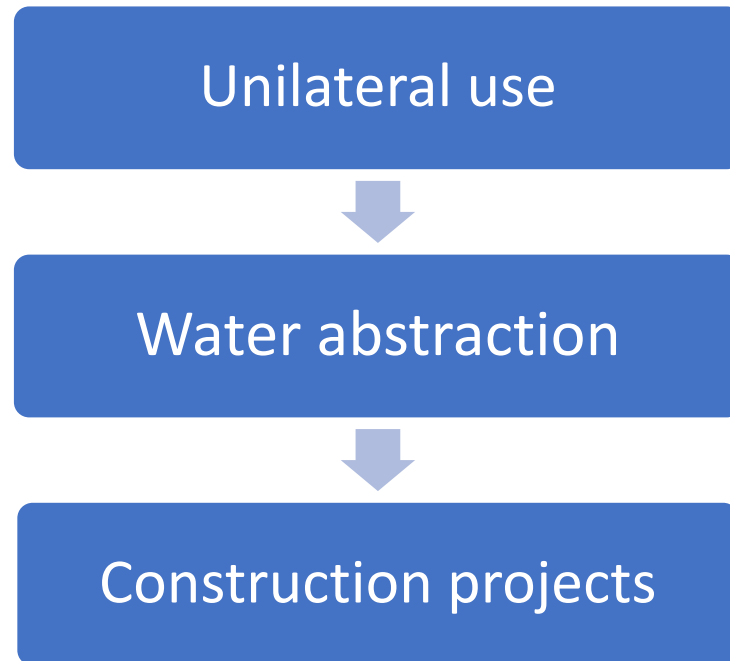
Notice on the Authority of Water Intake Permits for International Transboundary Rivers, International Boundary Rivers and Inter-provincial (Autonomous Region) Inland Rivers (MWR, 1996)



Key message 2: definitions of shared waters are coordinated with the utilization of shared waters

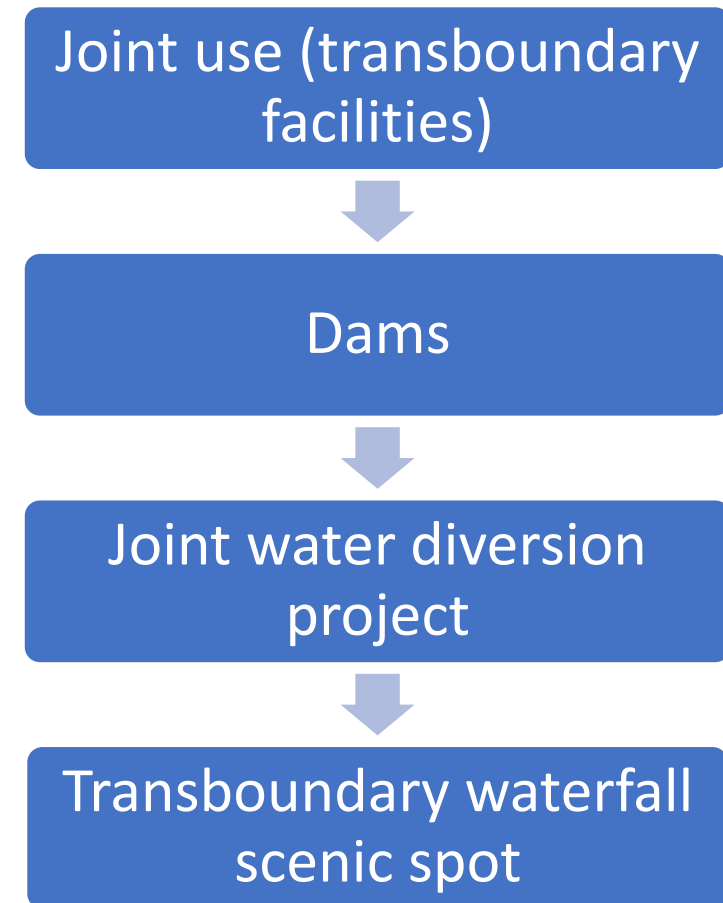
1) Transboundary water (river)

Lakes, rivers, streams and other water bodies that *cross or rest on* boundary lines.



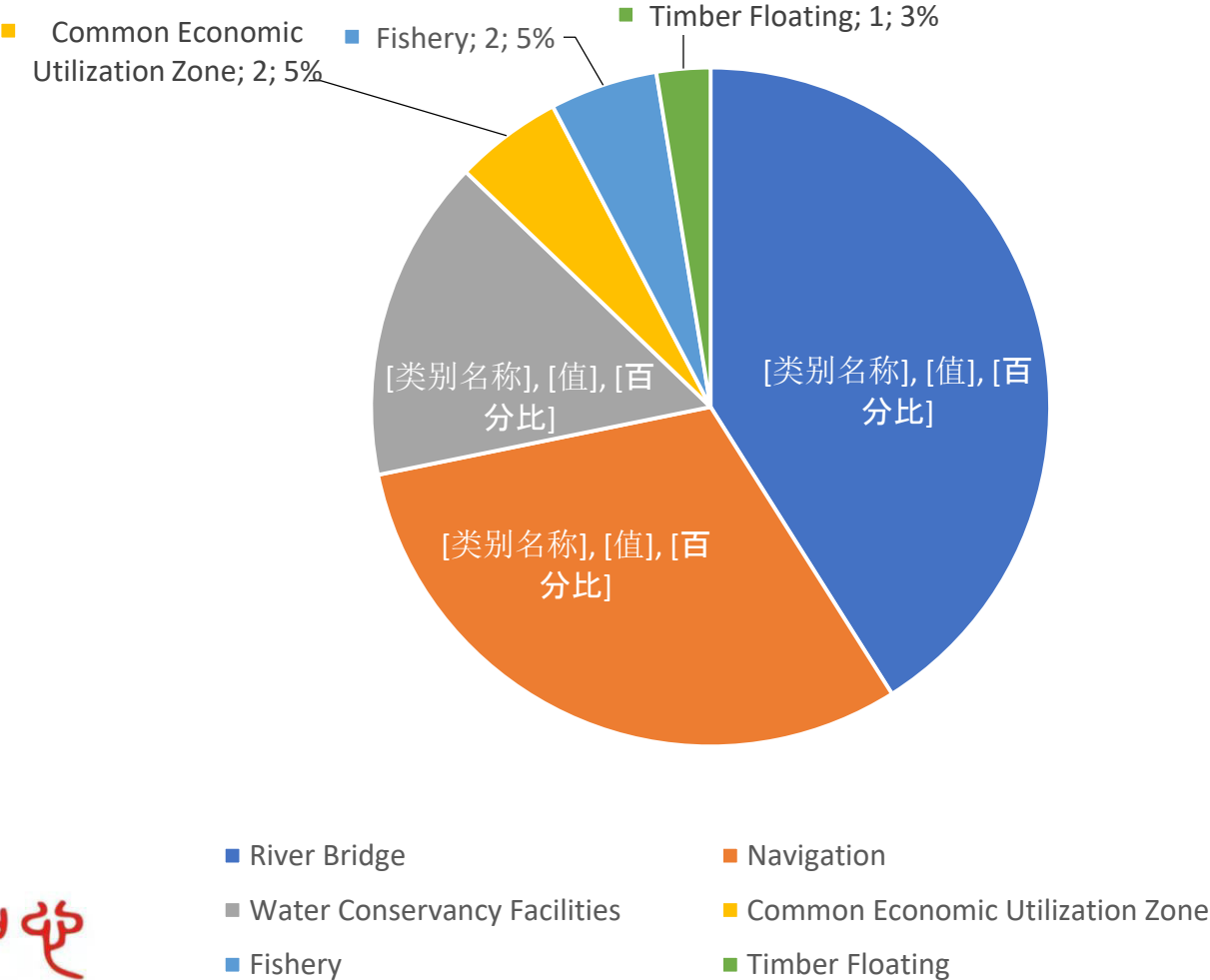
2) Boundary water (river)

Lakes, rivers, streams and other water bodies that *cross and located on* national borders.



How China uses transboundary water resources based on agreements?

China's bilateral and multilateral water agreements by utilization types : 39 in total



Key message 2: definitions of shared waters are coordinated with the utilization of shared water resources (**boundary waters**)

	China-North Korea: Shuifeng (Sup'ung) Dam	China-Kazakhstan: Khorgos River Joint Water Diversion Project	China-Vietnam: Detian (Ban Gioc) Transnational Waterfall Scenic Area
Establishment	Co-established	Co-established	Establish their respective parts
Ownership	Co-ownership	Co-ownership (equal shares)	Territorial sovereignty: 200 hectares on either side
Management	Co-managed by the Shuifeng Hydropower Plant Company: council with government representatives	<ul style="list-style-type: none"> - <u>Authorized bodies</u>: local government (China); Committee on Water Resources of MENR (Kazakhstan) - Respective <u>management and operation organizations</u>: Khorgos River Basin irrigation management (China); Kazvodkhoz State Enterprise (Kazakhstan) 	<p>Manage their respective parts under national laws + coordination</p> <ul style="list-style-type: none"> - <u>Detian Waterfall Tourism Resources Coordination Committee</u>: planning, construction and management - <u>China-Vietnam Land Border Joint Committee</u>: dispute resolution - <u>Local police stations</u>: frontier defense and public security administration - <u>Notification and coordination on laws</u> relevant to the protection of environmental and tourism resources
Cost/benefit-sharing	Share the power generated on a equal basis	Each pays 50% of the construction cost; E-flow: 1.7 m ³ /sec	Entrance ticket, restaurants, and hotels

Key message 2: water abstraction from transboundary waters in China's territory

Jurisdictions of River Basin Administrative Bodies on Water Withdrawal from Transboundary Waters			
River Basin Administrative Bodies	Transboundary water sections	Limits	
		Industrial and urban domestic uses	Agricultural use
Songliao River Water Resources Commission (boundary rivers and lakes)	<ul style="list-style-type: none"> - China-Russia boundary river sections of the Heilong and Ussuri Rivers; - China-North Korea boundary river reaches of the Yalu River and Rivers; - Xingkai Lake, Buir Lake, and Heaven Lake 	40,000 m ³ (daily)	Water withdrawal for above 6 m ³ per second
Yellow River Conservancy Commission	<ul style="list-style-type: none"> - Mainstreams of the Irtysh and Ili Rivers 	10,000 m ³ (daily)	Water withdrawal for above 10 m ³ per second
Changjiang Water Resources Commission	<ul style="list-style-type: none"> - Mainstreams and boundary rivers sections of the Yaluzangbu River, Nu River and Lancang River 	150,000 m ³ (daily)	Water withdrawal for above 10 m ³ per second

Key message 3: Coordination between bilateral and national institutional bodies

Institutional Mechanisms Relevant to Transboundary Waters

	Country	Water	Boundary	Environment
Bilateral	DPRK	China-DPRK Hydroelectric Power Company (formerly China-DPRK Yalu River Hydroelectric Power Company) 1955	China-DPRK Joint Boundary Committee	Director level Coordinator by each side
		China-DPRK Cooperative Committee on Navigation in Boundary Rivers (Yalu River and Tumen River) 1960		
		China-DPRK Joint Committee on the Utilization of Boundary Rivers 1964		
	Russia	China-Russia Joint Committee on the Navigation in Boundary Rivers 1951	China-Russia Joint Boundary Committee	China-Russia Joint Working Group on Environmental Protection
		China-Russia Joint Commission for the Development of the Scheme of Comprehensive Utilization of Water Resources of the Frontier Sections of the <u>Argun</u> and Amur Rivers (1986)		

Table 3 Central water-related management departments and their mandates²³¹

Central governmental departments	Major water-related mandates
MWR	Water resources management and protection, water-saving management, river courses, flood control, water and soil conservation, water engineering management, hydrologic management, water administration supervision, organizing implementation of water withdrawal permit system and the charging system of water resource fee; water function zone planning, examining and approving assimilative capacity of areas, providing opinions on total sewage discharge limitation, developing water resources protection planning, monitoring quality and quantity of rivers and lakes; issuing national water resources bulletin
Ministry of Ecology and Environment	Taking charge of water pollution prevention and control, water environment quality monitoring, and pollution charges; participating in policy-making relevant to water resources protection; participating in developing water resources protection planning; examining the environmental impact assessment reports of water conservancy projects
Ministry of Housing and Urban-Rural Development	Urban and industrial water-saving, urban water supply, water discharge and sewage treatment
Ministry of Agriculture and Rural Affairs	Nonpoint pollution control, protection of water environment, fisheries and habitat of wild animals
National Forestry and Grassland Administration	Ecology of river basins, protection and management of water conservation forests, wetlands management
National Development and Reform Commission	Participating in water resources development and planning, ecological environment construction; balancing development plans and policies relevant to agriculture, forest and water
Ministry of Transport	Water pollution prevention and control by ships, waterways management and maintenance, inland water transportation navigation buildings

Key message 3: Coordination between bilateral and national institutional bodies

- Regular meetings of the China-Mongolia Joint Committee on Boundary Water: Representatives from the foreign affairs, border defense, agriculture, surveying and mapping departments and local governments of the two sides attended the meeting.
- The Waterway Administration Bureau of Jilin Province is responsible for the foreign affairs of the regular meeting of the China-DPRK Cooperative Committee on Navigation in Boundary Rivers with an aim to create a foundation for the smooth implementation of the construction and maintenance of boundary river channels under its jurisdiction.

3. Concluding remarks

- 1) International and national laws - consistent definitions of shared waters
- 2) Definitions of shared waters are coordinated with the utilization of shared waters
- 3) Coordination between bilateral and national institutional bodies



Many thanks!

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