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## Andre Nollkaemper, The Legal Regime for Transboundary Water Pollution: Between Discretion and Constraint

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**ANDRE NOLLKAEMPER, THE LEGAL REGIME FOR TRANSBOUNDARY****WATER POLLUTION: BETWEEN DISCRETION AND CONSTRAINT,**

Kluwer Academic Publishers, Norwell, Massachusetts (1993); 327pp;  
\$134.50; ISBN 0-7923-2476-5; hardcover.

*The Legal Regime for Transboundary Water Pollution* analyzes the international legal regime for transboundary water pollution, examining the balance between the discretion of states to undertake economically attractive activities and the need for constraint to protect the environment. This book uses as a case study the regime for transboundary water pollution as it applies to the Netherlands and how international environmental law have sought to replace discretion with restraint and what limitations have been encountered with that endeavor.

Chapter One introduces the problem of transboundary water pollution and key variables of the international regime. First, the author reviews previous studies of transboundary water pollution and then presents research questions, methods of approach, and the scheme of the study. The three objectives of the study are: (1) to analyze the theoretical assumptions underlying the predominant regulatory approaches used to limit the discretion of the states; (2) analyze the application of these approaches to the Netherlands; and (3) examine the limitations encountered in their application.

Chapter Two provides an overview of the principles and policies that apply to the regime. Specifically, the chapter focuses on the sources of those policies and an assessment as they apply to the different principles. Chapter Three expands on Chapter Two, discussing the specific obligations imposed by the international regime. This chapter begins with a discussion of water quality standards and their transboundary application, followed by discussions of emissions standards, percentage reductions, and best available technology. The author then assesses how these different standards impact the discretion of the states.

Chapter Four outlines the procedural obligations states must follow to prevent transboundary water pollution. The author describes what triggers the obligation to cooperate with the regime and the consequences for non-cooperation. Next, this chapter analyzes the specific obligations to notify and consult when a state contemplates the initiation of a new use of an international watercourse that may harm another state. This chapter concludes by analyzing the obligation to conduct environmental impact assessments for evaluating the likely impact of a proposed activity on the environment.

Chapter Five discusses the legally binding rules of the regime, as evidenced by treaties and EEC directives contrasted with accepted non-legally binding rules. This chapter addresses the distinction between legal and non-legal rules, the criteria by which these categories are distinguished, and types of legal and non-legal rules subject to analyses. Finally, Chapter Five describes the advantage of legally binding rules, and how non-legal rules can be changed to legal rules.

Chapter Six begins with an explanation of procedures applied in

controlling state compliance with their obligations. This chapter explains how procedures for compliance control can remove potentially adverse effects of indeterminacy of obligations. This chapter explores how compliance control strengthens reciprocity between states and provides incentives for states to comply with their obligations.

This book concludes with an exploration of the development of international rules. These rules result in a large number of multifarious procedures and rules that lead to the shift from discretion to restraint. This technical book focuses on the issue of transboundary water pollution, but it may be of interest to any person interested in international environmental law.

*Ryan O. Reimers*