Explaining the Negotiation Context in International Water Treaties

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Introduction

Treaties governing international rivers vary in their design, yet little is known about the factors influencing variations in design. The authors tested the influence of negotiating, distributing the gains, and enforcing commitments in bilateral, multilateral, and basin-wide negotiation contexts on the depth of cooperation and degree of institutionalization.

While multilateral and basin-wide negotiations are likely to result in treaties focusing on joint gains and issues requiring shallow cooperation (general and vague objectives), a high degree of institutionalization is required to overcome the obstacles to maintaining cooperation. Easier enforcement and lower transaction costs of bilateral negotiations along multilateral and bilateral basins are likely to result in treaties with deeper levels of cooperation (focusing on detailed water quality and quantity issues), but expected to result in lower institutionalization. This argument and the authors’ findings present important considerations for treaty design and management of international rivers.

Likelihood of water treaties

The authors’ analysis revealed that multilateral negotiation tends to produce treaties that focus on economic development. This confirms expectations that this context is likely to focus on joint gains and result in shallow cooperation because of the many interests that must be accommodated. The findings also revealed that basin-wide negotiations are not likely to lead to economic development treaties. As the number of states in multilateral negotiations increase, the likelihood that they will reach an economic development treaty decreases. The Watercourses Convention advises states to include all riparians in a treaty to improve the management of the basin in an ecologically sustainable and efficient manner to facilitate stable cooperation. However, states are not heeding to the norm of integrated river basin management by including all riparians in accords. Third-party mediators of riparian cooperation need to take into account this finding. As states attempt to facilitate economic development treaties along the Nile or Mekong basins, it appears that they will confront more obstacles in achieving basin-wide accords.

Multilateral and basin-wide negotiations

The analysis revealed that multilateral and basin-wide negotiation contexts can result in treaties focusing on environmental issues. These findings contradict the expectation that multilateral negotiations produce shallow accords that require minimal behavior-altering cooperation. Rather it suggests that the multilateral and basin-wide contexts can provide opportunities for deeper cooperation, such as managing environmental issues.
One of the most contentious issues in managing international basins is the allocation of a river’s waters. The bilateral negotiation context is more likely to lead to water allocation agreements in bilateral and multilateral basins. These findings confirm the expectation that states select bilateral negotiations to address issues requiring deep and detailed cooperation. However, bilateral water allocation agreements over multilateral basins may contribute to unstable cooperation because excluded riparians may influence the quantity of water flowing in the basin and challenge compliance with treaty commitments. For example, upstream withdrawals from the Yarmouk River by Syrian farmers challenge downstream quantitative treaty commitments between Israel and Jordan. Mediators need to take these findings into consideration in their attempt to avert tensions and conflict between riparians by encouraging basin-wide agreements.

A higher degree of institutionalization is more likely in multilateral treaties covering multilateral basins, as opposed to the other negotiation contexts. The finding that basin-wide treaties covering multilateral basins are likely to have a lower degree of institutionalization confirms the need to appreciate the complexities of multilateral negotiations. In this issue, it appears that states are again not heeding to the Watercourses Convention arguing for the need to build basin-wide institutions. With few exceptions, the bilateral negotiation context over bilateral and multilateral basins appears to perform similarly, which negates the potential influence of coalition building suggested by the behavioral and economic literature.

Several of the control variables used in the statistical analysis appear relevant for treaty design. A higher concentration of international environmental non-governmental organizations in the basin decreases the prospects that states will reach economic development accords but increase the chances of an environmental agreement. Power asymmetries among the riparians decrease the prospects for environmental and quantitative accords along with decreasing the degree of institutionalization. Democratic dyads and shared legal traditions decrease the transaction costs of negotiating. Joint democracies are more likely to reach economic development and environmental treaties, and have a higher degree of institutionalization, while similar legal traditions are more likely to contribute to water allocation agreements but with a lower degree of institutionalization. Third-party mediators need to take these findings into consideration as they seek to facilitate treaties among riparian states.

Conclusion

The findings in this paper advance the rational design literature as well as the literature on managing international rivers. It appears that the negotiation context does influence treaty content, and multilateral, along with basin-wide accords, can provide states with opportunities for managing issues that require deeper cooperation. States seem to behave differently, especially in the context of multilateral and basin-wide treaty design. This difference in behavior needs further consideration through future research on treaty design. With very few exceptions, the bilateral negotiation context appears to have a similar impact on treaty design in bilateral and multilateral basins. Finally, the fact that the multilateral negotiation context can provide opportunities for deeper international cooperation is an important finding in advancing the international relations literature and policymaking in international water management.

This policy note is based on a paper of the same title.

(http://wspc.ucr.edu/working_papers/WSPC-WP-01-1013_negotiation%20context%20international%20water%20treaties.pdf)