

MANAGEMENT
OF TRANS-BOUNDARY
WATER RESOURCES:
COMPARING RUSSIAN
AND AMERICAN
EXPERIENCE

D. Lanko*



This article is based on a comparative analysis of Russia and US's experience of participation in international cooperation in the field of trans-boundary water management. The author showcases the work of Russian-Estonian Commission for Protection and Rational Use of Trans-Boundary Waters and the US-Canadian International Joint Commission. The Russian-Estonian Commission works in accordance with the principle of intergovernmentalism, whereas transnationalism is the founding principle of the International Joint Commission in North America. Though the Russian-Estonian Commission is more efficient in water quality improvement in its area of responsibility, it is early still to claim that intergovernmental cooperation is more effective than transnational cooperation. However, it gives a reason to question the conclusions of the proponents of transnationalism in the international relations theory, who claim that the latter is more efficient. Practical significance of this paper is in the proposed recommendations for further modernization of international cooperation in the field of trans-boundary water management.

Key words: international relations, international agreements, Russia, Estonia, United States of America, Canada, trans-boundary cooperation, environmental protection, water management, transnationalism, intergovernmentalism

The year 2013 is expected to be a benchmark for international trans-boundary cooperation in the protection and rational use of water courses — rivers and lakes marking state borders not only in the Baltic Sea region or Europe in general, but also throughout the world. In 2013, the amendments to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes — better known

* Saint Petersburg State University
7—9, Universitetskaya nab.,
Saint Petersburg, 199034, Russia

Submitted on November 21, 2012.

doi: 10.5922/2079-8555-2013-1-2

© Lanko D., 2013

among experts as the Helsinki Convention [1] (approved ten years ago), will come into force. The Convention was signed in 1992 under the aegis of the UN European Economic Commission; it defined the legal status of trans-boundary watercourses in Europe, where state borders are shaped by more than 150 large rivers and 50 lakes. The Convention holds equal importance to the Baltic region, as well as southern Europe, first of all due to the importance of the river Danube.

In the Baltic Sea region, such rivers as the Vistula, Vuoksi, Western Dvina, Mamonovka, Narva, Neman, Oder, Torne, Šventoji, and more than a dozen smaller rivers cross the territory of at least two states. Moreover, the region is home to Lake Peipus — the largest lake in Estonia constituting a part of the Russian-Estonian state border. However, trans-boundary rivers are not an exclusively European phenomenon. Some trans-boundary rivers flow across the territory of European states, some countries in the Middle East and Asia. The recognition of the significance of this issue resulted in the adoption of amendments to the Helsinki Convention (2003), according to which the range of participants is not limited to European countries. These amendments are expected to be ratified in 2013 by the majority of Helsinki Convention participant countries and eventually will come into force.

It shows the importance of comparative studies into the practice of international management of trans-boundary water resources. It is necessary to compare the experience of European countries, but also analyse the European models in juxtaposition with those applied in other parts of the world. Moreover, some of latter models are much older than their European analogues.

This article offers a comparison of the Russian and American experience and focuses on the cases of Russia's participation in the institutions of the joint Russian-Estonian trans-boundary water management and the US participation in similar US-Canadian institutions. Unlike the Russian-Estonian trans-boundary water management institutions, which emerged after the collapse of the USSR in the 1990s, similar US-Canadian institutions were established as early as the beginning of the 20th century. In 1909, the corresponding agreement was signed by the USA and Great Britain [2], since, at the time, Canada was still a British dominion.

A crucial factor in signing the agreements was the reversal of the Chicago River undertaken by the Americans in order to prevent the inflow of sewage water, which was not treated at the time, from the city of Chicago into Lake Michigan. In 1990, the construction of a new canal was completed; as a result, the Chicago River's flow was reversed — from Lake Michigan through the Chicago and Illinois Rivers southward into the Gulf of Mexico. On the one hand, it made it possible to reduce the risk of epidemics in Chicago, where 90 thousand people — almost 10% of the city residents — died of cholera in 1885, because untreated sewage reached the city's water intake cribs. On the other hand, the level of Lake Michigan lowered almost by 15 cm as a result of the Chicago River reversal, which affected the water supply to residential areas on the shores of the Great Lakes, including those situated in Canada.

The hydraulic structures, having a significant impact on the water bodies located along today's Russian-Estonia border, were constructed in the Soviet period; the border separated not different states but also different administrative units — the RSFSR and the ESSR. In 1956, the construction of the Narva hydropower plant, whose dams created the large Narva Reservoir (almost 200 km²), was completed. Today, the HPP is situated on the Russian territory and belongs to TGK-1. The condition of hydraulic structures at the HPP became one of the issues — although not the most important — on the agenda of Russia-Estonia cooperation in the field of joint management of trans-boundary water courses. This cooperation is based on the Agreement between the Russian and Estonian governments signed in 1997 [3].

The recently published research literature on the issues of international cooperation in the field of managing water resources pays special attention to the problems in those regions of the world, where lack of water resources can become, or have already become one of the most important factors provoking international conflicts. Therefore, effective water resource management is turning into a question of war and peace in those regions. In this connection, one can mention the work of I. Ye. Nesterova, who demonstrates how a lack of water resources may provoke conflicts between states, for instance conflicts over the rivers Nile, Jordan, Tigris, and Euphrates [4]. At the same time, international cooperation in this field in other regions of the world, where due to the abundance of water resources, water deficiency cannot lead to an armed conflict in the near future, is often left beyond the scope of scholarly attention.

The border regions of Russia and Estonia, as well as the USA and Canada, are rich in water resources. It makes them comparable from the perspective of the present study. Despite numerous disputes related both to water protection and other issues, the USA and Canada remain principal partners; their cooperation has proved to be efficient in a number of areas, including joint protection of trans-boundary waters, although there are certain problems, which will be discussed below. The case of Russia and Estonia is radically different. Despite intensive foreign economic relations, numerous cultural contacts and personal contacts of citizens, the political relations between Russia and Estonia still leave much to be desired. In this context, cooperation between the parties in the management of trans-boundary water resources — although it is not devoid of problems — can serve as a good example to other areas of bilateral relations, where the situation is not that favourable.

The comparability of such cases can be explained by some other factors. Firstly, there are numerous works comparing both the national legislations and their application in the field of environmental protection in Russia and the USA. In this context, one cannot but mention the research work of L. V. Koscheeva, which contains two chapters devoted to a comparative analysis of the water quality policy in the USA and Russia [5]. Secondly, in each case, cooperation takes place between states that differ significantly in terms of political influence, as a result of which one party (the USA and Russia) has considerable opportunities of exerting pressure on the other party (Canada

and Estonia). Therefore, although the article considers two cases of bilateral cooperation, its title mentions a comparative analysis of only Russian and American experience.

Thirdly, if Canada and Estonia are willing to delegate a part of their national sovereignty to transnational international institutions, including those of the European Union, then the USA and Russia are maintaining the maximum degree of sovereignty in resolving most international issues which has become the cornerstone of their foreign policy. It is worth noting, that in similar cases (as it was emphasised above), joint management of trans-boundary water resources requires radically different models of cooperation institutions. The US-Canadian International Joint Commission operates on the basis of a trans-national model, whereas the Russian-Estonian Commission for Protection and Rational Use of Trans-Boundary Waters follows the intergovernmental model, which ensures that the parties maintain the maximum degree of sovereignty when solving contentious issues.

The methodology of the present comparative study rests on the groundwork in the transnationalism theory, according to which the role of nation states enjoying full sovereignty is decreasing in modern international relations, since such states allegedly turn out to be less efficient in comparison to transnational international institutions, which do not depend of the governments of nation states. One of classical works on the transnationalism theory is the article by R. O. Keohane, A. Moravcsik, and A. M. Slaughter, which demonstrates the efficiency of transnational international institutions such as international courts, for instance, the International Criminal Court [6]. Transnationalism theory was extremely popular at the turn of the 20th century. However today, almost a decade later, the basic assumptions of this theory are increasingly often questioned by many scholars, including those from Russia.

In this context, one cannot but recall the work of N. M. Mezhevich and M. A. Salnikova, which questions — without focusing on the issue of transnational institutions' efficiency — their capacity to fulfil their functions in the absence of national states, which still hold almost absolute monopoly over the use of military force in international relations [7]. Consequently, the authors emphasise, the thesis about the decreasing significance of nation states in modern international relations is not entirely correct. However, they do not formulate the question as to what extent the thesis of allegedly greater efficiency of transnational international institutions in comparison to intergovernmental ones is true. Nevertheless, this question is very relevant, especially, given the efficiency of international courts, whose example inspired the classics of transnationalism theory when formulating its basic theses.

Another contentious issue is the efficiency of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 and other similar institutions. The study presented in this article sought to compare the efficiency of two commissions: the US-Canadian Commission (built on the transnational model) and the Russian-Estonian one (built on the intergovernmental model). The fundamental difference

between the transnational and intergovernmental models is the following: in the framework of the first model, the corresponding international institution (in this case, the commission) makes decisions regardless of the position of the states that had established it. These states are given the function of supervising the implementation of the commission's decisions by certain economic entities.

This principle underlies the operation of the US-Canadian Commission. It consists of several members: three of them are appointed by the President of the US after the approval of the US Senate. The other three are appointed by the Governor General of Canada upon the recommendation of the Prime Minister (as a rule, the commissioners are ecologists rather than bureaucrats). So, as of the beginning of 2013, the US section was represented by L. Pollack, who served as president of the Michigan Environmental Council, R. Moy, who served as chair of the Flathead Basin Commission, and D. Glance, the Executive Program Director for Citizens Campaign for the Environment. The Canadian party is represented by J. Comuzzi, who served as member of Parliament for Thunder Bay-Nipigon (today this region is called *Thunder Bay — Superior North*) in the province of Ontario, and L. D. Knott, who serves on the Boards of Directors of several charitable organizations; the position of the third Canadian commissioner remains vacant.

The commissioners are irremovable throughout their term of office, which ensures that their decisions are made independently from the governments of their home countries. Moreover, the 1909 Agreement, which stipulated that the commission be established, states that the decisions made by commissioners shall be governed by rationality, rather than the opinion of their governments. Therefore, the principle of transnationalism is fully implemented by the US-Canadian Commission. The Russian-Estonian Commission is being formed according to the intergovernmental principle; it consists of the two countries' officials appointed to the commission.

Most of the commission workload rests with its co-chairs; from the Estonian side, the position of co-chair has been occupied by the chancellor of the Ministry of the Environment, which is a rather "technical" position. In effect, the position of chancellor cannot be called fully independent from the influence of party struggle. So, in 2005—2007, while the Estonian Ministry of the Environment was headed by the representatives of the People's Union, Villu Reiljan and Rein Randver, the position of chancellor was occupied by A. Uudelepp (Velthut before 2006), a close associate of the party's leadership. Moreover, she held the post for another year and a half after the parliamentary elections of 2007, after which the position of the minister of the environment was taken by a representative of the Reform Party; in 2007, it was occupied by J. Tamkivi. In summer 2008, A. Uudelepp resigned, and R. Annus, a professional lawyer, who had worked for many years at the Ministry of the Environment, became the chancellor of the Ministry and, consequently, the co-chair of the Russian-Estonian Commission. She also held the post after the 2011 parliamentary elections, as a result of which another representative of the Reform Party — K. Pentus — became the Minister of the Environment.

As to the Russian co-chair of the Russian-Estonian commission, this position is much less dependent on interparty relations than that of the Estonian peer. In 2005, M. V. Selivestrova became the co-chair after she had been appointed the deputy director of the Federal Water Resources Agency. At the time, the position of the Minister of Natural Resources was held by Yu. P. Trutnev. In 2008, the institution was transformed into the Ministry of Natural Resources and Environment; however, Yu. P. Trutnev remained at its head. In 2009, M. V. Selivestrova was appointed the director of the Federal Water Resources Agency, but nevertheless remained the Russian co-chair of the Russian-Estonian commission. She also held this position after the presidential elections of 2012, as a result of which D. A. Medvedev became the Prime Minister and S. Ye Donskoy the Minister of Natural Resources and Environment. Thus, the Russian-Estonian commission follows the intergovernmental principle.

The efficiency of the commission's performance is manifested, first of all, in the improving situation in the basin of the River Narva — including Lakes Peipus, Teploye, and Pskovskoye — which has been annually reported in the protocols of the commission's meetings [8]. There have always been disagreements between the parties, for instance, those pertaining to the issue of applicability of EU standards to the commission's activities: it is inadmissible for the Russian party, since maintaining the national sovereignty is the cornerstone of the country's foreign policy, including such aspect thereof as international cooperation in the field of environmental protection. However, the water resource situation in the region is steadily improving. It happens not only as a result of the reduction of industrial production in the region after the collapse of the USSR, but also due to certain initiatives, such as the construction of treatment facilities in East Estonia and the Pskov and Leningrad regions.

As to the efficiency of the US-Canadian commission, the situation is not unambiguous. A certain deterioration of control values is registered in certain areas, for instance, in maintaining the water quality. One can assume that the worsening of water resource indices relate to the industrial growth; similarly, G. O. Yarygin comes to a conclusion that the deterioration of the environmental situation in Canada relating to the climate change is a result of an increase in oil and gas extraction [9]. However, the deteriorating quality of water in the area of the Great Lakes cannot be explained by the industrial growth factor; on the contrary, the industrial production is reducing in the region, for instance, in the Detroit area. It seems that the worsening water resource situation relates to the inability of the parties to reach an agreement on specific obligations pertaining to limiting the impact on the water environment and the coordination of efforts when launching water resource initiatives.

In September 2012, the USA and Canada reached an agreement on introducing new amendments to the 1978 Great Lakes Water Quality Agreement [10]; the earlier amendments to this Agreement were made in 1983 and 1987. On the one hand, the adoption of such amendments is indicative of a radical change in the environmental dimension of the US foreign

policy. For the first time, such agreement contains a requirement of harmonising the water resource initiatives with the objectives of international cooperation on the climate change problem. Before B. Obama's administration accessed to power, the USA refused to include a mention of climate change in international agreements on the problems of environmental protection. However, not unlike the earlier versions of the Agreement, the new one does not contain binding obligations pertaining to limiting the impact on water, for instance, the maximum mercury content. As a result, as J. Bruce and C. Wood emphasises, the quality of water in the Great Lakes continues to deteriorate [11].

In conclusion, one must emphasise that it does not seem possible to claim the superiority of intergovernmental cooperation model used within Russia-Estonian interaction over the transnational one characteristic of the US-Canadian cooperation on the basis of a comparative analysis of only two cases — the Russian and American experience of international cooperation in the field of managing trans-boundary water courses. Such a conclusion requires a further study into different forms of interaction in this — still poorly studied — area of trans-boundary cooperation. However, the comparison of these two models makes it possible to question the conclusions of other researchers who claim the superiority of transnational model.

References

1. *Konvencija po ohrane i ispol'zovaniju transgranichnyh vodotokov i mezhdu-narodnyh ozer. Soversheno v Hel'sinki 17 marta 1992 g.* [The Convention on the Protection and Use of Transboundary Watercourses and International Lakes. Done at Helsinki, 17 March 1992], available at: <http://www.unece.org/fileadmin/DAM/env/water/pdf/waterconr.pdf> (accessed 11 December 2012).
2. Treaty between the United States and Great Britain Relating to Boundary Waters, and Questions Arising between the United States and Canada. Signed at Washington on January 11, 1909 available at: <http://bwt.ijc.org/index.php?page=Treaty-Text&hl=eng> (accessed 11 December 2012).
3. *Soglashenie mezhdru Pravitel'stvom Rossijskoj Federacii i Pravitel'stvom Jestonskoj Respubliki o sotrudnichestve v oblasti ohrany i racional'nogo ispol'zovanija transgranichnyh vod. Soversheno v Moskve 20 avgusta 1997 g.* [Agreement between the Government of the Russian Federation and the Government of the Republic of Estonia on cooperation in the conservation and management of transboundary waters. Done in Moscow on August 20, 1997], available at: <http://voda.mnr.gov.ru/part/?act=more&id=459&pid=961> (accessed 11 December 2012).
4. Nesterova, I.Ye. 2011, "Vodnaja karta" v global'nom mire ["Water card" in a global world], *Vestnik Sankt-Peterburgskogo universiteta. Serija 6: Filosofija. Kul'turologija. Politologija. Pravo. Mezhdunarodnye otnoshenija* [Bulletin of St. Petersburg University. Ser. 6: Philosophy. Cultural Studies. Political science. Right. International relations], no. 3. p. 53—62.
5. Kochtcheeva, L.V. 2009, *Comparative Environmental Regulation in the United States and Russia: Institutions, Flexible Instruments and Governance*, Albany, State University of New York Press.
6. Keohane, R.O., Moravcsik, A., Slaughter, A.M. 2000, Legalized Dispute Resolution: Interstate and Transnational, *International Organization*, Vol. 54, no. 3: Legalization and World Politics (Summer), p. 457—488.

7. Mezhevich, N.M., Salnikova, M.A. 2006, *Izmenenie mesta i roli nacional'nogo gosudarstva v transnacional'nom mire i v razvitii transgranichnogo sotrudnichestva* [Changing the position and role of the nation state in a transnational world, and in the development of cross-border cooperation], *Upravlencheskoe konsul'tirovanie* [Management consulting], no. 1, p. 141—153.

8. Eesti-Vene piiriveekogude kaitse ja kasutamise ühiskomisjoni protokollid. Aastad 1998—2011, available at: <http://www.envir.ee/1126098> (accessed 11 December 2012).

9. Yarygin, G.O. 2011, *Prognozy razvitija uglevodorodnogo sektora jenergetiki Kanady i ego vozdejstvija na okruzhajushhuju sredu* [Forecasts for the hydrocarbon sector Energy of Canada and its impact on the environment], *Vestnik Sankt-Peterburgskogo universiteta. Serija 6: Filosofija. Kul'turologija. Politologija. Pravo. Mezhdunarodnye otnoshenija* [Bulletin of St. Petersburg University. Ser. 6: Philosophy. Cultural Studies. Political science. Right. International relations], no. 4, p. 57—63.

10. Protocol Amending the Agreement between the United States of America and Canada on Great Lakes Water Quality, 1978, as amended on October 16, 1983, and November 18, 1987. Signed at Washington on September 7, 2012, available at: http://www.epa.gov/grtlakes/glwqa/20120907-Canada-USA_GLWQA_FINAL.pdf (accessed 11 December 2012).

11. Bruce, J.P., Wood, C. 2012, *Canada — U.S. Water Quality: One Step Forward, Two Steps Back*, Toronto, The Star.

About the author

Dr Dmitry Lanko, Associate Professor, Department of European Studies, School of International Relations, St. Petersburg State University (Russia).

E-mail: dimppa@hotmail.com