

# Chapter 18

## The Río de la Plata Basin

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**Abstract** This chapter scrutinizes customary practices and legal precedents on water management from the pre-colonial indigenous traditions to the present day, demonstrating the existence of a *corpus iuris aquarum ambientalis* applicable to the Río de la Plata basin. The *corpus iuris* stems from customary practices rooted in centuries old precedents and from regional and international duties of the five riparian states, four of them also being members of MERCOSUR. The chapter reviews the pre-Incan and post-Incan periods, the Spanish colonial phase, and current water law. It analyses whether the *corpus iuris* could resolve the controversial situation of the pulp mills factories on the Uruguayan bank of the River Uruguay, one of the main tributaries of the Río de la Plata. Because the River Uruguay demarcates the frontier between Argentina and Uruguay, the domestic legislation of both countries is also described and relevant South American case law is re-visited.

**Keywords** Customary water law • colonial water law • pulp mills • Río de la Plata • water management

### 18.1 Introduction

From early times, human beings have tried to understand, organize, and improve, not always successfully, their relationship with water and with water flowing in transboundary rivers. South America, with 28% of the world's renewable water available to 6% of the global population, is one of the world's richest regions in water, found in the Orinoco, Amazon, and Río de la Plata, and also in lakes, the Guaraní aquifer (named for the Guaraní Indians), smaller watercourses, and many glaciers. The management of this asymmetrically spread hydrologic network led to several agreements over time. This chapter first analyses the history of water

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