

International Association for Water Law
Asociación Internacional de Derecho de Aguas
ASSOCIATION INTERNATIONALE DU DROIT DES EAUX



Newsletter No. 30 - Special Issue

June 2004

**ILA TO CONSIDER MAJOR REVISION OF THE HELSINKI RULES
AT UPCOMING BI-ANNUAL CONFERENCE
(BERLIN, AUGUST 2004)**

The purpose of this Special Issue of AquaForum is to inform members of AIDA of the recent completion of the work undertaken under the leadership of Professor Joseph Dellapenna, Rapporteur, and Dr. Gerhard Loibl, Chairman, of the Water Resources Committee of the International Law Association (ILA) on the revision of the 1966 Helsinki Rules as complemented and supplemented through 1996.

The 1966 Helsinki Rules had been the result of work begun in 1954 by the Rivers Committee, renamed Water Resources Committee following their adoption in 1966 by the ILA. Complementary and Supplementary Rules developed since and until 1996 by the Water Resources Committee have also been adopted by the ILA.

As from 1997, the Water Resources Committee (WRC) embarked on a consolidation of the Helsinki Rules 1966-1996 which resulted in the so-called 1999 Campione Consolidation of the ILA Rules on International Water Resources authored by Professor Charles Bourne, then Chairman of the WRC. During that time, however, substantial changes occurred in the membership of the WRC; some of its older members had passed away and others resigned while members of the defunct ILA Committee on the Environment became new members and opposed the consolidation in favour of a proposed revision of the Helsinki Rules which they considered lacking the requisite environmental dimension.

In the event, the 1999 Campione Consolidation was never formally adopted by the ILA, while work forged ahead on a proposed revision of the Helsinki Rules which, in many respects, is at substantial variance with the original Rules as devised by the pre-1999 WRC and approved by the ILA. Eminent members of the pre-1999 WRC were, and some still are, members of AIDA. Other members of AIDA have served as consultants to the Committee, from time to time.

The draft Final Report of the WRC carrying "The International Law Association Rules on Water Resources" will be considered by the ILA at its next conference which will take place in Berlin, Germany, 16-21 August 2004. The draft Final Report can be downloaded from :

http://www.ila-hq.org/html/layout_committee.htm
pp., 'Committees', 'Water Resources Law'.

The most striking features of the proposed new ILA Rules on Water Resources are (a) the expanded coverage of the new Rules, which canvass domestic water resources in addition to transboundary water resources; (b) the enunciation of new and detailed rules drawn from international environmental and human rights law; (c) the equal standing accorded to the cardinal "no harm" and "equitable utilization" rules, in a major departure also from the 1997 UN Convention on the Non-navigational Uses of International Watercourses (which, to this day, is far from entering into force); and (d) the blurred distinction between *de lege lata* rules and *de lege ferenda* rules, all proposed rules being cast as legally binding obligations at the present time, in the conviction that they reflect rights and obligations which either have ripened into customary law or will, "in the near future".

The gestation of these proposed new Rules on Water Resources has not been without problems. Significantly, the work of the post-1999 WRC has been marked throughout by resistance from a group of members who never believed in the necessity of re-thinking the Helsinki Rules, and who doubted all along the wisdom of the Committee's direction and the choices it made. As a result, throughout the course of its work, there was division within the WRC. Surprisingly, none of this background is reflected in the draft Final Report of the Committee

We invite our members to take cognizance of the proposed new Rules on Water Resources which are destined to replace the Helsinki and subsequent Rules, 1966-1996. Members who wish to do so are encouraged to send their opinion directly to the Chairman of AIDA via e-Mail at the following address: b.j.wohlwend@bjwconsult.com. Opinions received will be collated for possible publication in a future issue of AquaForum..

A handwritten signature in black ink, appearing to read 'Bernard J. Wohlwend', with a long horizontal flourish extending to the right.

Bernard J. Wohlwend
Chairman of the Executive Council

6. COMMUNICATION OF CHANGE OF ADDRESS AND E-MAIL

Please communicate any change of address and e-mail address to the Association and, possibly, provide us with information on what is happening in your part of the world in the field of water law and administration. *AquaForum* should continue to be a product of the Association as a whole.

AIDA is reachable via e-mail at: stefano.burchi@gmail.com

7. PAYMENT OF ASSOCIATION DUES

THE ANNUAL ASSOCIATION DUES, AMOUNTING TO 30 EURO OR THE EQUIVALENT IN US\$, ARE PAYABLE

either by personal cheque, net of commission charges, written out to Stefano Burchi, and mailed to:
Stefano Burchi,
Via E. Faà di Bruno 52
00195 Rome, Italy

or by direct bank transfer: Bank coordinates available at <http://www.aida-waterlaw.org/payments.php>

To ensure better record keeping by the Secretariat, please inform the Chairman of the Executive Council of payments made, by e-mailing to stefano.burchi@gmail.com