

**Newsletter of the International Association for Water Law
Boletín de la Asociación Internacional de Derecho de Aguas
Bulletin de l'Association Internationale du Droit des Eaux**

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



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EDITORIAL

It is with deep regret that we must announce the demise of the Honorary President of our Association, **Guillermo J. Cano** of Argentina. Professor Cano passed away in October 2003, at the age of 90. Together with the late Chairman of AIDA's Executive Council, Dante Caponera, Guillermo Cano was one of the first to understand the importance of water law, which eventually prompted him and Dante to found our Association, together with a small group like-minded spirits. Guillermo was professor of law at the Universities of Mendoza and Buenos Aires, and was the author of innumerable articles and books on water and environmental law. He contributed his vast experience in these fields to various technical assistance programmes and projects in developing countries, particularly in Latin America, and worked at UN Headquarters in New York. He was Secretary of State for Water Affairs in Argentina, and later Argentina's Ambassador to Yugoslavia and to Japan.

Prof. Cano was one of the founders of AIDA and the first Chairman of AIDA's Executive Council. When he retired, he was awarded the title of Honorary President in recognition of his outstanding role in the life of the Association, and contribution to the advancement and diffusion of water law. He will be deeply missed by all those of us who knew him professionally, as well as personally. AIDA sends sincere condolences to his family.

Bernard J. Wohlwend
Chairman of the Executive Council

1. NEWS OF THE ASSOCIATION AND ITS MEMBERS

We are proud and pleased to announce the launch of **AIDA's new website**. Visit it at <http://www.aida-waterlaw.org> and let us have your comments!

2. MEETINGS AND CONFERENCES

- AIDA was represented by Professor Kenji Sambongi (Japan) at the **3rd World Water Forum**, which was held in Kyoto, 16-23 March 2003. Professor Sambongi participated in the session on 'River Management and Water Uses', and was keynote speaker at the symposium on the same topic. As such, he highlighted the need for sound legal and institutional arrangements for river basin management, and for the participation of water users in the water allocation process. He further highlighted the importance of community-based approaches to water resources management, and of customary practices at the local level. Three sets of key issues were identified during the debate, relating to conflict prevention, river basin management and institutional improvements.. Recommendations focused on the need to involve stakeholders and users in river basin management, to promote data and information sharing, to consider and acknowledge the prevailing customs and to improve the legal and institutional framework.

- **Conference on Groundwater in Tomorrow's Europe - The Water Framework Directive** (WFD). This Conference was held in Birmingham, UK, on 13-14 April 2003, to review the first years of implementation of the WFD with particular reference to groundwater. Invited speakers on behalf of the European Commission, the water industry, and from national governments, agencies, universities, consultants and NGOs across Europe and accession countries, presented their experiences. The Conference, which was timed to match the publication of the new Groundwater Directive, was hosted by the International Association of Hydrogeologists, and was sponsored by the UK's Environment Agency, with support from Severn Trent Water. Further details can be found at the conference web site, at <http://www.global-meeting.co.uk/groundwater/>.

- The IUCN Environmental Law Programme co-sponsored the **Law for a Green Planet Institute 7th International Conference on Environmental Law**, which was held in Sao Paulo, Brazil, on 2-5 June 2003. The theme of this year's event was 'Water and the Web of Life'. The conference featured an international panel of experts who addressed issues ranging from governance to ethics. The conference also explored regional approaches to water management from across the globe, including the critical issue of effective enforcement. In January 2002 the IUCN Commission on Environmental Law established the Water and Wetlands Specialist Group, chaired by Megan Dyson of Australia. For more information visit the IUCN Environmental Law Programme web site at: <http://www.iucn.org/themes/law>.

- A **Conference** entitled '**Land is Thirsty**' was organized by the Food and Agriculture Organization of the United Nations (FAO) and the National Association for Land Reclamation and Irrigation (Associazione Nazionale Bonifiche Irrigazioni - ANBI) at FAO Headquarters in Rome, Italy, 29 October 2003. The Conference fell within the framework of the United Nations International Year for Freshwater, and focused on possible strategies and rules in support of water resources management aiming at more efficient water use, equitable water allocation and conflict prevention, amongst other things. Emphasis was placed on the need to promote users' participation in management, consistent with the 2000 EU Water Framework Directive.

3. DEVELOPMENTS AND PROGRAMMES CONCERNING WATER LAW

- **China** - A new Water Law was promulgated on 29 August 2002 to address water resources conservation and use efficiency issues. The Law provides for water resources management and planning by river basin, and for the creation of basin management agencies for major rivers and lakes, amongst other things. The Law entered into force on 1 October 2002.

- **European Commission** - Determined to ensure a high level of protection of the European Union's water resources, the European Commission has sent formal requests to France and the UK asking them to comply with rulings of the Court of Justice with regard to EU water quality legislation. The ruling against France concerns nitrate-polluted surface waters in Brittany, and the ruling against the UK relates to areas vulnerable to nitrate pollution from agriculture. The requests take the form of "Reasoned Opinions" under Article 228 of the Treaty. Failure to comply with Court rulings can result in substantial fines being imposed on the Member States in question. Non-compliance with EU water legislation means that lakes, rivers and coastal areas can suffer from or be put at greater risk of pollution - pollution that might otherwise have been avoided or reduced. Consequently, the benefits that society derives from clean surface water are compromised.

- **Kazakhstan** - A new Water Code was promulgated on 9 July 2003 (No. 481-II), to shift from a tradition of water resources management by administrative boundary to river basin management. Under this Code, water resources planning and allocation functions are vested in Basin Water Units (BVUs), which are flanked by river basin councils comprising all stakeholders. One of the principles underlying the Code is that of the separation of water resources management from development functions.

- **Kenya** - The Water Act 2002 (No. 8) was gazetted on 24 October 2002. The Act provides, *inter alia*, for the development of water resources strategies at the national and catchment levels, and for the management of water resources by catchment, consistent with these strategies. A Water Resources Management Authority and catchment area advisory committees composed of representatives of stakeholders and water users are established under the Act. The committees are expected to advise the Authority on all matters relating to water resources management within their respective catchments, including matters relating to the issuance of water use and other permits.

- **Malta** - Regulations for the protection of groundwater against pollution caused by certain dangerous substances, 2002. These Regulations aim at the prevention of pollution of groundwater by substances listed in the Schedule and to control or eliminate as far as possible consequences of existing pollution. Regulation 3 excludes certain effluents and discharges from the application sphere of the Regulations. Regulation 6 concerns authorization of artificial recharges of groundwater.

- **Nile Basin** - A major breakthrough in the history of the cooperation of the Nile Basin Countries was realized on 4 November 2002, with the signing of the Headquarters Agreement between the Government of Uganda and the Nile Basin Initiative (NBI). The Agreement intends to facilitate the establishment and operation of the Nile Basin Initiative Secretariat at Entebbe, Uganda, and avails the NBI the necessary legal recognition to enable it perform its functions and effectively facilitate its work and programmes. The Agreement grants the NBI diplomatic status within Uganda, thus recognizing it as an international legally constituted institution.

- **Scotland** - The Minister of Environment has introduced regulations to reduce the risk of water pollution. These regulations will enable the Scottish Environment Protection Agency (SEPA) to serve a 'works notice' on those responsible for a pollution incident or for a situation liable to result in pollution. For more information, visit <http://www.scotland.gov.uk/pages/news/2003/03/>

- **Taiwan** - The Groundwater Control Measures Act was promulgated on 6 February 2002. Articles 3 and 4 of the Act provide for the conditions under which well drilling may take place. Groundwater abstraction is subject to a license specifying the amount of water to be taken. The water administration is to ensure that specified standards are observed and must carry out investigation and research.

- **United Kingdom** - A new water bill which, according to the Department for Environment, will update abstraction licensing, promote water conservation and put the consumer at the center of regulation, was introduced to the House of Lords on 19 February. For more information, visit http://www.edie.net/gf.cfm?L=left_frame.html&R=http://www.edie.net/news/Archive/6674.cfm

- **United Nations Economic Commission for Europe (UNECE)** - On 21 May 2003, during the fifth Ministerial Conference 'Environment for Europe' in Kiev, Ukraine, 22 countries signed the new Protocol to the UNECE Conventions on the Transboundary Effects of Industrial Accidents and on the Protection and Use of Transboundary Waters and International Lakes, on Civil Liability and Damage Caused by the Transboundary Effects of Industrial Accidents on Transboundary Waters. These countries are: Armenia, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Denmark, Estonia, Finland, Georgia, Greece, Hungary, Latvia, Lithuania, Luxembourg, Monaco, Norway, Portugal, the Republic of Moldova, Romania, Sweden, Ukraine, and the United Kingdom. For further information, visit <http://www.unece.org/env/civil-liability/welcome.html>. On the same day, a Protocol to the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), on Pollutant Release and Transfer Registers, was signed by 34 countries.

- **Uzbekistan** - Uzbekistan appears to be pursuing the objective of water resources management by river basin. On 21 July 2003, the Government adopted a Resolution to create 11 basin 'water economy' units (BVUs) to deal with water policy implementation, the inventory of water resources, the preparation of water balances and infrastructure development plans and irrigation management, amongst other things. Each BVU is to be assisted by a river basin council comprising representatives of the local authorities and water management organizations. The extent of participation of water users is not clear.

- **Yemen** - A new Water Law setting rules for water abstraction and use, and providing for the registration of existing water uses, was enacted in August 2002. As required under the legal system of the country, the Law is consistent with Sharia'a rules and custom (*'urf*).

4. TRAINING AND RESEARCH CONCERNING WATER LAW

- The **UNESCO-IHE Institute for Water Education**, Delft, the Netherlands, became the newest member of the Global Development Learning Network (GDLN) in April 2003, and has embarked on a programme of knowledge-sharing for countries linked through GDLN. Through

GDLN, development practitioners share knowledge, exchange expertise and coordinate donor activities. Supported by a 400,000 Euro grant from the Netherlands Ministry of Transport, Public Works and Water Management, the UNESCO-IHE Institute will develop at least 12 new GDLN modules on water resources, public works and transport management. The World Bank Institute's Water Program in partnership with UNESCO-IHE will take the lead in developing and delivering some of these modules and will work with IHE in the development of others. Programmes under development include Integrated River Basin Management; Wetlands Management; Public Private Partnerships; Water Law and Institutions; Drinking Water Distribution Systems; Groundwater Modeling; Flood Management; River Engineering; Natural Treatment of Urban Wastewater; Cleaner Production Technologies. Dutch Ministry personnel who work on these subjects will contribute to the development of the modules and will act as resources in some of the GDLN events. For more information, visit IHE's web site, at www.ihe.nl.

- The **International Water Law Research Institute (IWLRI)**, University of Dundee, Scotland, launched its updated web site in March 2003 (<http://www.dundee.ac.uk/law/water/>). The web site aims at supporting the mission of IWLRI, which is 'to promote research, teaching, advice and professional training in water law to ensure reasonable and equitable allocation of water resources the world over within an interdisciplinary context.' Access to legal documents, research and links for water resources management, with an emphasis on legal management and control of water resources, will be possible through the web site.

- The **IWLRI** is implementing a major research project funded by the UK Department for International Development (DFID), focusing on the difficult issues of transboundary water resources management. The **Knowledge and Research (KaR)** project has, as its principal aim, to enable Transboundary Watercourse States (TWSs) to identify their legal entitlement with respect to shared international freshwater resources, and to develop national water policies to facilitate reasonable and equitable access to these resources. A Legal Assessment Model (LAM) is being created to establish a set of quantitative and qualitative parameters to enable states to define their respective rights and obligations. The application of the LAM has been tested in three selected countries: China, Mozambique and Palestine. The results of the KaR project, with the LAM tools, are open for comments on the IWLRI web site (<http://www.dundee.ac.uk/law/iwlri/Kar.html>), and are being presented in international fora, the first being a special panel at the 3rd World Water Forum in Kyoto, Japan, in March 2003. The research team includes AIDA members Patricia Wouters (Canada), Director of IWLRI and team leader, Sergei Vinogradov (Russian Federation) and Patricia Jones (USA). The KaR project is featured in DFID's KaR publication "Water", Issue No. 15, November 2002, page 10.

5. PUBLICATIONS OF INTEREST TO AIDA MEMBERS

Legislation on Water User Organizations: A comparative analysis, by AIDA member S.Hodgson, FAO Legislative Study No.79, Rome, 2003. Starting from the belief that a robust regulatory framework for the corporate governance of water users' organizations is a fundamental ingredient to irrigation management transfer (IMT) policies, this publication offers a comparative analysis of the contemporary legislation of a vast variety of countries providing the needed regulatory framework for primarily irrigation water users' organizations to function and grow.

Preparing national regulations for water resources management – Principles and practice, by AIDA member S. Burchi and A. d'Andrea, FAO Legislative Study No.80, Rome, 2003. This manual is an updating of FAO Legislative Study No.52 (1994), by S. Burchi. Like its

predecessor manual, it provides conceptual material for use in the preparation of national regulations for the management, development, use and protection of freshwater resources. The conceptual material is arranged according to principal functions of water resources management, and it is complemented and illustrated by examples of original water management regulations. These have been drawn from a large variety of mostly English speaking countries. The manual is intended for the inspiration and reference of multidisciplinary water-sector audience and, in particular, all of those in government who participate in the preparation of regulations for the implementation of policies and principles enshrined in acts of legislature.

Administración de derechos de agua: experiencias, asuntos relevantes y lineamientos, by AIDA member H. Garduño, FAO Legislative Study No.81, Rome, 2003. This publication is a Spanish version of *Water Rights Administration – Experience, issues and guidelines*, FAO Legislative Study No.70, by the same author, enriched however with the addition of original case studies on Argentina (Mendoza Province), Chile and Uruguay – the last of these three contributed by AIDA member A. Vidal.

Resolution of International Water Disputes, papers emanating from the Sixth Permanent Court of Arbitration International Law Seminar, 8 November 2002, edited by the International Bureau of the PCA, published by Kluwer Law International. The publication features a number of papers contributed by highly respected international water law specialists including, in particular, AIDA members P. Wouters, S. Salman, and A. Tanzi.

Water Law and Customary Water Rights in Papua New Guinea, by L.K. Kalinoe, UBSPD Publishers, New Delhi, 1999.

Hydropolitics in the Developing World : a Southern African Perspective, A. Turton and R. Henwood editors, African Water Issues Research Unit, University of Pretoria, 2002. Chapter III, in particular, is given over to the « Legal dimensions », and features contributions by distinguished scholars and practitioners.

State Making and Environmental Cooperation, Linking Domestic and International Politics in Central Asia, by Erika Weinthal, published by Massachusetts Institute of Technology, the MIT Press, Cambridge, Massachusetts; London, England, 2002. This book contains a thorough review of water management practices in Central Asia, and in particular in the Aral Sea region, from before the creation of the Soviet Union up to present times. It further explores the history of recent developments with regard to the institutional and legal aspects of the management of the Aral Sea basin waters. In addition, it offers an in-depth analysis of ongoing negotiation efforts in the water and energy fields, and assesses the roles played by different external donor agencies and international organizations. The book is of particular interest to those involved in water and natural resources programmes in Central Asia and the former Soviet Union. To obtain the book, contact the Special Sales Coordinator, The MIT Press, Five Cambridge Center, Cambridge, MA 02142-1493; Tel: 617.258.0582; Fax: 617.253.1709. For more information, visit the MIT Press web site at: <http://mitpress.mit.edu>.

Conflict and Cooperation on South Asia's International Rivers, by Salman M.A. Salman & Kishor Uprety, International Water Law and Policy Series, 8, published by Kluwer Law International, The Hague, London, New York, July 2002. This book focuses on the hydro-politics and legal regime of international water in the South Asian Sub-continent. It discusses the bilateral treaty regimes between India and Pakistan, India and Nepal, and India and Bangladesh over some of the major shared rivers between them. The book also provides an overview of main issues and common elements regarding shared rivers among those countries.

Dealing with Flood Risk - Proceedings of an Interdisciplinary Seminar on the Regional Implications of Modern Flood Management, Delft Hydraulics Select Series

1/2003, edited by M. Marchand, K.V. Heynert, H. van der Most, W.E. Penning, Delft University Press, Delft, the Netherlands. The book presents the state-of-the-art in flood risk perception, modern flood management and its implementation. The papers contained in the book, among which the one by AIDA member E. Penning-Rowsell, entitled 'Implementing Flood Protection: constraints, limitations, power and "reality"', feature examples of new approaches to flood risk and management in western countries such as the UK, the Netherlands and Germany, as well as in Bangladesh. The book is not only meant for academics, but also for professionals of governmental organizations involved in flood management and consulting firms. For more information on this publication, contact Customer Services, tel: +31 (0)15 27 85678; e-mail: info@library.tudelft.nl.

Security and Environment in the Mediterranean: Conceptualising Security and Environmental Conflict, Hans Günter Brauch; P.H. Liotta; Antonio Marquina; Paul Rogers;

Mohammad El-Sayed Selim (Eds.), Hexagon Series No.1, Collection STRADEMEND No. 16, Springer-Verlag, Berlin-Heidelberg-New York, 2003. This book features five chapters on water issues in the Mediterranean and Middle East, namely 'Water Security in the Middle East and the Mediterranean', by Anthony Allan; 'Shared Ground Water Resource Management and Protection in the Mediterranean: A Joint Approach by United Nations Agencies', by Branko Bošnjaković; 'Water Accords in the Middle East Peace Process: Moving towards Cooperation?', by Ines Dombrowsky; 'The Euphrates Issue in Turkish-Syrian Relations', by Waltina Scheumann; 'The Nile Basin Initiative: A Catalyst for Cooperation', by Henrike Peichert. For more information, consult http://www.springer.de/cgi/svcat/search_book.pl?isbn=3-540-40107-5.

International Legal Aspects of the Use and Protection of Transboundary Rivers, by

T.T. Sarsembekov & A.E. Koyakov, Atamura Publishers, Almaty, Kazakhstan, 2002. This book contains a review, in Russian, of the law of international water resources and of its development in Asia, Africa, Europe and the Americas. It further reviews institutional aspects, both international and within national contexts. Finally, it reproduces the texts of major milestones of international water law, including that of the 1966 Helsinki Rules of the ILA, those of the most recently adopted UN conventions, that of the EU Water Framework Directive and those of agreements relating to major international river basins. This book will be very useful to Russian-speaking scholars and officials interested in water law, as it is difficult to obtain access to publications in the field of international water law in the Russian language.

Management of Water Resources and Water Quality in Transboundary Rivers, by T.T.

Sarsembekov & A.E. Koyakov, Atamura Publishers, Almaty, Kazakhstan, 2003. This publication reviews water resources management aspects relevant to transboundary water resources, placing particular focus on water quality aspects. It also contains the texts, in Russian, of the most recent conventions of relevance to water pollution control and environment protection. This publication, will also be useful to Russian-speaking professionals interested in water law.

6. FUTURE EVENTS

- An international **Conference** on '**Good Water Governance For People & Nature: What Roles for Law, Institutions & Finance?**' will be co-organized by the American Water Resources Association (AWRA) and the IWLRi in Dundee, Scotland, on 29 August - 1 September 2004. The conference will examine the past, present, and future of water governance, and focus in particular on the relationships between legal and regulatory

frameworks and institutional arrangements that effectively contribute to 'good' water governance. Particular attention will be paid to identifying those implementation tools which facilitate water resources management on the ground. In addition, a number of case studies will serve to highlight good governance issues. National and international contexts will be examined. More information on the conference may be obtained by visiting the AWRA web site at: <http://www.awra.org/meetings/Dundee2004/index.html>.

- International Water Demand Management Conference. Under the patronage of His Majesty King Abdullah II, the Jordanian Ministry of Water and Irrigation, with funding provided by the United States Agency for International Development, will hold the first International Water Demand Management Conference from May 30 to June 3, 2004, in Amman, Jordan. The conference will be organized under the Academy for Educational Development Water Efficiency and Public Information for Action Project (WEPIA) and co-sponsored by the American Water Works Association, International Water Association, California Urban Water Conservation Council, International Water Resources Association, Irrigation Association, and the National Drought Mitigation Center. More information is available on the conference website at <http://www.wdm2004.org>. Queries should be directed to either Hala Dahlan at hdahlan@go.com.jo or Shera Bender at sbender@aed.org.

7. 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: [**dominique.alheritiere@gmail.com**](mailto:dominique.alheritiere@gmail.com)

7. PAYMENT OF ASSOCIATION DUES

The annual Association dues, amounting to Euro 30 or the equivalent in US\$, are payable either by personal cheque, net of commission charges, to:

Dr. Stefano Burchi, Treasurer of AIDA
Via E. Faà di Bruno 52
00195 Rome, Italy

Or by direct bank transfer, bank coordinates available at "[How to pay the dues](#)"

To ensure better record keeping for the Secretariat, please notify the Treasurer of AIDA (Stefano Burchi) via e-mail at : stefano.burchi@gmail.com