

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



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EDITORIAL

Needless to say, there are many events of relevance to water law these days, and our Association is pleased to release a new issue of AquaForum. As you will have noticed, we are trying to disseminate water law news as often as we can, but our issue release record may only be enhanced if our members contribute with what they know is happening in their part of the world. Only in this way we will be able to feature news more often. Therefore, the Editor invites AIDA members, once again, to participate in the production of AquaForum.

At its 58th Session, the United Nations General Assembly adopted a draft resolution proclaiming the decade 2005-2015 as the International Decade for Action ('Water for Life'). This recommendation calls for greater focus on water-related issues, and there is no doubt that there will be many initiatives in the field of water law and administration. Therefore, any news, including opinions, will be welcome. The official starting date of the 'Water for Life' Decade will be on World Water Day, 22 March 2005.



Bernard J. Wohlwend
Chairman of the Executive Council

1. NEWS OF THE ASSOCIATION AND ITS MEMBERS

For all interested AIDA members: to log into the Association's new website, visit www.aida-waterlaw.org and follow the instructions. Please note that AquaForum is only accessible to those members who are in good standing with the payment of the Association dues, and that access will be discontinued to those who have not paid these dues for two consecutive years.

We also wish you to know that we may provide you with a very useful service, i.e., to put members in contact with one another upon request, if you are registered with the AIDA website. Indeed, AIDA is often asked by members to provide a contact with other members in

a given country or region. Obviously, this may only be done if the members concerned agree. We are therefore approaching you to request your authorization that your e-mail address (and e-mail address only, as we want to maintain your privacy) be communicated to other members of the Association (and members only) who request such information for a given country or region. Thank you for an early response to the Deputy Chairman, Dominique Alhéritière (e-mail: dominique.alheritiere@fao.org).

2. MEETINGS AND CONFERENCES

- The **International Conference on Water Resources Management: the European Water Framework Directive** was organized by the Mediterranean Network of Basin Organizations in Valencia, Spain, on 10-12 November 2003. Within this framework, the Spanish Authorities and the Jucar Hydrographic Confederation convened an 'International Seminar on Planning and the European Water Framework Directive' that dealt with the practical challenges faced by basin organizations in the implementation of the Directive. To read more, visit www.oieau.fr, or www.remoc.org

- **Seminar on Integrated Water Management in the Tisza River Basin** - To encourage dialogue among representatives of the five Tisza river basin countries (Hungary, Romania, Serbia, Slovakia and Ukraine) and to obtain recommendations for action, the UN Food and Agriculture Organization (FAO) Subregional Office for Central and Eastern Europe organized a seminar on 20-21 November 2003 in Budapest, Hungary, on the above subject. The seminar brought together about 60 participants, including officials of Ministries of Environment, Forestry, Water, Agriculture, and Rural Development, Water Management Authorities, representatives of NGOs and of international organizations. The Ramsar Secretariat was invited to moderate discussions. The seminar was further supported by Wetlands International within the framework of a Dutch-supported project on transboundary cooperation on Ramsar Site designation in the Upper Tisza river basin. The seminar participants concluded that, despite existing bilateral agreements, concrete steps are needed towards more basin-wide and multi-sectoral cooperation among the five basin states. The existing Tisza Water Forum, initiated by Hungary and Romania for coordinated flood management, should be gradually transformed into a more multi-disciplinary committee and should be given a larger mandate to cover all aspects of integrated river basin management. Read more at http://www.ramsar.org/mtg_fao_tisza.htm

- The **First South East Asia Water Forum on Integrated Water Resources Management** was organized in Chiangmai, Thailand, on 17-21 November 2003. The Mekong River Commission held a session on 'Conflict Resolution and River Basin' on 17-18 November. For more information, visit www.gwpseatac.org

- The **Fifth Australasian Water Law and Policy Conference** was held in Melbourne, Victoria (Australia), on 27-28 November 2003. A number of topics relevant to water law at the state, federal and local level were discussed during the Conference. AIDA member P.Wouters (Canada) delivered papers on international water law and its importance within the Australian context. A specific workshop was devoted to this subject on 28 November. For more information, visit www.countryconferences.com.au

- **Special Day for the Declaration of Water as a Human Right**, Rome, Campidoglio, 10 December 2003. '**Contratto Mondiale dell'Acqua**' (World Water Contract), an NGO patronized by former Prime Minister of Portugal, Mario Suarez, and coordinated by Prof. Riccardo Petrella of the Catholic University of Louvain, Belgium, a former Adviser to the European Commission on Water Matters, organized a Special Day on Water as a Human Right at the Municipality of

Rome on 10 December 2003, at which Bernard J. Wohlwend, Chairman of the Executive Council was invited to participate and make a presentation. The objective of this NGO, with which AIDA has decided to cooperate, is to oppose the privatization of water promoted by the proponents of current globalization tendencies. 'Contratto Mondiale dell'Aqua', which can be accessed on the web at <http://www.cipsi.it/contrattoacqua>, organized a 'First People Water Forum' in Florence, Italy, 21-22 March 2003, at which its **International Committee for the World Water Contract and the World Coalition against Water Privatization** submitted a **Water Manifesto** for adoption (see text at: <http://www.f1boat.com/99/watermanifesto.html>). At the Special Day in Rome, some 30 invitees and speakers adopted the **Declaration that Water is a Human Right** (see text at http://www.cipsi.it/contrattoacqua/home/right_day.asp). AIDA members who share the opinion that water resources are a common good and that access to water should be recognized as a Human Right were keenly invited to subscribe to the Declaration via e-mail, attention of Prof. Riccardo Petrella at cipsi@cipsi.it, duly mentioning 'AIDA Member'.

3. DEVELOPMENTS AND PROGRAMMES CONCERNING WATER LAW

- A new **African Convention on Conservation of Nature and Natural Resources** was adopted in Maputo on 11 July 2003, to replace the African Convention on Conservation of Nature and Natural Resources that had been entered into in Algiers in 1968. The Convention calls for the adoption of measures for the control of water abstractions and the control of pollution and for the adoption and implementation of policies for the planning, conservation, management, utilization and development of underground and surface water resources. In the event of transboundary water resources and related ecosystems, the Parties are required to act in consultation and, if the need arises, to set up inter-State Commissions. The Convention contains important provisions on the dissemination of information and its accessibility by the public, public participation in decision-making, the access to justice in matters related to the protection of the environment and natural resources, and the traditional rights of local communities.

- **Argentina** - On 17 September 2003, the representatives of the Nation, the Provinces and the Autonomous City of Buenos Aires have entered into a Federal Water Agreement through which they undertake to adopt basic water policy principles and to establish a Federal Water Council. The Agreement will be brought before Congress to be developed into a framework Law on Water Policy.

- **European Commission** - The European Commission is taking legal action against Greece, France, the Netherlands, Belgium, Portugal, Spain, Germany and Ireland for non-compliance with EU laws on water quality. The Commission has sent final written warnings to Greece and the Netherlands urging them to comply with rulings of the Court of Justice with regard to dangerous substances discharged into water. For more information on infractions, read http://europa.eu.int/comm/secretariat_general/sgb/droit_com/index_en.htm#infractions

- On 17 January 2004, the **European Council on Environmental Law** adopted a *Resolution on the Recognition of the Right to Drinking Water in the Member States of the European Union* through which it recommends that European Union member states should take all measures necessary to ensure the effective exercise of the right of access to adequate drinking water and sewerage services. Everyone has the duty to contribute to the costs of such services so as to guarantee cost-recovery and service sustainability, but contributions should be affordable. The public authorities should provide for the extension of water supply and sewerage networks

and for the protection of drinking water quality. The Resolution calls for public participation and transparency in decision-making.

- **European Court of Justice** - The European Court of Justice, by decision issued on 26 November 2003, has imposed fines on Spain for not meeting EU water quality standards in certain Spanish inland bathing waters, i.e., rivers and lakes. The Court has ordered that Spain pay € 624,150 per year for every 1% of inshore Spanish bathing waters that continue to fail to meet the quality standards set in the Bathing Water Directive. To that date, there had been only one other judgment of the Court in which a Member State was fined. For more information, visit:

[http://europa.eu.int/rapid/start/cgi/guesten.ksh?
p_action.gettxt=gt&doc=IP/03/1599%7C0%7CRAPID&lg=EN&display=.](http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/03/1599%7C0%7CRAPID&lg=EN&display=)

- **Italy** - The European Commission decided to send Italy a formal request to amend its procedures for granting concessions for the production of hydroelectric energy which give preference to outgoing concession-holders and, in the Trentino-Alto Adige Region, to local public bodies. The Commission regards these procedures as incompatible with the principle of freedom of establishment which forbids restrictions on the cross-border exercise of economic activities, including any form of discrimination among Community operators. The request is in the form of a reasoned opinion, the second stage in the infringement procedure provided for in Article 226 of the EC Treaty. If it does not receive a satisfactory reply within two months, the Commission may decide to bring Italy before the Court of Justice. For up-to-date information on the subject, read :

http://europa.eu.int/comm/secretariat_general/sgb/droit_com/index_en.htm

- **Lake Tanganyika** - A Convention on the Sustainable Management of Lake Tanganyika was signed by Burundi, the Congo, Tanzania and Zambia in Dar-es-Salaam on 12 June 2003, with the aim to ensure the protection and conservation of the biological diversity and the sustainable use of the natural resources of the Lake and its basin. Provisions of the Convention are devoted, amongst other things, to the duty of the states to cooperate in the management of the Lake, the duty to exchange information, the duty to prevent and minimize adverse transboundary impacts, the prevention and control of pollution, the prevention of sedimentation, navigation, fisheries, the preparation and implementation of a strategic action programme, the duty of the states to notify each other of activities with possible adverse transboundary impact, environmental impact assessment, public participation in decision-making and public access to information. The Convention provides for the establishment of a Lake Tanganyika Authority composed of a Conference of Ministers, a Management Committee and a Secretariat.

- **Lake Victoria** - Four years after the signature of the Treaty for the Establishment of the East African Community (30 November 1999), Kenya, Uganda and Tanzania adopted a Protocol for the Sustainable Development of the Lake Victoria Basin. The Protocol was signed at Arusha, Tanzania, on 29 November 2003. Under the Protocol, the three states undertake to abide by the principle of equitable and reasonable utilization of water resources, to refrain from causing each other significant harm, to exchange data and information, to harmonize policies and legislation, to develop management plans and to notify one another of any planned measures with adverse effects. Provisions of the Protocol are devoted to the precautionary principle (duty to take the necessary measures to prevent environmental degradation), the 'polluter pays' and 'user pays' principles, the protection and conservation of the basin and its ecosystems, environmental impact assessment and public participation in decision-making. Article 33 calls for the establishment of a Lake Victoria Basin Commission comprising a Sectoral Council, a Coordination Committee, Sectoral Committees and a Secretariat. The Protocol is largely based

on the 1966 Helsinki Rules of the International Law Association and on the 1997 UN Convention on the Law of Non-Navigational Uses of International Watercourses.

- **Mekong River Commission** - On 30 November 2003, the Mekong River Commission countries (Cambodia, Lao PDR, Thailand and Viet Nam) agreed upon two sets of procedures regarding the shared use of Mekong water. The agreements are on Procedures for Notification, Prior Consultation and Agreement, and Procedures for Water Use Monitoring. The signing ceremony took place at the close of the MRC's 10th Council meeting, the organization's Ministerial-level governing body. The notification procedures require the member countries to alert each other on planned river development that could significantly affect their neighbours and to provide information regarding developments, including technical specifications and environmental assessments. In 2002, these procedures were agreed upon in a preliminary form. The new agreements provide a definition of water use covering uses of the Mekong 'which may have a significant impact to the water quality or flows regime of the mainstream of the Mekong'. The new agreements confirm that uses of water on the Mekong tributaries will also be subject to notification and monitoring. A Mekong tributary is defined as 'a natural stream of the Mekong River System whose flows have a significant impact on the mainstream'. The new agreements confirm the basin-wide approach to be maintained as the legal framework for operations of the Mekong River Commission. The Procedures on Water Use Monitoring provide a legal basis for a water use monitoring system to be established in the Lower Mekong Basin. A four-country grouping of technical experts known as TACT - the Technical Assistance and Coordination Team - established through the Mekong River Commission will discuss and make technical recommendations to the Joint Committee, the Mekong River Commission's executive body. The new agreements pave the way for the countries to agree over the next two years on rules for the maintenance of flow on the mainstream and water quality guidelines. For more information, contact: Dr Choomjet Karnjanakesorn, Team Leader, Water Utilization Programme. Tel: (023)720-979; Fax: (023)720-972; Email: choomjet@mrcmekong.org, or Mr Khoun Komar, Water Utilization Programme. Tel: (023) 720-979; Fax: (023) 720-972; Email: komar@mrcmekong.org

- **Northern Ireland** - Under the Water (Northern Ireland) Order 1999, the Department of the Environment has a duty to promote the conservation of the water resources of Northern Ireland and the cleanliness of water in waterways and underground strata. Most of this work is carried out by the Water Management Unit (WMU) of the Environment and Heritage Service (EHS). EHS has recently published a report on the environmental regulation of Water Service (WS). This comprehensive report sets out in detail the regulatory system that EHS uses to control the impact of WS discharges to the environment from waste water treatment works (WWTWs), sewerage systems and water treatment works (WTWs). It also provides details of WS compliance with EHS and European discharge standards for the year 2001, along with comprehensive information on WS's extensive plans for investment to improve discharge quality. For reading more, consult http://www.ehsni.gov.uk/pubs/publications/Reg_WSD.pdf

- **Swaziland** - Act No. 7 of 2003 (Water Act 2003) came into force on 5 March 2003. The Act replaces the Water Act of 1967 and contains provisions relating, in particular, to the establishment of a National Water Authority (Part II), the establishment of a Water Apportionment Board (Part IV), the creation of River Basin Authorities (Section 33), the issuance and administration of water use permits (Part V), groundwater (Part VI), the control of water pollution (Part VIII), the creation of irrigation districts and water users' associations (Part X) and the representation of Swaziland in international water bodies (Part III). The Act further provides for the protection of watercourses considered sacred or of special significance under customary law.

- **United Kingdom** - The Water Act received Royal Assent on 20 November 2003 and will come into force by means of a commencement order. The government has given an assurance

that the new structures set up by the Act will not come into effect until 2005, once the Office for Water Services (OFWAT) has completed its price review for 2005-2010. The new Act has three main parts. Part 1 deals with water abstraction and the impounding regime, while Part 2 sets up new regulatory arrangements. Part 3 amends certain aspects of existing legislation (Water Industry Act 1991, Water Resources Act 1991, Reservoirs Act 1975, Environmental Protection Act 1990 and Environment Act 1995). Important changes to note include a revised licensing regime for large scale water abstraction, a duty to agree on drought and water resource management plans with the Secretary of State (or the National Assembly) and to make them publicly available, a duty to further water conservation, and a new power to fine water undertakers or suppliers up to 10% of turnover for breaches of licence conditions, standards of performance or other obligations. The Act creates the Water Services Regulation Authority which will have a duty to protect the interests of consumers. The Authority will replace the Director General of Water Services. The Act further establishes an independent Consumer Council for Water, replacing WaterVoice. To read more, visit :

<http://www.law-now.com/CS2000/internet/EN/co50lawnow/co53lawwatchnonregistered/wateractroyalassent.htm>

- **United Kingdom** - A key stage in the implementation of the EU Water Framework Directive was reached on 11 December 2003 when the Regulations were laid before Parliament.

Read more at : <http://www.defra.gov.uk/news/2003/031211a.htm>

- **United Nations General Assembly** - At its 58th Session, the United Nations General Assembly has adopted a draft resolution (A/RES/58/217) proclaiming the decade 2005-2015 as the International Decade for Action - Water for Life. This recommendation, which comes at the close of the International Year of Freshwater 2003, calls for a greater focus on water-related issues and for actions to ensure the participation of women in water-related development efforts, amongst other things. It also recommits countries to achieving the water-related goals of the 2000 Millennium Declaration, the 2002 Johannesburg Plan of Implementation and of Agenda 21. This is the second time that water issues have been highlighted as part of UN Decade. As AIDA members will recall, the UN declared 1981-1990 as the International Drinking Water Supply and Sanitation Decade with the aim of providing safe drinking water and adequate sanitation systems for all people by 1991. The official start of the 'Water for Life' Decade will be on World Water Day, 22 March 2005 and will coincide with the International Decade of Education for Sustainable Development, which is also set for 2005-2015. For more information, read :

<http://www.un.org/News/Press/docs/2003/ga10224.doc.htm>

and

<http://www.unesco.org/water/>

- **United Nations Economic Commission for Europe (UNECE)** - The Parties to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, signed in Helsinki in 1992, held their third meeting in Madrid, Spain, on 26-28 November 2003. At this meeting it was decided to open up the possibility of acceding to the Convention also to countries outside the UNECE region through an amendment to this Convention. The amendment may be particularly important to the countries that border the UNECE region.

Read more at : http://www.unece.org/press/pr2003/03env_p24e.htm

- **World Wildlife Fund (WWF)** - A new report by WWF reveals that nearly two-thirds of the European countries surveyed are failing to manage water resources effectively. The report, 'Water and Wetland Index - Critical Issues in water policy across Europe', assessed the water policies of 23 countries. Of these, Finland, Switzerland, and Belgium-Flanders came out best, while Italy, Greece, and Spain were ranked the lowest across a range of water issues. Read

more at http://panda.org/news_facts/newsroom/other_news/news.cfm?uNewsID=9721. For further information, contact Tania Paschen, WWF European Freshwater Communications Manager. Tel: +33 680 73 70 33;

E-mail: tpaschen@wwf.fr

4. TRAINING AND RESEARCH CONCERNING WATER LAW

- A short course on **Integrated Water Resources Management** will be organized and held by 'DHI Water & Environment' in Horsholm, Denmark, on 1-5 March 2004. The purpose of this course is to give the target beneficiaries - mainly water managers and planners - a wider understanding of the fundamental principles of Integrated Water Resources Management (IWRM) and of the procedures and tools available for their implementation. For more information, read : <http://www.dhi.dk/courses/VocationalTraining/IWRM/index.htm>

5. PUBLICATIONS OF INTEREST TO AIDA MEMBERS

- **Governance of Water Related Conflicts in Agriculture - New Directions in Agri-Environmental and Water Policies in the EU**, edited by F. M. Brouwer, I. Heinz and T. Zabel. The command-and-control (top-down) approach has achieved only limited success in controlling diffuse pollution from agriculture. New governance approaches are emerging, which involve voluntary co-operation between the main actors, water suppliers, farmers and public authorities, responsible for the sustainable management of drinking water supplies. The book contributes to a better understanding of the role such co-operation can play in connection with the implementation of European environmental legislation, in particular the EU Nitrates and Water Framework Directives, and the achievement of sustainable agriculture. The feasibility of meeting environmental standards by the application of voluntary agreements between farmers and water suppliers is analyzed as a more economically efficient and environmentally effective means compared to applying alternative instruments like command-and-control and taxes. In addition, the potential of voluntary co-operative agreements for achieving a more flexible European Union water policy as well as for reforming the Common Agricultural Policy is assessed. The book will appeal to those researching and working in achieving a more sustainable water management and agricultural practices.

To order the book online, visit : <http://www.wkap.nl/prod/b/1-4020-1553-4>

- **Mekong River Commission Navigation Strategy** - This strategy, which was approved by the governments of Cambodia, Lao PDR, Thailand and Viet Nam, includes the setting up of a comprehensive legal and operational framework for cross-border navigation, the development of ports and waterways, human safety measures, environment protection and skills training. The strategy is available as a pdf file on www.mrcmekong.org

6. FUTURE EVENTS

- The **TRANSCAT Conference on Integrated Water Management of Transboundary Catchments** will be held in Venice, Italy, on 24-26 March 2004. The Conference aims to connect TRANSCAT with EU institutions involved in the process of implementing the EU Water

Framework Directive Its main objective is to improve information sharing and the dissemination of knowledge. Emphasis will be placed on the development of a platform for supporting pan-European cooperation and on networking and allowing a more detailed insight into problems related to water resource use. Special emphasis will be placed on what concerns transboundary water resources. The conference will deal with the integrated management of transboundary catchments and legal and administrative issues of water resources management, amongst other things. For more information, visit : <http://www.transcat.isq.pt>

- The **6th Cannes Water Symposium** will be held in Cannes, France, in the Cannes Palace of Festivals, from 28 June to 2 July 2004. For more information, visit the Symposium website, at <http://www.symposium-h2o.com>

- As announced in the last issue of AquaForum, an international **Conference on 'Good Water Governance For People & Nature: What Roles for Law, Institutions & Finance?'** will be jointly organized by the American Water Resources Association (AWRA) and the International Water Law Research Institute (IWLRI) in Dundee, Scotland, on 29 August - 1 September 2004. In particular, the Conference will focus on the relationships between legal and regulatory frameworks, and on institutional arrangements, with a view to an assessment of the extent to which they effectively contribute to 'good water governance'. In addition, it will attempt to identify those implementation tools which facilitate water resources management on the ground. Case studies will aim at enhancing the understanding of governance issues. For more information, visit the AWRA website at:

<http://www.awra.org/meetings/Dundee2004/index.html>

- The **2004 World Water Week** and the **Stockholm Water Symposium** will be organized by the Stockholm International Water Institute (SIWI) in Stockholm, Sweden, on 15-21 August 2004. The aim of the event is to serve as a link between practice, science, policy and decision-making in the search for sustainable solutions for water resources management. The approach is multidisciplinary, including policy, legal, social and management issues. Plenary sessions will feature experts focusing on water resources management from a variety of perspectives, while the Symposium will be devoted to the specific theme 'Drainage Basin Security - Regional Approaches for Food and Urban Security'. Specialized workshops will be held in the course of the event. For more information contact the SIWI Secretariat, Hantverkargatan 5, SE-112 21 Stockholm, Sweden. Tel: +46-8-522-139-75; fax: +46-8-522-139-61; e-mail: sympos@siwi.org; Internet: <http://www.siw.org>

- The **Second International Symposium on Transboundary Water Management** will be held in Tucson, Arizona, USA on 16-19 November 2004. The Symposium will build on the review and analysis of transboundary basins and aquifer management issues that occurred in November 2002 in Monterrey. Topics ranging from quantity and water quality management, impacts of climate fluctuations, building flexibility and robustness into compacts, and improved sharing of data will be considered. Market-based allocation approaches, ecological conservation, and the need for greater hydrologic literacy among decision-makers also will be included, in view of their relevance in the international and interstate water resources arena. Keynote speeches and panel discussions by recognized experts will address a range of topics critical to improved transboundary waters management.

For more information, visit www.sahra.arizona.edu

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: stefano.burchi@gmail.com

8. 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