

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

For reasons beyond our control, the **4th International Conference of AIDA (AIDA IV)**, which was previously announced to be held in Belgrade, Serbia, from 28 August to 1 September 2005, will be postponed to 2006. We will keep AIDA members informed on the exact dates and look forward to your participation.

In the meantime, we are offering you highlights of major past and future events, as well as developments, in the field of water law, policy and administration and, once again, invite you to provide us with any information of relevance to the mandate of the Association that you wish to see published in *AquaForum*.

A handwritten signature in black ink, appearing to read 'Bernard J. Wohlwend', written in a cursive style.

Bernard J. Wohlwend
Chairman of the Executive Council

1 NEWS OF THE ASSOCIATION AND ITS MEMBERS

We are proud to announce that AIDA member **Salman M.A. Salman** has been selected for the International Water Resources Association **Best Paper Award** for Volume 28 of Water International Journal. The Award will be presented at the 12th World Water Congress, 22-25 November 2005, New Delhi, India.

2 MEETINGS AND CONFERENCES

- In order to support the work of Ambassador Chusei Yamada (Japan), Special Rapporteur of the International Law Commission of the United Nations (ILC), on the development of a draft legal instrument on transboundary aquifers, the International Hydrological Program (IHP) of UNESCO convened a **meeting on 'Transboundary Aquifers in the Americas'** in Paris, France, on 7-9 March 2005. The meeting was attended by groundwater experts from different countries in the Americas and elsewhere, including lawyers, hydrogeologists and managers.

At the outset there was a presentation of the ISARM (Internationally Shared Aquifer Resources Management) project of the International Hydrological Programme (IHP) with its five focus areas, i.e., scientific, socio-economical, environmental, legal and institutional (see the ISARM framework document at:

<http://unesdoc.unesco.org/images/0012/001243/124386e.pdf>

Emphasis was placed on the development of ISARM in the Americas in collaboration with the Organisation of American States (OAS).

Thus, the first session then focused on the challenges faced by water managers with respect to transboundary aquifers in the Americas, on the existing legal and institutional frameworks (national and international) and on the positive aspects or the shortcomings thereof. Particular attention was devoted to the Guaraní Aquifer System (GAS). The participants examined state practice elsewhere in the world in the light of the specific situation of the GAS and other American transboundary aquifers with a view to identifying the elements that should be taken into consideration at the stage of designing a legal and institutional framework.

A second session focused on the paper presented by the ILC Special Rapporteur, Ambassador Yamada, which provided an overview of the draft articles on transboundary aquifers included in his third report, to be discussed at the 57th session of the ILC held in May 2005. After a clarification of some of the new elements of the draft articles, the participants were invited to offer their observations and comments.

Amongst other things, the meeting concluded that (a) there is a need for continuing regional and local consultations on legal frameworks in the Americas: (b) legal concepts should be tailored to specific aquifer management needs; (c) it is essential to promote and support the development of domestic groundwater legislation; (d) the absence or inadequacy of data and information should not be used as an excuse to postpone the introduction of legal and institutional frameworks in support of groundwater management. AIDA members Bo Appelgren (Sweden), Lilian del Castillo (Argentina), Jean-François Donzier (France), Marcella Nanni (Italy), Richard Paisley (Canada), Raya Stephan (Palestine/France) and Sergei Vinogradov (Russian Federation) attended the meeting and contributed papers on various topics of relevance. For more information, contact Ms Raya Stephan at r.stephan@unesco.org

- The **International Technical Seminar on integrated water resources management in the Mediterranean region and North Africa** was organized jointly by the International Network of Basin Organizations (INBO) and the Moroccan Ministry of Environment, Water and Regional Planning in Marrakech, Morocco, 23-26 May 2005, on occasion of the General Assembly of the Mediterranean Network of Basin Organizations. In particular, the Seminar focused on the effects of extreme situations (drought and floods) on Mediterranean and African river basins, the integrated management of aquifers in Mediterranean and African countries and the

implementation of the European Union Water Initiative in the Mediterranean region, with emphasis on groundwater. For further information on this event, consult: www.inbo-news.org

- The government of the Republic of Tajikistan, with the support of the United Nations Development Programme (UNDP), organized the **International Conference on Regional Cooperation in Transboundary River Basins** in Dushanbe, Tajikistan, on 30 May - 1 June 2005. The purpose of the conference was to facilitate the strengthening of regional cooperation in transboundary river basin management and the establishment of dialogue among Central Asian States. Legal and institutional aspects of transboundary resource management were widely discussed. For further details, contact the Technical Team at: Tel/Fax: 992-372-510220; Tel: 992-372-234155; E-mail: transwater@tajik.net

- The Natural Resources Law Center of the University of Colorado School of Law convened a conference entitled '**Hard Times on the Colorado River: Drought, Growth and the Future of the Compact**' in Boulder, Colorado (USA) on 8 - 10 June 2005. The conference focused on how policy and the law address water allocation issues in the Colorado River Basin, particularly in times of drought. For more information, visit: <http://www.colorado.edu/law/centers/nrlc/summerconference/index.htm>

3 DEVELOPMENTS AND PROGRAMMES CONCERNING WATER LAW

- **European Community** - The European Community ratified the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters of the United Nations Economic Commission for Europe (UNECE) on 17 February 2005.

- **European Commission** - The European Commission has decided to take Ireland to the European Court of Justice (ECJ) over two separate cases involving violations of EU law on environment and public health protection. The cases involve wastewater management aspects and the assessment of the environmental impact of projects. For current statistics on infringements, see:

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

- **Germany** - The Federal Act to Improve Preventive Flood Control was enacted on 3 May 2005 and was published in Federal Law Gazette I of 9 May 2005, page 1224. The Act lays down uniform and stringent legal provisions for the prevention of flood damage at the national level. The Act is based on the 'Five-Point Programme', which was prepared by the German government immediately after the flood disaster of the summer of 2002.

- **Romania** - A new Water Law (No. 310/2004) was enacted on 28 June 2004 to amend the Water Law of 1996 and implement the European Union Water Framework Directive (WFD) in Romania. Under the Law, the National Administration of Romanian Waters (NAAR) and its 11 basin organizations (Water Directorates) have become 'public institutions of national interest with juridical personality'. The Law provides for the establishment of flood-prone areas in which new construction activities are prohibited and existing buildings are to be destroyed (unless the owner wishes to take the risk). Further, it introduces a system of water charges and economic incentives aimed at encouraging water conservation and reuse. A 'contribution' is to be levied on industrial, agricultural and domestic users to achieve the total recovery of environmental costs by 2010.

- **Scotland** - Draft regulations to bring private supplies which are not connected to the public network up to modern safe standards were published on 24 March 2005. The draft regulations incorporate the latest advances for the improvement of drinking water quality. These include the use of risk assessments from 'source to tap' as part of an effective drinking water surveillance programme. For more information, visit:

<http://www.scotland.gov.uk/consultations/environment/dpws05-00.asp>

- **The Netherlands** - The State Secretaries of Housing, Spatial Planning, Environment and Transport (VROM) and Public Works and Water Management (VenW) have drafted new general rules for the disposal of domestic wastewater. The present, fragmentary regulations will be consolidated into one decree. Under the new decree, private citizens will no longer need a permit or exemption to dispose of wastewater, as is presently required for certain types of wastewater such as household wastewater, rainwater from roofs and the wastewater resulting from car washing. They will however be subject to certain limitations in the interest of environment protection. A permit or exemption will only be required when disposing of wastewater not normally occurring in the household. The designated authority will have the power to prescribe special wastewater disposal measures, should local situations so require. For more information, visit: <http://www.vrom.nl/afvalwater>

- **United Nations Economic Commission for Europe (UNECE)** - The Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes will enter into force in August 2005. The Protocol was adopted in 1999 at the Third Ministerial Conference on Environment and Health. It has been signed by 36 countries, and ratified by 16.

4 PUBLICATIONS AND SOURCES OF INFORMATION OF INTEREST TO AIDA MEMBERS

- **Water in Agriculture**, Essay No. 5 of the Water and Ethics Series, by AIDA member Bo Appelgren (Sweden), 2004. This publication deals with the ethical context of water use in agriculture. It discusses the need for solidarity at local, regional and global levels to effectively tackle the problem of water scarcity. The document is accessible at: <http://unesdoc.unesco.org/images/0013/001363/136354e.pdf>

- **Gobernabilidad del Agua en América del Sur** (*Water Governance in South America*), IUCN Environmental Policy and Law Papers Series 2001-2004, No. 53, edited by AIDA member Alejandro Iza and Marta Rovere. This book discusses the status of the legal and institutional framework of water resources management in selected countries of South America. It explores not only the traditional issues, such as water allocation, and pollution prevention and control, but also conservation of the resource, environmental flows, groundwater conservation, and traditional and customary rights. The different chapters present the cases of Argentina, Bolivia, Brazil, Colombia, Chile, Ecuador, Paraguay, Perú, Uruguay, and Venezuela.

- **La gouvernance de l'eau en Afrique de l'Ouest: aspects juridiques et institutionnels** (*Water Governance in West Africa: Legal and Institutional Aspects*), edited by Madiodio Niassé, Alejandro Iza, Amidou Garane and Olli Varis, IUCN Environmental Policy and Law Papers Series 2001-2004, No. 50. This publication contains the proceedings of the workshop 'Water Governance: Legal and Institutional Aspects of Natural Resources Management in West Africa', organized by the IUCN *Bureau pour l'Afrique de l'Ouest* (BRAO) and the IUCN Environmental Law Center (ELC) in Ouagadougou, Burkina Faso, in September 2002. Its objective is to improve the understanding of the relationship between water-related infrastructure and institutional frameworks in West Africa. The book contains various papers addressing a multiplicity of issues on water governance, organised in 5 sections: water, wetlands and international environmental agreements; legal aspects of transboundary water resources; water resources management at the local level: customary and modern institutions; Integrated Water Resources Management (IWRM), environment, economy, and equity in national water policies; and river basin organisations in West Africa.

- **International Water Governance: Conservation of Freshwater Ecosystems** Vol. I International Agreements: Compilation and Analysis, IUCN Environmental Policy and Law Papers Series 2001-2004, No. 55, edited by Alejandro Iza. This publication provides an analysis of the most relevant treaty provisions on freshwater ecosystems conservation. It also includes an analysis of relevant European Union legislation.

- **El regimen jurídico del Río de la Plata y su frente marítimo**, by AIDA member Lilian del Castillo (Argentina), Buenos Aires, 2005. The author conducts a detailed review and analysis of the international legal regime of the Plata River and its sea front. In particular, she examines the provisions of the Plata River Treaty, which was signed by Argentina and Uruguay on 19 November 1973 which introduced a new legal and institutional framework for the river and its sea front, and the manner in which they have been implemented since the entry into force of the Treaty on 12 February 1974. Focus is placed on implementation at the national level and on the activities of the bi-national commissions established under the Treaty. The last part of the book examines the relationship between the state practice ensuing from the introduction of the new legal regime and the background work showing the intention of the Parties. In substance, the book illustrates the manner in which the legal framework has evolved and has acquired strength in the implementation process. The text of the agreements and other bilateral legal instruments adopted in the past three decades are reproduced in the Annex.

- **From Marrakech through The Hague to Kyoto: Has the Global Debate on Water Reached a dead End**, by AIDA member Salman M.A. Salman, in *Water International*, Volume 29, No. 1, pp. 11-19, March 2004. Since the Mar Del Plata Water Conference was held in 1977, a number of conferences and meetings have been organized to debate major issues arising in connection with water resources development and management, resulting in various resolutions, declarations and action plans. This remarkable article, which is the second part of a larger one, discusses the main elements of the debate and evaluates the effectiveness of the resolutions, declarations and action plans. In other words, it aims at assessing whether the 'global debate' has led anywhere. The first part of the article was published in *Water International*, Vol. 28, No. 4, and was selected as IWRA's best paper for the year 2003.

- **Groundwater in international law: Compilation of treaties and other legal instruments**, FAO Legislative Study No. 86, FAO/UNESCO, 2005, by AIDA members S. Burchi (Italy) and Kerstin Mechlem (Germany), is a collection of binding and non-binding international law instruments that, in varying degrees and from different angles, deal with groundwater. Its aim is to report developments in international law and to contribute to detecting laws in-the-making in this important field. The publication was prepared by FAO in partnership with the UNESCO projects on international waters 'Internationally Shared Aquifer Resources Management' (ISARM) and 'From Potential Cooperation to Co-operation Potential' (PC-CP).

5 FUTURE EVENTS

- The United States National Groundwater Association (NGWA) will hold its third **Conference on Groundwater and Environmental Law** in Baltimore, Maryland, USA, on 21-22 July 2005. The Conference will be devoted to groundwater litigation and environmental law. The topics for discussion will include groundwater contamination cases, groundwater law, the Data Quality Act, international groundwater pollution and the identification of emerging contaminants. The agenda will feature presentations by lawyers, consultants and regulators on a number of issues, ranging from court case studies to the effects of changes in groundwater regulations and the use of groundwater models in the courtroom. The conference will enable participants to learn more about groundwater law. For more details, visit:

<http://www.ngwa.org/e/conf/0507215066.shtm>

- The **2005 World Water Week** and the **Stockholm Water Symposium** is being organized by the Stockholm International Water Institute (SIWI) in Stockholm, Sweden, on 21-27 August 2005. For information contact the SIWI Secretariat, Hantverkargatan 5, SE-112 21 Stockholm, Sweden. Tel: +46-8-522-139-60; fax: +46-8-522-139-61; e-mail: sympos@siwi.org; Internet: www.siw.org; and www.worldwaterweek.org

- The **11th World Lake Conference**, organized by the Ministry of Water and Irrigation of Kenya and International Lake Environment Committee (ILEC) in Nairobi, Kenya, is scheduled to

take place on 31 October- 4 November 2005. Its main objective will be to bring together diverse groups of people and organizations dealing with lake management, exchange knowledge and experiences, review progress on ongoing lake basin initiatives and set goals for lake basin management. Topics for discussion will include a review and assessment of international agreements on transboundary river and lake basins. For more information, visit: <http://www.ileckenya.go.ke/kenya.html>

- The **American Water Resources Association (AWRA) 2005 Annual Conference** will be convened at Seattle, Washington, USA, on 7-10 November 2005. The Conference will focus in particular on water use, water supply, aquifer storage and recovery, brackish groundwater desalting, integrated water resources management, water law and policy, watershed management and restoration and resources management. For further information, visit the AWRA's website at: <http://www.awra.org/meetings/Seattle2005/>

- The **4th World Water Forum** will be jointly organized by the World Water Council (WWC) and the Mexican Government in cooperation with various organizations in Mexico City, Mexico, on 16-22 March 2006. Its main stated objectives will be: (a) to actively promote the participation of all stakeholders during the Preparatory Process and the Forum itself; (b) to reinforce the conviction that local actors facing grave main water management and implementation challenges; (c) to actively seek to remove the barriers obstructing local action'. Since according to the organizers local action is the key for generating concrete results, i.e., for meeting the water-related targets set by the Millennium Development Goals, the WSSD Implementation Plan and Local Agenda 21, the main theme will be *Local Actions for a Global Challenge*. The Forum will focus on five Framework Themes, namely (i) Water for Growth and Development; (ii) Implementing Integrated Water Resources Management (IWRM); (iii) Water Supply and Sanitation for All; (iv) Water Management for Food and the Environment; (v) Risk Management. For more information, visit: <http://www.worldwaterforum4.org.mx>.

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