

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



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EDITORIAL

As always, this issue of *AquaForum* offers highlights of the latest events in the field of water law and administration, as well as announcements of future events. A great many meetings and conferences have taken place or are projected, which focus on various aspects of relevance to this important subject. In particular, there have been debates at the European Union level, as new directives are proposed by the Commission to tackle important issues, including groundwater protection and flood risk management.

There may be other events, past or future, which would be of interest to *AquaForum* readers that are not included here. For this reason, we invite all AIDA members to provide us with information as to what they are doing, new laws being adopted in their countries and new international agreements being negotiated. Indeed, we would like *AquaForum* to become a product of our Association as a whole.

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

Bernard J. Wohlwend

Chairman of the Executive Council

1 MEETINGS AND CONFERENCES

- The Water Science and Technology Association (WSTA) convened the **7th Gulf Water Conference** on '**Water in the GCC: Towards Integrated Water Resources Management**' in Kuwait, on 19-23 November 2005. The aim of the Conference was to lay out the foundation of Integrated Water Resources Management (IWRM) policies and strategies in the Gulf Cooperation Council (GCC) countries, and to review and assess the progress made in GCC countries towards the target of 'adoption of comprehensive policies and strategies for integrated water resources management and active implementation in all countries by 2005', which was agreed at the World Summit on Sustainable Development, Johannesburg, in 2002. *Inter alia*, the Conference dealt with the legal and institutional requirements for water resources planning and management (and reforms needed), groundwater legislation and abstraction rights and the management of non-renewable groundwater resources (including exit strategies for groundwater mining). For more information, visit:

http://www.wsta-gcc.org/asp/wa_waterconf7_en.html

- The **2006 Water Law, Policy and Science Conference: Adaptive Management for Resilient Water Resources** was organized by the University of Nebraska - Lincoln School of Natural Resources, United States of America, on 4-5 May 2006 at Lincoln, Nebraska, USA. The conference was the 3rd of a series. It explored adaptive management approaches for the water resources of the Great Plains, which are stressed from prolonged drought and increasing consumptive demands, taking into consideration water needed for threatened and endangered species. International, national and local experts focused on a range of economic, social, agricultural, legal and adaptive management topics connected with how water resources are perceived and used. For more information, read:

<http://snr.unl.edu/waterconference/>

- An international symposium on **New Water Policies: the Water Framework Directive** was organized by the European Water Association (EWA), the Water Environment Federation (WEF) and the *Asociación para la defensa de la calidad de las aguas* (ADECAGUA) in Barcelona, Spain, on 17-18 May 2006. The symposium provided an overview of progress in the implementation of the EU Water Framework Directive (WFD) in Europe. River basin management was addressed with special attention being paid to the role of the Spanish Water Authorities (Confederaciones Hidrográficas). The situation of different European regions, new EU countries, economic problems and transboundary considerations was also explored, along with an update on the latest developments in EU water policy and the daughter directives to the WFD. To read more, visit:

<http://www.ewaonline.de/pages/workshops.htm>

- A **Workshop on the Legal Framework for Water** was organized by Cap-net (Capacity Building for Integrated Water Resources Management), the Central American Engineering Institutions Network (REDICA), the Costa Rican Association of Environmental Law (ACDA) and the University for International Cooperation (UCI), Costa Rica, in San Jose, Costa Rica, on 23-25 May 2006. The goal of this workshop was to contribute to capacity-building on the development and implementation of water legislation in Costa Rica and in Central America, and to promote discussion of the draft water resources laws which are currently being prepared in the region. In particular, the workshop focused on international frameworks for sustainable development, the origin and history of water law, international water law, water governance and local actors and gender issues. For more information, visit:

http://www.unesco.org/water/water_events/Detailed/1259.shtml

- The **3rd International Symposium on Transboundary Waters** Management was organized jointly by the University of Castilla - La Mancha, Spain; UNESCO's International

Hydrological Programme (IHP); Sustainability of semi-Arid Hydrology and Riparian Areas Centre of the University of Arizona (SAHRA), United States, on 30 May - 2 June 2006 at Ciudad Real, Spain. The symposium was devoted to a review and analysis of the transboundary aspects of water management. Its aim was to serve as an integrating element for the continuous transfer of knowledge on transboundary water management through the presentation of new ideas, technologies and advancements in hydrological and water system modelling, management policies, integration of non-conventional water resources, public participation processes, water markets and water law, while taking into account technical, environmental, social and economic realities so that the knowledge can be applied practically to water management. AIDA members Bo Appelgren (Sweden), Stefano Burchi (Italy), Gabriel Eckstein (United States), Marcella Nanni (Italy) and Raya Stephan (France) delivered keynote addresses on various subjects of relevance to transboundary water management. For more information, visit the Symposium's website at: <http://www.uclm.es/congresos/twm/>

- The **CIWEM Conference on Environmental Standards – Progress and Implementing Water Framework Directive (WFD)** was organized by the Chartered Institution of Water and Environmental Management (CIWEM), United Kingdom in London, UK, on 8 June 2006. The Conference aimed at updating participants on the ongoing work on environmental standards and its interaction with other work streams, including monitoring, policy development (the partial regulatory impact assessment) and river basin planning, including the development of the programme of measures. For more information, visit:

http://www.ciwem.org/events/Environmental_standards_080606.doc

- The **2006 European Groundwater Conference** was convened by the Austrian Federal Office for the Environment jointly with the European Commission and the Federal Ministry of Agriculture, Forestry, Environment and Water Management in Vienna, Austria, on 22-23 June 2006. The conference focused on the overall European Union legislative framework concerning the chemical quality of groundwater and on the implementation of the groundwater elements of the Water Framework Directive 2000/60/EC and related EU directives. The key topic at the conference was the new EU Daughter Directive on groundwater protection against pollution. For more information, visit:

http://www.umweltbundesamt.at/en/umweltschutz/wasser/wasser_events/eu-grundwasser2006/

- The **1st Latin-American Meeting on Water Management**, organized by the Latin-American Faculty of Social Sciences (FLACSO) on 3-7 July 2006 in Guatemala City, Guatemala. The main subjects for discussion will be the state of water resources in Latin-America, legal and institutional aspects, local government issues, water management in urban areas, community participation, the access to water as a human right and water markets in Guatemala. For more information, visit:

http://www.chmguatemala.org/Meetings_Events/EVENT1148581701

2 DEVELOPMENTS AND PROGRAMMES CONCERNING WATER LAW

- **Argentina** – On 4 May 2006 Argentina brought before the International Court of Justice (ICJ) a dispute with Uruguay concerning alleged breaches by Uruguay of obligations incumbent upon it under the Statute of the River Uruguay, a treaty signed by Argentina and Uruguay on 26 February 1975. In its application, Argentina claims that in October 2003 the Government of Uruguay authorized the construction of a pulp mill near the town of Fray Bentos and, subsequently, the construction of further pulp mills, without complying with the mandatory prior notification and consultation procedure provided for by the 1975 Statute.

Argentina argues, *inter alia*, that these mills would cause water pollution and pose a serious threat to fisheries and the ecosystem of the Uruguay River, thereby affecting over 300,000 residents of the Gualeguaychú area. It requests the ICJ to declare that due to its conduct Uruguay is in breach of international legal obligations and is responsible towards Argentina, and to request Uruguay to cease the wrongful conduct and make full reparation of the damage caused. Argentina further requests the ICJ to indicate provisional measures to be taken pending final judgment. Two rounds of public hearings on the subject have been held in The Hague on 8 and 9 June, respectively. For more information, visit the ICJ website at: <http://www.icj-cij.org>

- **California, USA** - The Little Hoover Commission in Sacramento, California criticized the organization of the California Bay-Delta Authority, created by state lawmakers in 2003 to oversee the state and federal Bay-Delta Program (CalFed), which protects the waterway supplying water to two-thirds of California's residents. In substance, CalFed lacks the authority and direction it needs to mediate disputes among 25 state and federal agencies, water districts, farmers, fishermen and environmental groups that have an interest in the Sacramento-San Joaquin River Delta. Saying that it is so dysfunctional that it should be replaced with a new agency, the Commission recommended the establishment of a committee that would be chaired by the U.S. Secretary of the Interior and the California Secretary of Resources. The Commission also urged the state to come up with a comprehensive water policy to provide guidance to agencies that often have competing goals. For more information, visit:

<http://www.thestate.com/mld/mercurynews/news/local/states/california/>

- **Dniester River** - The Republic of Moldova and Ukraine signed the Agreement on Transboundary Cooperation and Sustainable Management of the Dniester River at Odessa, Ukraine, on 1 December 2005. The Agreement aims at translating the principles of the UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes (1992) into practice by providing for cooperation in resource management and, in particular, in water pollution control. For more information, visit the UNECE website at: <http://www.unece.org>

- **European Commission** - In its first report on the implementation of the Integrated Pollution Prevention and Control (IPPC) Directive, the European Commission raised concerns about the slow implementation of this Directive. The Directive aims at regulating and limiting harmful emissions into the air, water and land from major industrial operations (factories, energy-generation plants, large farms, etc.). Delays by member states in issuing the necessary permits entail that the environmental improvements foreseen by the Directive will be compromised. The Commission, therefore, urged Member States to make greater efforts to meet the October 2007 deadline, by which all installations covered by the Directive must possess their permits. To support member states and help improve the situation, the Commission will be launching an IPPC Implementation Action Plan. For more information, visit:

<http://europa.eu.int/comm/environment/ippc/index.htm>

- **European Commission** - On 18 January 2006 the European Commission proposed a directive on the assessment and management of floods. Its aim is to reduce and manage the risks that floods pose to human health, the environment, infrastructure and property. Under the proposed directive member states would first need to carry out a preliminary assessment to identify the river basins and associated coastal areas at risk of flooding. For such zones they would then need to draw up flood risk maps and flood risk management plans focused on prevention, protection and preparedness. For more information and the text of the proposal, visit:

http://www.europa.eu.int/comm/environment/water/flood_risk/pdf/com_2006_15_en.pdf

- **European Commission** – A Water Framework Directive (WFD) Scoreboard may be found at: <http://europa.eu.int/comm/environment/water/water-framework/scoreboard.html>. The page provides an overview of the performance of EU member states with regard to the legal transposition of the WFD and the implementation elements with deadlines in 2004 and 2005. It is interesting to note that new EU member states show a better record than old members. The page is intended for general information to the public, but is not the basis on which the European Commission decides upon the necessity to launch legal proceedings against the member states for not fulfilling the obligations of the WFD.

- **European Commission** - The European Commission has referred Greece to the European Court of Justice over the government's failure to comply with the Water Framework Directive (WFD). The Directive requires Greece to establish a centralized water resources administration instead of leaving water management up to dozens of overlapping agencies. Further, it requires the government to define river basin districts and carry out detailed studies identifying problems and suggesting solutions, to be arrived at through programmes of measures. None of this has been done. To read more, visit:

http://www.sahra.arizona.edu/cgi-bin/newsclips/newsclip_view.pl?mode=newsclip_view&ID=12485

- **France** – The Ministry of Environment and Sustainable Development, by *Arrêté* of 16 March 2006, has defined the detailed content of the master plans for water resources development and management. The text of the *Arrêté* has been published in the Official Journal of the French Republic of 15 April 2006.

- **Russian Federation** – On 5 April 2006, the State Duma of the Russian Federation gave final approval to the new Water Code. Among others, the Code provides that, while as a general rule water 'objects' are federally-owned, ponds and reservoirs located entirely within the boundaries of privately owned land are the property of the land owner. Water 'objects' can be leased for a maximum of 20 years. Leases must be registered in the State Water Resources Register. Further, the Code provides for the creation of basin councils. The Code passed with 343 against 88 votes. For more information, visit:

http://www.sptimes.ru/index.php?action_id=2&story_id=17374

- **Sava River Basin** - Croatia, Bosnia and Herzegovina, Serbia and Montenegro and Slovenia have agreed to jointly develop a 'Sava River Basin Management Plan (RBMP)' in order to meet the objectives of the EU WFD. The Plan will include an assessment of the Sava River Basin environment and of human impacts on it. It will address key transboundary issues, such as pollution from agriculture, municipal wastewater and industry, flood control and navigation development, and measures geared to solving them. The Sava River Protection Commission will steer Plan development through its Expert Group on River Basin Management and with the assistance of the UNDP-GEF Danube Regional Project. For more information, read: <http://www.undp-drp.org>

- **Sino/Russian Agreement on River Monitoring** - On 21 February 2006 the Minister responsible for the Chinese State Environmental Protection Administration (SEPA) and the Russian Minister of Natural Resources signed a formal agreement to jointly monitor the water quality of transboundary rivers. The reason for the Agreement is to be found in the Songhua River chemical spill on 13 November 2005, when some 100 metric tons of toxic nitrobenzene

entered the Songhua River after an explosion at a petrochemical plant. The pollutants entered the Amur River in the Russian Far East on 25 December 2005. To prevent recurrence of such accidents, experts from both countries will regularly exchange information and work together. The water bodies under joint surveillance include the Heilong, Wusuli, Erguna and Suifen rivers and Xingkai Lake. The Songhua River is the Heilong's largest tributary. For further information, read:

<http://www.ens-newswire.com/ens/feb2006/2006-02-21-02.asp>

3 TRAINING AND RESEARCH CONCERNING WATER LAW

- A **Seminar on 'Legal Framework of Water Resources Management'** will be organized by the International Development Law Organization (IDLO) in Rome, Italy, on 11-22 September 2006. The seminar will address: (i) the particular legal status of water as a fundamental resource for human life, agriculture and social and economic development; (ii) different methods of water resource management, with a particular focus on management by municipalities, public-private partnerships and private sector management; (iii) 'water governance', i.e., the role, responsibilities and relationship between public authorities, operators, consumers/users and civil society; (iv) water law implementation. It will be of interest to legal professionals and water policy advisors working for national and local governments, NGOs and user/consumer association. For more information, visit: <http://www.idlo.int/IBT39E.htm>

4 PUBLICATIONS AND SOURCES OF INFORMATION OF INTEREST TO AIDA MEMBERS

- ***Water Rights Reform, Lessons for Institutional Design***, by various Authors, edited by Bryan Randolph Bruns, Claudia Ringler and Ruth Meinzen-Dick, published by the International Food Policy Research Institute, Washington, D.C., 2005. The book contains a collection of selected papers describing and analyzing various approaches to water rights. It deals with institutional options for water rights administration, the implications of new water laws and practical implementation issues, and provides various examples of water law reform. The book offers food for thought with regard to the challenges of and the need for water rights reforms, and on the role of the law in providing protection to existing and traditional rights in the event of new investments in the water sector. The book may be ordered on-line or downloaded for free from: <http://www.ifpri.org/pubs/pubs.htm#books>

- ***Water Resources and International Law - Les Ressources En Eau Et Le Droit International***, edited by L. Boisson De Chazournes and Salman SMA Salman, published by Brill Academic Publications, August 2005 (in English and French). This collection of writings purports to cover recent developments in international water law, and offers a contribution to the understanding and further elaboration thereof.

- ***International Law, Sustainable Development And Water Management***, by Antoinette Hildering, University of Chicago Press, September 2005. The book explores the political issues inherent in global water management, analysing water as a social, economic, and ecological good, and then applying the principles of international law to resource development policies.

- ***Fresh Water and International Economic Law***, by Edith Brown Weiss, Laurence Boisson De Chazournes and Nathalie Bernasconi-Osterwalder (editors), Oxford University Press, November 2005. This book contains a collection of studies focusing on the implications

of World Trade Organization rules for transborder commerce in water. It examines such questions as, whether governments are free to export water resources or not, whether foreign investors may sue host states for adopting measures to control water pollution, whether international trade rules may be used to reduce or eliminate water related subsidies and whether rules on the liberalization of water services may affect domestic and international human rights obligations relating to water supply. The book pays due attention to the rules for goods, services, and subsidies, and explores trends in bilateral and regional trade agreements.

- ***EU Environmental Policy Handbook***, published by the European Environmental Bureau (EEB), Europe's largest federation of environmental citizens' organisations, in November 2005 (Editor Stefan Scheuer - ISBN 9057270552). The Environmental Policy Handbook is a reference volume, which gives practical assistance on both understanding and using EU environmental laws. To order the Handbook, contact: International Books, Grifthoek 151, 3514 JK Utrecht, the Netherlands or i-books@antenna.nl, <http://www.antenna.nl/~i-books>

. The book's chapters are also available at:
http://www.eeb.org/publication/policy_handbook.htm

- ***Integrated Transboundary Water Management in Theory and Practice, Experiences from the New EU Eastern Borders***, by Geoffrey D Gooch & Per Stålnacke, published by the International Water Association (IWA), May 2006. Drawing on extensive studies of the Lake Peipsi region in Estonia and Russia, the book explores the political and social issues surrounding transboundary water management and describes the way that qualitative-quantitative-qualitative scenarios have been used in real-life situations. The book presents conclusions and policy recommendations for integrated transboundary water management that will be useful to water managers, policy-makers and academic researchers working in this field.

- ***Regulatory Frameworks for Water Resources Management – A Comparative Study***, by AIDA member Salman M.A. Salman and Daniel D. Bradlow, Law, Justice and Development Series, The World Bank, Washington, D.C., 2006. This book offers a review and comparative analysis of the regulatory framework for water resources management in 16 countries and highlights common elements and differences in the approaches adopted. Further, it highlights the key issues that should be addressed in regulatory frameworks, and identifies emerging trends.

5 FUTURE EVENTS

- The ***2006 World Water Week***, with the theme 'Beyond the River – Sharing Benefits and Responsibilities', will take place in Stockholm, Sweden, on 20-26 August 2006, and will address livelihood improvement, land-based activities within a river basin, and society's ability to cope with natural disasters, amongst other things. For more information and updates on this event, visit: <http://www.worldwaterweek.org/>

- The ***9th International Riversymposium on 'Managing rivers with climate change and expanding populations'*** will be organized by the Queensland Government and the Brisbane City Council in Brisbane, Queensland, Australia, on 4-7 September 2006. This year the symposium will focus on river management and the integration of science, business, institutions and the community in addressing river basin management issues around the world. Topics for discussion will include water resources planning, wetland management, the

management of natural disasters, legal aspects and water reform, amongst other things. The *Riversymposium* is an integral part of Brisbane's *Riverfestival*, an annual cultural festival focused on the Brisbane River, which celebrates water and promotes environmental sustainability. *Riversymposium* delegates will have the opportunity to experience the festival's program of events held over ten days from 1st to 10th September, which incorporate entertainment, art, environmental science and sport. For more information, visit <http://www.riversymposium.com/>

- The ***International Water Association (IWA)*** will hold its next ***World Water Congress and Exhibition*** in Beijing, China, on 10-14 September 2006. This event provides an opportunity for water professionals from around the world to meet and share their knowledge and experience, both within their peer groups and across a broader set of interested stakeholders. The Congress encompasses both current research and practice in water, wastewater and stormwater management. For further information, please visit the Congress website at: <http://www.iwa2006beijing.com/>

- The next '***EUROPE-INBO 2006' International Conference***, organized by the 'Group of European Basin Organizations for the Implementation of the Water Framework Directive' will take place on 21-22 September 2006 at Megève, France. The Conference will focus on the implementation of the EU Water Framework Directive in the river basin districts and, in particular, on the compatibility between the Directive and hydraulic infrastructure, on quantity aspects of water resources management, the approach to heavily modified water bodies, resource monitoring, the development of programmes of measures and economic aspects, amongst other things. For more information, visit:

<http://www.inbo-news.org>

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