



Newsletter No. 40

February 2008

EDITORIAL

There has been a major change in the organization of AIDA since the last release of *AquaForum*. At the meeting of the Executive Council held in Rome in November, 2007, Mr B. Wohlwend resigned from the chairmanship of the Association and the Vice-Chairman, Mr Dominique Alhérière, was elected Chairman. The Association's Secretariat has moved back to Italy.

Action is being taken in order to improve AIDA's website, so as to ensure that issues of *AquaForum* are posted in a timely manner and that all relevant information is displayed not only in English but also in the French and Spanish languages, for the benefit of our members.

As usual, this issue of *AquaForum* is devoted to the latest news and events in the field of water law and administration. As you will note, a number of important topics are being discussed in international fora. Also, in many areas progress is being made towards filling legal and institutional gaps and thus strengthening water resources management in response to current problems. Soon after the 'Groundwater Directive,' the European Union has adopted a new Directive on floods; at a different level, work is progressing towards the finalization of draft 'articles' on transboundary aquifers by the International Law Commission (ILC). In particular, a number of states have commented on the draft articles adopted by the ILC in 2006, and on this basis the Special Rapporteur (SR) is proceeding to prepare a set of revised draft articles for consideration by the ILC at its mid-2008 session. If approved, the draft articles will be submitted to the UN General Assembly for consideration at its session later in 2008. The issue of the final 'form' or instrument of the draft articles is still under consideration by the SR. This, and much more, is what is taking place at present.

AquaForum offers as much information as is possible under the circumstances, but this information could be enriched through news brought to us by members. Therefore, as we have done in the past, we invite you to participate in the preparation of *AquaForum*

Dominique Alhérière
Chairman

Marcella Nanni
Editor

1. NEWS OF THE ASSOCIATION AND ITS MEMBERS

- Mr Bernard Wohlwend (Switzerland) has resigned from the chairmanship of AIDA's Executive Council and Mr Dominique Alh riti re (France) has been elected Chairman. The new Chairman designated Stefano Burchi as the new Vice-Chairman. The Executive Council has confirmed Stefano Burchi and Marcella Nanni as Treasurer and Editor, respectively

2. MEETINGS AND CONFERENCES

- On 13-15 June, 2007, the UNESCO -IHE Institute for Water Education organized a three-day symposium entitled: '**Water for a Changing World: Enhancing Local Knowledge and Capacity**'. The purpose of the symposium was to formulate a 'road map' for stakeholder organizations, including academic and research institutions, water sector operators, governments and non-governmental organizations, civil society and donors, to improve and strengthen the capacity and knowledge of individuals and organizations where it matters most, namely at the local level. For more information, visit:

http://www.unesco-ihe.org/about/news/water_for_a_changing_world_enhancing_local_knowledge_and_capacity

- The Foundation of Environment and Development (FEDEV) and the International Law Development Organisation (IDLO), in partnership with the Global Water Partnership Cameroon, organized a one-week workshop on the theme '**Legal Framework of Integrated Water Resource Management**' in Bamenda, Cameroon, on 5-9 November, 2007

- The International Network of Basin Organizations (INBO) organized the **International Conference on the Implementation of the European Water Framework Directive (EUROPE-INBO 2007)** in Rome, Italy, on 8-10 November, 2007. The three main conference topics were: (a) cost of the Water Framework Directive, i.e., cost of procedures, preparation of management plans and programmes of measures, economic studies, water price, etc.; (b) consequences of global warming: prevention and management of extreme climatic phenomena, such as floods and droughts; and (c) public participation. Special attention was devoted to issues of relevance to river basin districts in the Mediterranean Region. For further information, visit:

<http://www.inbo-news.org/euro-riob/rome/>

- The United Nations Environment Programme (UNEP) Division of Environmental Law and Conventions organized a **Consultative Meeting of Government Officials and Experts on the Programme for the Development and Periodic Review of Environmental Law** (Montevideo Programme) in Nairobi, Kenya, on 26-30 November, 2007. The objectives of the meeting were: (a) to review the Programme and discuss the progress made in the development, strengthening, implementation and enforcement of environmental law since the Programme's adoption by the UNEP Governing Council in 2001, and (b) to consider emerging issues and identify ways forward for the implementation of the Programme, as well as for the preparation of a further programme covering up to the year 2020. The water resources (conservation and management) strategy set forth in the Montevideo Programme is to 'encourage the development of national and regional policies, action plans and, where appropriate, legal instruments for the conservation, protection, regeneration, integrated management and maintenance of the quality and sustainable use of freshwater resources.'

3. DEVELOPMENTS AND PROGRAMMES CONCERNING WATER LAW

- **Australia (Commonwealth)** - The Water Act 2007 (date of assent, 9 March, 2007) contains provisions relating to the management of the water resources of the Murray-Darling river basin. In particular, it provides for the establishment of an independent Murray-Darling Basin Authority with the functions and powers, including enforcement powers, needed to ensure that basin water resources are managed in an integrated and sustainable way. The Act further contains provisions on the development, content, public review, adoption and legal

effects of the basin management plan. The plan is to be complemented through water resource plans prepared by the basin states. The Authority will provide advice to the Commonwealth Minister of Environment on whether these plans are consistent with the basin plan and therefore are to be accredited. The Australian Government's commitment to respect existing water sharing arrangements is implemented through the transitional arrangements set out in the Act. The Act also establishes a Commonwealth Environmental Water Holder to manage the Commonwealth's 'environmental water' so as to protect and restore the ecosystems of the Murray-Darling basin and other Commonwealth-owned water resources. The Australian Government's water holdings will include its share of water savings made through the programmes of the National Plan for Water Security. In the Murray-Darling basin, these holdings will be managed to be consistent with the Environmental Watering Plan developed by the Murray-Darling Basin Authority as part of the basin plan. Existing state environmental water entitlements will be held separately from the Australian Government entitlements, but protocols will be developed in order to ensure that environmental water will be managed in a coordinated manner. The Act provides the Australian Competition and Consumer Commission (ACCC) with a key role in developing and enforcing water charge and water market rules, so as to ensure that water markets are able to operate freely across state boundaries and that perverse outcomes from inconsistent water charging arrangements are avoided. Finally, the Act gives the Bureau of Meteorology water information functions that are in addition to its functions under the Meteorology Act 1955. The Bureau will now be authorised to collect and publish high-quality water information. The publications will include a National Water Account and periodic reports on water resource use and availability.

- **Australia (Capital Territory)** – The Water Resources Act 2007, in force since 1 August, 2007, places emphasis on the well being of the people, the protection of the ecosystems and aquifers depending on water resources and the needs of future generations. Thus, it empowers the Minister for Environment, Water and Climate Change to approve environmental flow guidelines, subject to prior consultation with the public. These guidelines will serve to determine how much water is available for allocation, or reserved for future use, or reserved as minimum environmental flow, in each 'management area' so determined by the Minister. Water allocation is to take place on the basis of access entitlements granted by the Minister, entitling the holders to a percentage of the total amount of water available for taking in a management area. Given that this percentage may vary from time to time, an entitlement holder is not guaranteed a fixed amount of water. The taking of water is also subject to a 'taking licence.' Other types of licences are required to be obtained for borehole drilling on a professional basis, borehole construction, the execution of hydraulic works and groundwater recharge. Part 7 of the Act enumerates the functions of the environment protection authority, while Parts 8, 9, 10 and 11 are devoted to the assessment of water resources, water protection, law enforcement and the review of decisions, respectively.

- **Cambodia** – The Law on Water Resources Management was adopted by the National Assembly on 22 May, 2007. It confirms the principle by which water resources are state-owned and subjects water uses, except those aimed at satisfying the personal needs of the users and their families, to administrative permit. By the same token, it requires wastewater discharges to be licenced. Uses under a permit or licence are subject to the payment of a fee. The Law further provides for water resources planning by river basin, the individual basin plans having to be coordinated by a national plan.

- **European Union** - Directive 2007/60/EC on the assessment and management of flood risks, which was proposed by the European Commission on 18 January, 2006, entered into force on 26 November 2007. Its aim is to reduce and manage the risks that floods pose to human health, the environment, cultural heritage and economic activities. It requires EU member states to carry out a preliminary assessment by 2011 in order to identify the river basins and associated coastal areas at risk of flooding. For these areas the states are mandated to draw up flood risk maps by 2013 and, by 2015, to establish flood risk management plans focused on prevention, protection and preparedness. The Directive is to be carried out in coordination with the Water Framework Directive, notably by flood risk management plans and river basin management plans being coordinated. All assessments, maps and plans prepared are to be made available to the public. The directive was published in the Official Journal of the European Union L 288/29, 6 November, 2007.

- **Geneva Aquifer** – A Convention Relating to the Protection, Use, Recharge and Monitoring of the Franco-Swiss Geneva Aquifer was signed by the Annemasse Community of Municipalities, the Geneva Community of Municipalities and the Municipality of Viry, on the one hand, and the Republic and the Canton of Geneva on the other, on 18 December, 2007. It replaces the 1978 Arrangement on the same subject. Its purpose is continue to ensure sustainability in the use of the aquifer's water resources for drinking water supply and to upgrade aquifer management in the light of recent legal developments. The Convention provides for the establishment of an aquifer development commission to define the annual work programme and propose water protection and conservation measures, as needed. The commission is also to be called upon to provide advice on the construction and modification of abstraction works, and to approve the foreseeable volumes of water to be abstracted in each member state. These volumes will be considered as 'reserved.' France undertakes not to abstract more than a specified annual volume. The Convention further provides for the monitoring of water levels and water abstractions. Monitoring results are to be communicated to the commission. Also, it calls for the periodic analysis of water quality and the establishment of a warning system against accidental pollution. Finally, the Convention contains provisions relating to the determination and allocation of the costs of aquifer exploitation and artificial recharge. The Convention has been in force since 1 January, 2008.

- **Italy** – The Appeals Court of Torino will consider a motion by the Public Prosecutor of Aosta Province to reverse a verdict that acquitted a number of public officials accused of negligence during a landslide and flood in October 2000. These officials were accused of culpable homicide and environmental damage after water, mud, and rocks buried parts of Charvensod and Pollein in the Aosta Valley, killing seven residents. Read more at <http://www.lastampa.it:80/search/articolo.asp?IDarticolo=1679491&sizione=Aosta>

- **Nicaragua** – The General Law on National Waters (Law No. 620/2007), which was enacted on 15 May, 2007, provides a legal framework for the administration, conservation, use and sustainable development of all water resources in the country, including surface water, groundwater, thermal and medicinal water and the water used for the generation of geothermal energy. It aims at ensuring the preservation of water quality and quantity, as well as the protection of other natural resources and related ecosystems. According to Article 4, water supply is a public service that may not be privatized. The Law provides for the establishment of the National Water Resources Council as the apex body for water resources management, while technical and regulatory functions are vested in the National Water Authority (Articles 21-30).

4. TRAINING AND RESEARCH CONCERNING WATER LAW

- The **Geneva University Law School** and the **Graduate Institute of International and Development Studies** are launching a new Master's program in international dispute settlement for the 2008-2009 academic year. The program, equivalent to an LL.M., covers the settlement of international disputes across the board, including private and public international law, international commercial and investment arbitration, WTO dispute resolution, proceedings before the International Court of Justice, negotiation and mediation and dispute settlement relating to environmental questions. Further information may be obtained at: <http://www.mids.ch> , or by writing to: info@mids.ch

- An opportunity to study conflict management at the **Center for Water Law, Policy and Science in Dundee**, Scotland, and the **UNESCO-IHE Institute for Water Education, Delft**, the Netherlands, has been created by two new and related master programmes that are offered under the aegis of **PCCP** (from Potential Conflict to Cooperation Potential), UNESCO's programme on water and cooperation, namely (a) a M.Sc in Water Management – specialisation Water Conflict Management; and (b) LL.M in Water Governance and Conflict Resolution. The masters programme provides the participants with the opportunity to familiarise themselves with the theoretical background of scientific, legal and institutional aspects of water management, and to enhance their ability to design comprehensive water resource policies and strategies. The programme is designed for current and future water

managers, decision-makers and others involved in integrated water resources management. Students need to have a first degree in a relevant subject (economics, social sciences, law, engineering, biology etc.) and preferably several years of relevant working experience. For more information, visit: www.unesco-ihe.org/education/masters.htm or else www.dundee.ac.uk/prospectus/graduate/appform.htm

- **Short courses on water law** are taught by the **Cranfield University**, Bedfordshire, UK, on the dates indicated on the University's website. These courses first illustrate the basic principles and sources of law in general, to then focus on water law in particular, and on various topics of relevance, such as water rights, water conservation, water quality management, the relationship between domestic water law and the most recent EU directives on water policy issues. For more information, visit: <http://www.cranfield.ac.uk/sas/postgraduatestudy/taughtcourses/watermanagement/short%20courses%20cp>

5. PUBLICATIONS AND SOURCES OF INFORMATION OF INTEREST TO AIDA MEMBERS

- **Modern Water Rights, Theory and Practice**, by S. Hodgson, FAO Legislative Study 92, Food and Agriculture Organization of the United Nations, Rome, 2006. This publication offers a fresh look at the theory and practice of modern water rights from a comparative law angle. It sheds light on a number of key features of such rights, and contrasts these to traditional forms and kinds of water rights. It highlights and discusses a number of issues, including in particular those relating to the sale and leasing of water rights. Finally, it provides an assessment of the impact of modern water rights systems. This publication complements two earlier issues featured in the FAO Legislative Studies series, i.e. *Water Rights Administration - Experience, Issues and Guidelines (No. 70 of 2001)*, and *Preparing National Regulations for Water Resources Management - Principles and Practice (No. 80 of 2003)*. The former illustrates the practicalities of implementing and administering the modern systems of water rights, while the latter provides a systematic account of the administrative lifecycle of modern water rights, as reflected in regulatory legislation. These three publications combined provide a rounded review and, in part, a critical analysis of the theory and practice of modern water rights. It is hoped that they will be of inspiration and use in the process of reforming water laws in general, and the laws concerning water rights in particular.

- **Environmental Protection of International Watercourses under International Law**, by O. McIntyre, University College, Cork, Ireland, 2007. This book provides a comprehensive analysis of the legal tools available to determine a reasonable and equitable regime for allocating the waters of international watercourses to riparian states. Furthermore, it examines the processes by which environmental considerations may influence the application of the equitable utilization principle. It may be ordered at Bookpoint Ltd, Ashgate Publishing Direct Sales, 130 Milton Park, Abingdon, Oxon, OX14 4SB, UK; Tel: +44 (0)1235 827730 Fax: +44 (0)1235 400454; email: ashgate@bookpoint.co.uk, or online at: www.ashgate.com

- **Water Resources in the Middle East – Israeli-Palestinian Water Issues – From Conflict to Cooperation**, Springer Verlag, Berlin, Heidelberg, New York, 2007, is an attempt to cast some light on such a difficult issue. Its editors, Professors Hillel Shuval from Israel and Hassan Dweik from Palestine, have compiled the studies of a host of Palestinian, Israeli and international experts offering new perspectives on how to defuse the region's conflicting interests by considering various geopolitical, environmental, legal, economic, and water resource management approaches.

- **Bridges over Water – Understanding Transboundary Water Conflict, Negotiation and Cooperation**, by Ariel Dinar, Shlomi Dinar, Stephen McCaffrey and Daene McKinney, published by World Scientific Publishers, October, 2007. This book places the study of transboundary water conflicts, negotiation and cooperation in the context of various disciplines (such as international relations, international law, international negotiations, and economics), analyzed by using various quantitative approaches, such as river basin modeling and game theory. Case studies of particular transboundary river basins, lakes and aquifers are also considered. The target readership for this book is made up of graduates in economics,

engineering, water law, international relations and practitioners in water resource management, international water law and water policies. The book may be ordered online at: www.worldscibooks.com/economics/6184.html

- **Community-Based Water Law and Water Resource Management Reform in Developing Countries**, edited by B. van Koppen, M. Giordano and J. Butterworth, published by CABI, Wallingford, Oxfordshire, UK, December 2007. This book shows how, by bringing together the strengths of community-based laws rooted in user participation and the formalized legal systems of the public sector, water management regimes will be better able to reach their goals.

- Updated information on the development, implementation and review of water policies is available twice a year through the **WISE Newsletter**, which is the bulletin of the Water Information System for Europe (WISE) and is to be found at http://ec.europa.eu/environment/water/water-framework/newsletter/index_en.htm

- A new **Research Guide on Transboundary Freshwater Treaties and Other Resources** has been published on the GlobalLex website at the Hauser Global Law School Program at the New York University School of Law. The document provides information about major global and regional treaties, databases of international, regional and bilateral agreements, non-treaty instruments, NGOs and intergovernmental organizations, international water commissions such as the Canada-US International Joint Commission, as well as sources of case law. The guide is to be found at: http://www.nyulawglobal.org/globalex/Transboundary_Freshwater_Treaties.htm

6. FUTURE EVENTS

- The Water Research Commission of South Africa, the Department of Water Affairs and Forestry (UNESCO-IHP Focal Point) and the Water Institute of Southern Africa will jointly organize the **International Conference on Integrated Water Resources Management (IWRM): Lessons from Implementation in Developing Countries** at Cape Town, South Africa, on 10-12 March, 2008. The Conference will facilitate an exchange of experiences and lessons on IWRM and create a platform for practitioners and policy makers in the developing world to share their experiences in the implementation of IWRM. The conference will provide an opportunity for dialogue between participants from developing countries and the developed world, as well as the donor society, on the latest IWRM implementation experiences. Its focus areas will be: (a) the enabling environment, i.e., policies and strategies and their translation into law; (b) institutional roles, including an assessment of organizational frameworks and functions; and (c) water resources management instruments, that is, resource assessment, planning, demand management, regulatory and economic instruments and information management. The conference will host the **2nd Africa Regional meeting of the National Committees of UNESCO's International Hydrological Programme** (UNESCO-IHP) For further information contact: Ms Elanda Botes, wbv@dwaf.gov.za, or Dr Shafick Adams, shaficka@wrc.org.za. Tel: +27 12 336 7550 or +27 12 330 9071/0340; Fax: +27 12 328 6397 or +27 12 331 2565.

- The **Symposium on 'Common Grounds, Common Waters: Toward a Water Ethic'** will be organized by the Santa Clara University Journal of International Law and the Center for Global Law and Policy, in association with the Texas Tech University's Center for Water Law and Policy and the Philosophy of Water Project of the University of North Texas. The symposium will take place on 14 March, 2008, at Santa Clara University in Santa Clara, California, USA. It will bring together people from a wide variety of groups representing different interests in water, such as the water industry (e.g., privatized utilities, bottled water, water marketing, etc.), agriculture, government (from the municipality to the national level), environmental and nature organizations, indigenous peoples, human rights organizations, and others. Its purpose is to seek common ground in identifying the water ethics underlying these interests, which might lay the foundation for compromise, cooperation, and sound management of fresh water resources. Fundamental to this goal is the ideal that common

water ethics should be at the base of all water agreements, legislation and management efforts. For more information, visit the symposium website: <http://scjil.wordpress.com>

- The University of Nebraska-Lincoln's ***fifth annual Water Law, Policy and Science Conference***, which will be organized at Lincoln, Nebraska, on 22-23 April, 2008, will focus on water quality issues important to Nebraska and the Great Plains. Conference topics are expected to include stormwater runoff, watershed management, economic and legal issues related to water quality, and agricultural issues including water quality impacts of expanding biofuels production, farm bill provisions and livestock waste management. For more information, visit: <http://watercenter.unl.edu/WaterConference/WConf.asp>

- A ***third International Conference on Managing Shared Aquifer Resources in Africa*** will be organized by the General Water Authority of Libya, jointly with UNESCO and the Observatoire du Sahara et du Sahel (OSS) in Tripoli, Libya, on 25-27 May, 2008. This conference, which is the logical follow-up of two conferences which took place in 1999 and 2002, respectively, will focus once again on the needs of Africa and will aim to take the International Shared Aquifer Resources Management (ISARM) initiative one stage further. This will include providing support for the sub-regional ISARM expert networks, which are active in the South African Development Community (SADC) and West Africa, drawing on suggestions made in the ISARM Framework Document (2000). The conference will therefore consider the formulation of recommendations for the Regional Centre for the Management of Shared Groundwater Resources (Tripoli) in order to develop a plan of action supporting the current and new African Expert Groups. The scope of the Conference will also include the establishment of a plan of action for shared aquifer systems resources management in Africa as a whole. This is intended to provide support to both the African Union and the African Ministerial Council on Water. For more information, visit: http://www.unesco.org:80/water/water_events/Detailed/1597.shtml

- The ***2008 World Water Week in Stockholm***, annual event organized by the Swedish International Water Institute (SIWI), will take place on 17-23 August, 2008. Its theme is 'Progress and Prospects on Water: For a Clean and Healthy World', including a special focus on sanitation. The deadline for workshop paper proposals is February 1, 2008. The First Announcement and Call for Papers is now available at: <http://www.worldwaterweek.org>

- The ***11th International RiverSymposium*** will be jointly organized by the Brisbane City Council and the Queensland Government in Brisbane, Queensland, Australia, on 1-4 September, 2008. Its thematic focus will be on climate change, drought management, flood mitigation, urban waterways, water and food production, insurance risk analysis and economic and legal implications. Subjects such as environmental flows and transboundary rivers will also be covered. Furthermore, the new topics 'water sensitive urban design,' 'responsible mining' and 'manufactured water' will be discussed. For more information as to how to participate and contribute to this event, visit <http://www.riversymposium.com>, or contact the RiverSymposium Office at the following numbers: Tel (+61 (0)7) 3833 5406; Fax (+61 (0)7) 3833 5450

- In association with the Institute for Water and Watersheds at Oregon State University, the International Hydrological Programme of the United Nations Educational, Scientific, and Cultural Organization (UNESCO-IHP) and The World Bank, The National Groundwater Association (NGWA) will organize its first ***International Conference on Nonrenewable Ground Water Resources – Sociotechnological Aspects of Nonrenewable Ground Water Resources: Half-Empty, Half-Full, Top-Down, Bottom-Up, and Some Paths Forward*** in Portland, Oregon, 13-14 October, 2008. In 2006, UNESCO-IHP, in concert with The World Bank, published the landmark Non-Renewable Groundwater Resources: A Guidebook on Socially-Sustainable Management for Water-Policy Makers. For the first time, selected case studies were presented on how the global community was dealing with the issue of ground water "mining." However, case studies of aquifer systems in the United States and Canada were absent, even though in these countries non-renewable ground water resources are also being exploited. This conference aims to facilitate the sharing of information and management approaches among water professionals from around the globe. The following aspects of non-renewable groundwater resources management will be covered, in addition to

scientific-engineering aspects: social, legal, economic, institutional, policy and management. For further information, visit:
<http://www.ngwa.org/DEVELOPMENT/conferences/details/0810135055.aspx>

- The **IV International Symposium on Transboundary Waters Management** will be jointly organized by the Aristotle University of Thessaloniki (Greece) and the UNESCO Chair on Sustainable Management of Water and Conflict Resolution at Thessaloniki, Greece, on 13-14 October, 2008. Topics will cover transboundary surface water, transboundary aquifer resources, joint monitoring, data and information sharing, conflict resolution, stakeholder participation and legal and institutional issues. Further information will be posted on www.inweb.gr

- The **International Conference on Water Scarcity, Global Changes and Groundwater Management Responses** will be convened by UNESCO and the University of California-Irvine at Irvine, California, 1-6 December, 2008. The conference seeks to bring together leading water management and climate change experts, scientists and engineers, policy makers, lawyers and economists, as well as executives of water services of local and regional authorities. It will present innovative and appropriate technologies to address water scarcity and global change effects on water availability and quality, explore the specific scientific and technical tools for groundwater studies and management, and discuss how to incorporate such technologies into short-term decision-making and long-term water management and policy-making. For more information, visit:
http://www.unesco.org/water/news/newsletter/194.shtml#eve_4

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