



UNITED NATIONS FRESHWATER AGREEMENTS INITIATIVE

News Update n.06 – February 2009

For more information, please visit

http://www.panda.org/what_we_do/policy/international_water_law/

Summary

1. The United Nations Freshwater Agreements Initiative
2. What WWF, partners and other key stakeholders have been doing
3. New ratifications/accessions and other successes
4. Outcomes from events
5. New/updated/revised informational materials
6. Upcoming meetings/events

1. The United Nations Freshwater Agreements Initiative

WWF is calling on countries to take action to give effectiveness to three policy instruments that promote cooperation among basin/aquifer States and establish their rights and obligations in the use and management of internationally shared freshwater resources:

- a) **United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses (UN Watercourses Convention):** The world's governments are urged to join and implement the UN Watercourses Convention, which still requires 19 additional ratifications out of 35 that are necessary for entry into force.
- b) **ILC Draft Articles on the Law of Transboundary Aquifers, 2008 (2008 ILC Draft Articles):** The world's governments are called upon to consider the ILC Draft Articles and how they can be best applied to foster the cooperative management of their groundwater systems shared with neighboring nations. In so doing, states are advised to take into account both the weaknesses and strengths of the draft articles—an assessment WWF is currently developing with the aim of fostering continuous dialogue and ultimately contributing to the improvement of the text adopted by the ILC in a future binding instrument on the topic.
- c) **Amendments to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (UNECE Water Convention):** The member states of the *United Nations Economic Commission for Europe (UNECE)* and parties to the UNECE Water Convention are asked to accept the 2003 Amendment that opens the convention for accession by non-member states. At this time, ten parties have accepted such an amendment and 34 are necessary for the Meeting of the Parties to consider requests for accession by third states.

2. What WWF, partners and other key stakeholders have been doing

The UN Watercourses Convention Global Initiative: There has been considerable progress in West Africa, particularly in Benin, where WWF and the *National Water Partnership* have been working closely with the government and other stakeholders. Over the last few months, they have organized a press conference to launch the process with participants from civil society and the government, and established a technical committee to push and follow the process.

The national assessment of the convention's value for Benin is now complete. It a) identifies the procedures for accession, as well as the main institutions and decision-makers that need to be involved; b) proposes actions for raising awareness and facilitating the process; and c) develops the legal, strategic and technical reasoning for Benin's accession (e.g., value added to other relevant environmental and watercourse agreements; compatibility with the national regulatory framework; the country's decision to pursue sustainable development, develop a modern agricultural sector, implement the Poverty Reduction Strategy towards achieving the MDGs, and resolve peacefully all transboundary issues with neighboring countries; almost all of Benin's main rivers are transboundary).

In December 2008, GWP-Benin organized a follow-up *National Workshop* to sensitize and provide technical information about the convention, its content, advantages, and opportunities from ratification and entry into force for Benin. The event gathered officials from the Ministries of Foreign Affairs, Justice and Water Resources, experts, the media, and national and international NGOs working on water resources. The workshop's main recommendations were as follows:

- Refer to the Government of Benin the case for the country's accession to the convention, on the basis of a document detailing the motifs, motivations and the convention's history, and propose that it requests the National Assembly to follow urgency procedures;
- Consider the convention as an instrument for climate change adaptation and for the sharing of data and information relevant for the management of transboundary basins;
- Carry out the convention campaign in parallel with other legislative processes (e.g., national water law; Niger Basin Water Charter; Volta Basin Convention);

Participants also adopted a declaration, calling on: a) the Government of Benin to process the country's accession as soon as possible; b) the Members of Parliament, the workshop participants, and the civil society to undertake the actions necessary for decision-makers to understand/implement the principles of the convention; and c) civil society organizations to carry out activities for informing and sensitizing stakeholders and building their understanding of the convention's importance as a means to reinforce regional cooperation with respect to Benin's transboundary water resources.

2008 ILC Draft Articles: During its 63rd Session, the UN General Assembly considered the International Law Commission's report and a) took note of the draft articles; b) commended them to the attention of governments without prejudice to the question of their future adoption or other appropriate action; c) encouraged the states concerned to make appropriate bilateral or regional management arrangements, taking into account the draft articles; and d) decided provisionally to examine the question of the form that might be given to those articles at its 66th Session.

Amendments to the UNECE Water Convention: At its last meeting, in December 2008, the convention's Legal Board drew the parties' attention to the need for greater efforts towards the

amendments' widespread ratification, and agreed to assist the *Working Group on Integrated Water Resources Management* in the preparation of a message urging the relevant parties to take action.

3. New ratifications/accessions & other successes

The UN Watercourses Convention Global Initiative:

- **Calls for ratifications:** *The Mediterranean Message to the 5th World Water Forum: The Beirut Input* (Beirut, Feb. 2009); *Mediterranean Civil Society Statement to the Euro-Mediterranean Ministerial Conference on Water* (Dead Sea, 22 Dec. 2008); *2008 World Water Week – Synthesis Report* (The report also includes a recommendation for the relevant countries to accept the 2003 Amendments to the UNECE Water Convention);
- **Recent documents referring to the convention:** *Barcelona Process: Union for the Mediterranean: Declaration of the Euro-Mediterranean Ministerial Conference on Water* (Jordan, 22 Dec. 2008);

2008 ILC Draft Articles: Key text changes in the draft articles in relation to their 2006 version address some of the concerns raised by WWF throughout the drafting process, in particular:

- **Factors relevant for equitable and reasonable utilization:** In aquifer systems, overexploitation may lead to unexpected soil subsidence and suddenly result in adverse, possibly irreversible transboundary effects. For this reason, what matters for purposes of groundwater allocation are the *impacts on the aquifer itself* from activities within each aquifer State. A country exceeding recharge rates should not wait until its neighbor begins to suffer *transboundary* detrimental effects to impose extraction gaps within its territory. The new text incorporates these considerations.
- **Protection of discharge and recharge processes:** WWF's recommendation was that states should be required not only to minimize detrimental impacts on those processes, but also to take preventive action to avoid the occurrence of such impacts in the first place. The new draft article on the topic reflects that concern.
- **International cooperation:** WWF had suggested that international cooperation with developing countries should include capacity-building on legal matters. Legal assistance is now included in the chapeau of the draft article in question.

4. Outcomes from Events

The UN Watercourses Convention Global Initiative:

- **VI Conferencia Centroamericana de Legisladores del Recurso Hídricos:** In Dec.2008, WWF joined GWP-Central America, Alianza por el Agua, and Guatemala's Congress, as a co-host of the *VI Central American Conference of Water Legislators*, in Antigua, Guatemala. Counting with the participation of the parliamentarians and legislative advisors pushing for the adoption of national water laws in their own countries, the event was a great opportunity to inform and debate the content and value of the UN Watercourses Convention for Central America.

During the closing session, representatives from Guatemala, Panama, Honduras, Costa Rica, and the Central American Parliament (PARLACEN) signed the *Antigua Declaration*, which: a) underscores the need to develop and strengthen frameworks and mechanisms for transboundary water cooperation, b) invites the Executive Power of those countries and the Presidents' Meeting of the *System for Central American Integration* to evaluate the convention and its applicability in the region, and c) states their

interest, as parliamentarians, to examine how the convention may contribute to the goal of improving the governance of transboundary waters in Central America, and to consider its possible ratification.

- **Alliances Workshops “Do we need a legal framework for water and lake management at global scale?”**, during the IUCN World Conservation Congress (Barcelona, 5-14 Oct. 2008): As an outcome of the workshop, the Global Nature Fund decided to join the UN Watercourses Convention Global Initiative and to mobilize its ‘Living Lakes’ partners that are active in transboundary lakes and wetlands for them to take action too.

5. New/updated/revised informational materials*

The UN Watercourses Convention Global Initiative:

- **UN Watercourses Convention booklet:** WWF will launch an updated version of the booklet “*Everything you need to know about the UN Watercourses Convention*” at the 5th World Water Forum, as well as its French translation. Both are already available on the initiative’s website.
- **Presentations/outcomes** from recent events:
 - **IUCN Resolution 4065** (*Freshwater Biodiversity Conservation, Protected Areas and Management of Transboundary Waters*), calling on states to join the UN Watercourses Convention
http://intranet.iucn.org/webfiles/doc/IUCNPolicy/Resolutions/2008_WCC_4/English/RES/res_4_065_freshwater_biodiversity_conservation_protected_areas_and_management_of_transboundary_waters.pdf
 - **WWF Presentation at the Alliances Workshops “Do we need a legal framework for water and lake management at global scale?”**, at the IUCN World Conservation Congress
http://intranet.iucn.org/kb/pub/wcc/forum_event.cfm?E1121/Final Document/
 - **VI Central American Conference of Water Legislators**
 - *Antigua Declaration* (in Spanish): <http://www.gwpcentroamerica.org/uploaded/content/event/889753255.pdf>
 - *WWF Presentations: Flavia Loures*, The Global Initiative to promote the UN Watercourses Convention (in Spanish); *Prof. Alexander López*, The Importance of the UN Watercourses Convention as an Instrument of Regional Water Governance and Management (in Spanish)
<http://www.gwpcentroamerica.org/uploaded/content/event/1276386780.pdf>
<http://www.gwpcentroamerica.org/uploaded/content/event/879513208.pdf>

2008 ILC Draft Articles:

- **Draft articles on the law of transboundary aquifers, 2008**
 - **English:** http://untreaty.un.org/ilc/texts/instruments/english/draft%20articles/8_5_2008.pdf
 - **French:** http://untreaty.un.org/ilc/texts/instruments/english/draft%20articles/8_5_2008.pdf
- **Draft articles on the law of transboundary aquifers with commentaries, 2008**
 - **English:** http://untreaty.un.org/ilc/texts/instruments/english/commentaries/8_5_2008.pdf
 - **French:** http://untreaty.un.org/ilc/texts/instruments/francais/commentaires/8_5_2008_francais.pdf

6. Upcoming Meetings/Events

5th World Water Forum: Istanbul, 16-22 Mar. 2009: In the coming days, we will be sending a special edition of the newsletter focusing exclusively on our activities on international water law and the UN Watercourses Convention, both at the Forum and in celebration of the 2008 World Water Day, which will focus on transboundary waters.