

## **SESSION II b**

### **INVOLVEMENT OF RIGHT INSTITUTIONS AND PEOPLE**



## Public participation in a sub-basin of the River Scheldt – the Scheldt estuary

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### Introduction

The Scheldt estuary has been the witness of centuries of strife between Belgium and the Netherlands. The Scheldt is a relatively small lowland river; its source is to be found in the northern regions of France; it crosses Belgium; and it reaches the sea through the Western Scheldt, separating two parts of the Netherlands province of Zeeland. The Western Scheldt constitutes the maritime access to the port of Antwerp, which at the end of the Middle Ages gained prominence as a major sea port. When the Spanish King became the region's sovereign and decided to eradicate the emerging Protestant religion, the Netherlands seceded from the Kingdom, and soon the decision was taken to close the fairway to Antwerp. This gave a double advantage to the Dutch: it made it impossible for the Spanish rulers to invade the Netherlands by sea from close by, and it created a wonderful chance for the Dutch ports – Amsterdam, and later Rotterdam – to take the lead in the North Sea region (to be fair, many merchants had left Antwerp for Amsterdam, and contributed very much to its rapid rise). The fairway to Antwerp was kept shut until the French Revolution, and was closed again after Belgium – which had been united with the Netherlands after Napoleon's fall – declared its independence. The fairway was again opened when the Netherlands were internationally forced to recognise this independence in 1839.

The foreign powers forced the Dutch to accept an obligation to upkeep the fairway, but the provision introduced to this effect in the 1960 Border Treaty was interpreted in a different way by the two Parties – Belgium claimed a right to adapt the fairway to the rising needs of navigation, while the Netherlands just acknowledged an obligation to guarantee the maintenance of the fairway at the depth of the year 1839; the Dutch considered further deepening to be negotiable according to the rules of good neighbourhood.

In the 1820s, Belgium nearly succeeded in acquiring a joint management of the Western Scheldt, which would have given top priority to the navigation needs; but the Treaty concluded to this effect was rejected by the Netherlands' Senate, which led to the resignation of the Dutch Minister of Foreign Affairs.

In 1948, the competent Ministers from Belgium and the Netherlands agreed to establish a bilateral consultative commission, the "Technical Scheldt Commission" (TSC), consisting of high level officials from both sides, with a mandate to deliberate on all technical questions that could arise regarding the management of the estuary, and therefore not limited to the river Scheldt being used as a navigation channel. This Commission, which on the average meets once a year, has proved to be very active, has succeeded in building confidence between the administrations on both sides, and has become of great influence on all political decisions which affect the estuary. On the other hand, it was quite a difficult matter to bridge the mutual historical mistrust, which persevered at the political level.

After a deepening of the fairway negotiated at official level, which took place around 1970, a Belgian demand for amelioration was stalled for 15 years. This was largely due to the demand having been linked to a Dutch request for improving the water quality of the Rivers Meuse and Scheldt, as well as the flow of the River Meuse. This linkage failed because of internal Belgian reasons: the profits would largely go to the Dutch-speaking northern part of the country, Flanders, while by far the largest burdens would have to be borne by the French-speaking south, Walloon. The linkage had to be lifted when both the Flanders and Walloon regions got autonomous powers for concluding treaties. Moreover, the adoption of the UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes in 1992 convinced both Parties that water-quality issues must be negotiated multilaterally at the river basin scale. In

January 1995, Flanders and the Netherlands signed an agreement<sup>1</sup> leading to a further deepening of the fairway. By mid-1996, the agreement was ratified by both Parties.

The implementation of this agreement, however, proved to be more difficult than foreseen. The Netherlands Government had negotiated with nature conservation groups in the region the issue of compensation – by moving parts of the local dikes backward – for the inter-tidal areas that could be lost as a result of the deepening works. This was an essential issue because the Scheldt estuary is a beautiful, broad water body right on the way of an important migratory route for birds; and many birds are hibernating in the region as well.

But in doing so, the Government forgot to consult the Netherlands Association for Bird Conservation, and did not communicate well with the local population of the province of Zeeland that surrounds the Netherlands part of the estuary. This province's coat of arms shows a lion in the water, saying: "*Luctor et emergo*", or "I am wrestling and I emerge", thereby illustrating its inhabitants' credo that they are mastering the sea; a feeling which is nurtured by the still vivid remembrance of the terrible inundation of 1953. The mere idea of seeing valuable agricultural areas being destined to be submerged infuriated many people – especially because this "only" would serve nature conservation goals.

The appeal made by the bird conservationists made the Netherlands Government fear that this association might use every possibility to stop the legal procedure. Therefore, a special law was introduced which channelled all applicable licensing procedures relating to the deepening works (based on several different laws) into one integrated and harmonized procedure. Thanks to this special regime, the deepening works started in mid-1997.

But even this did not solve the problems with the Zeeland inhabitants. Now, five years later, only a limited part of the nature compensation works is being implemented, due to reluctance from municipalities or farmers refusing to cooperate by making available the necessary grounds. In the bilateral context, this is an especially touchy issue, because Flanders already paid two-thirds of the calculated compensation costs as a lump sum to the Netherlands, and has yet to see most of it to be used for the intended goal.

Meanwhile, Flanders expressed its desire to study a new deepening programme, which would allow the new generation of container ships currently under construction to access Antwerp without loss of time; and it reopened the discussion on the joint management of the Western Scheldt. In the Netherlands, however, the feeling became more and more general that the estuary would not support any more infringement on its morphology. The Provincial Council of Zeeland already had spoken out unanimously against further deepening; the central Government had had huge difficulties convincing Parliament that it would not be wise to follow this position without Flanders having made a formal request for negotiating such further deepening.

Under these circumstances, the Netherlands proposed to Flanders to make a joint, integrated study of the estuary's possible long-term development, not concentrating on single issues any more, but focusing on the three functions: safety against flooding, accessibility and nature protection. As Flanders has a very high interest in the development of these three main functions in the Scheldt estuary, this invitation was immediately accepted. Both Governments assigned to the Technical Scheldt Commission the responsibility to serve as the bilateral platform for elaborating this Long Term Vision on the Scheldt estuary.

### **The Long Term Vision on the Scheldt estuary**

The Long Term Vision (LTV) on the Scheldt estuary was initiated as a study project. Specialists of both countries in matters of water, dredging, morphology, safety, ecology, economy and shipping joined their forces to examine the possibilities of the estuary to meet all kind of human needs. The project was steered by a group of Government officials, representing all the administrations competent in the different policy fields.

From the start on, much attention has been paid to cooperation between the two countries. During the project time of two years, a big amount of knowledge was exchanged, which enhanced mutual understanding between both researchers and officials very positively.

The LTV gives an integrated vision on the development of the three main functions of the Scheldt estuary over a period of thirty years starting in 2000. The study consists of three parts:

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<sup>1</sup> Convention on the enlargement of the fairway in the Western Scheldt, done at Antwerp on 17 January 1995.

- A short-term situation sketch;
- A long-term target image (2030);
- Different scenarios for the medium-term development (2010).

The short-term situation sketch describes the situation expected to be achieved in 5 years, with the actual situation as reference condition. This sketch, to be considered as the LTV's starting point, includes short-term changes resulting from established policy and planned actions.

The Long Term Target Image formulates the objectives to be reached within 30 years; it points out the direction within which concrete measures in the medium-term and long-term periods should fit. Within a certain range, different sets of measures can lead to the objectives defined. To this effect, the LTV describes four different scenarios for the development until 2010 (medium term). Joined together, the scenarios indicate the range for future estuary policy and management.

The Long Term Vision did not make a choice between the scenarios described: this would have to be the result of a political debate and decision in both countries, while other options were still left open.

The Long Term Target Image defines five policy objectives to be reached by 2030, summarized together as: "In 2030, the Scheldt estuary is a sane and multifunctional water system, which is used for meeting human needs in a sustainable way." The objectives are as follows:

- The conservation of the physical system characteristics of the estuary is the starting point for management and policy;
- Maximum safety against flooding, based on risk management, is an existential condition for both countries;
- As a driving force for the prosperity of the region, the ports in the Scheldt estuary are accessible in an optimum way;
- The estuarine system is healthy and dynamic;
- The Netherlands and Flanders are working together on administrative-political and operational levels.

In January 2000, the Technical Scheldt Commission approved the Long Term Vision as formulated by both responsible administrations. This was the starting point for a public debate and a political decision making process.

### **The Memorandum of Kallo**

Shortly after the approval of the Long Term Vision by the Technical Scheldt Commission, both responsible Ministers, T. Netelenbos of the Netherlands and the S. Stevaert of Flanders, met in Kallo (Belgium), where they signed a Memorandum of Understanding. The memorandum describes the follow-up procedure to come to an agreement on medium-term actions, which should result in the implementation of the Long Term Target Image. This procedure illustrates the future decision trajectories in both countries and a timetable to come to conclusions.

Because of the great economic interest in the estuary's use as shipping lane, Flanders engaged itself to decide on its position before 1 June 2001. The Netherlands, in turn, engaged itself to formulate its point of view six months after Flanders' official position.

After signing the Memorandum of Understanding, a thorough information campaign towards every possible actor with interests in the use of the estuary was organized in Flanders. This preceded and triggered a public debate, organized by the Commission for Mobility and Public Works of the Flemish Parliament. The Commission organized hearings. The most important public and private actors from shipping companies, port authorities, companies responsible for the handling of goods, pressure groups as well as authorities in the fields of transport, ecology, economics, etc. were invited to give their opinion on a long-term evolution in their fields. Dutch stakeholders were heard as well. This debate has led to a Parliamentary resolution, which was approved by a great majority of the political fractions.

This resolution represented, in fact, the Flemish position in the file of the Scheldt estuary.

The resolution was confirmed by a decision of the Flemish Government and was transferred to the Dutch Government on 31 May 2001, respecting the deadline agreed at Kallo.

### **Content of the Flemish position**

It cannot be denied that the Flemish point of view is strongly influenced by the question of the maritime accessibility of the port of Antwerp. Nevertheless, the accessibility is embedded in a framework of actions and measures, which cover the needs of the other functions of the estuary. The entire concept of integration of the different main functions was respected.

After a long debate, the Flemish Parliament and Government asked the Netherlands to agree on the study of a further deepening of the river Scheldt to allow containerships with a draught of 12.80 metres to access Antwerp in the course of one tidal cycle. Therefore, two main studies should be elaborated: a strategic environmental impact assessment and a socio-economic cost-benefit analysis. While the strategic environmental impact assessment is based on a legal requirement of the European Union not yet implemented by the Member States, the Flemish Parliament requests the cost-benefit analysis. In these studies, special attention should be given to the ecological and morphological consequences as well as to impacts on the safety in the estuary.

Great attention was given also to the future cooperation between the two countries. The Parliament recommended developing new and common administrative structures to meet a closer cooperation in policy-making and management of the estuary. Special attention should be devoted to the EU Bird<sup>2</sup> and Habitat<sup>3</sup> Directives.

Other recommendations were given such as paying attention to other uses, in particular fishery and recreation. The cooperation among the seaports in the Scheldt region was also requested.

### **Formulation of the Netherlands position**

Once the Flemish position was defined, the Netherlands started to prepare its position. Already shortly after the conclusion of the Memorandum of Understanding, the Netherlands State Secretary for Water Affairs, Ms. De Vries, entrusted a special counsellor with the task to consult with relevant persons and groups in Flanders and the Netherlands in order to give advice on the stand to be taken by the Netherlands Government. In parallel, she asked the provincial councillor for water affairs to constitute a group of representatives of municipalities, water boards, regional NGOs and special interest groups – port authorities, nature protection, agriculture, fisheries, tourism – with the aim of formulating a common basis for the Government position to be developed; a delegation of this group was subsequently invited to a series of meetings with the most involved members of the central Government.

This approach – intended to make it clear to all parties concerned, especially those in the Zeeland region, that they were being taken seriously by the Government – proved to be extremely helpful; the moderate character of the Flemish position also considerably facilitated the decision-making process. The provincial councillor succeeded in a short time to get everyone in his group to agree on an approach, which was well suited to the Flemish position, and to formulate a number of conditions to be attached to the study proposed to be undertaken. The Government in turn took over most of these conditions in its position, and took care that the remaining concerns of the regional group were to be addressed during the follow-up process. Because of the inclusiveness of the preparatory process, the central Government succeeded in fixing its position much sooner as foreseen: instead of late November, it was taken by mid-October.

The Netherlands Government position was essentially in line with the Flanders position, but it added some specific conditions and specifications. It asked for a joint medium-term development sketch based upon the Long Term Target Image, giving equal weight to safety, accessibility and nature values and at least containing three scenarios of accessibility for the fairway to Antwerp (among which a zero-scenario, and, as a maximum option, the draught mentioned in the Flanders position).

These items were to feature into the strategic environmental impact assessment and the cost-benefit analysis already requested by the Flemish Parliament. In this context, special consideration was to be given to

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<sup>2</sup> Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds, published in the Official Journal L 103 on 25/04/1979. For amendments see <http://www.europa.eu.int/scadplus/leg/en/lvb/l28046.htm>.

<sup>3</sup> Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, published in the Official Journal L 206 on 22/07/1992.

the surrounding region's safety against dangerous cargoes, and to abiding by the EU Bird and Habitat Directives.

Still, the Netherlands Parliament needed to be won over. This induced the Vice-Minister, Mrs. De Vries, to let her administration contact in the early summer, via the Flemish administration, the Flanders Parliamentary Committee for Public Works, which subsequently invited the Netherlands sister committee for a joint boat trip on the estuary. This trip, which took place at the beginning of September and which was attended by nearly all political parties represented on both sides, was a big success: the Parliamentarians had the opportunity to exchange views and to explain their concerns. They agreed to have another meeting after the Netherlands Government position was defined. This meeting also took place as scheduled. It convinced the Dutch Parliament of the necessity to give priority to discussing the issue. The discussion took place end December and resulted in a "go-ahead" for the Government position. But besides, Parliament unanimously adopted a motion inviting the Government not to take new decisions on the matter before more clarity was given on the interpretation of EU legal nature protection requirements and on the impact of earlier civil engineering works on the estuary, including the last deepening.

### **The Memoranda of Vlissingen**

At the end of the year, everything seemed to be in place for the competent Ministers to sign a joint Memorandum formulating the common position at which the Netherlands and Flanders had arrived. At least, so it seemed. The Directors General agreed on the text of the draft Memorandum, combining the requests made by both Parties. The two authors of this paper, secretaries of the Technical Scheldt Commission, were in charge of coordinating the contributions of the two countries and had agreed on organizing a formal signing ceremony in Vlissingen, a relatively small Dutch sea port at the mouth of the estuary, where concerns about the safety risks of dangerous cargoes were running very high. We knew that the recognition by Flanders of the legitimacy of these concerns would be an important means for creating regional goodwill in view of possibly controversial decisions to be taken in future. Indeed, the municipal government of Vlissingen was extremely enthusiastic about acting as a host for the ceremony.

But while everything seemed to work out perfectly, signs came of a political upheaval in Flanders. Apparently, the port of Antwerp, which up to then had given the impression that it would accept the common Dutch/Flemish position, mobilized a lobbying circuit and the press was stressing that the text did not give sufficient guarantees for a speedy follow-up of the foreseen medium-term sketch, and was moreover pleading strongly for a return to a single-issue approach by introducing a firm reference to the ancient treaties. Virulent debates were held in the Flemish Parliament, which induced the Flemish Government to look for a wording, which could both placate Antwerp and save the win-win solution that had been reached. Eventually, such a wording was found, but this intervention caused a delay of about a month, and it narrowly failed to shatter the common ground we had succeeded to find. Eventually, on 4 March 2002, the Ministers met as agreed in Vlissingen – 2 days before the municipal elections took place – and signed both Memoranda.

The Ministers, inter alia, agreed upon the following points:

- The Long Term Target Image was defined as "keeping in good shape the physical characteristics of the water system of the Scheldt estuary, and creating an optimum balance in safety, accessibility and nature values";
- The Technical Scheldt Commission was requested to elaborate, within one year, proposals, including a legal framework, for transboundary cooperation relating to policy making and management of the Scheldt estuary, within the context of the EU Water Framework Directive<sup>4</sup> on the basis of a new, bilateral organization structure.

The Ministers agreed on the following conditions for such a structure:

- Guaranteeing an integrated approach, in conformity with the objective 2030;
- Balanced representation of authorities and organizations on both sides;
- Intensive and open contact among the bodies involved;

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<sup>4</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, published in the Official Journal L 327 on 22/12/2000.

- Direct communication with, and accountability towards, the political level;
- Sufficient mandate and powers for a flexible response to new developments.

They, moreover, identified the following elements to be incorporated:

- A yearly Ministerial meeting with decision-making powers;
  - A renewed Technical Scheldt Commission as the umbrella of the structure at the central administrative level, also charged with the preparation of the Ministerial meetings;
  - A council comprising local and regional Government representatives;
  - An advisory body representing special interest groups and NGO's.
- In particular, the ports in the Scheldt region on both sides were invited to periodically convoke a round-table meeting in order to strengthen their cooperation and to give advice to the Government on strategic issues concerning regional port development and policy issues;
  - The Technical Scheldt Commission was requested to elaborate, within 6 months, proposals for a jointly managed, long-term monitoring and research programme to support the transboundary cooperation regime, including a common organizational structure and a joint budget;
  - Flanders and the Netherlands will, on the basis of the objective 2030 and of both Government positions, elaborate a medium-term development sketch, serving as a joint point of depart for policy making and management concerning the Scheldt estuary. This sketch will take into consideration: morphology, flood protection, dangerous cargoes, accessibility, nature values, fisheries and recreation. Apart from the three deepening scenarios asked for by the Netherlands, this sketch would have to contain:
    - A plan to make a linkage between the Scheldt estuary and a former parallel estuary, the Eastern Scheldt. This linkage would serve to divert waters from the Scheldt in order to reduce extremely high tides on both sides of the border;
    - A nature development plan for the estuary. The supporting studies (strategic environmental impact assessment, cost-benefit analysis) will have to be ready within 2 years. Nine months later, political decision-making will have to take place. The sketch will be elaborated by a joint project directorate, which was subsequently established by the Technical Scheldt Commission at its meeting on 29 March. A body representing ministries and provincial Governments involved at official level will counsel this directorate. Moreover, both sides have designated an independent high-level counsellor with a mandate to collect opinions from local Governments, special interest groups and NGOs and to shape this into a collective, if possible unanimous, advice such as to create broad commitment for the outcome of the decision-making process.
  - In order to support the elaboration of the preceding products and to assess their legal implications, the Technical Scheldt Commission is requested to create a team of legal experts. This team will give special consideration to:
    - The sovereign rights of both Parties;
    - The legal framework of international agreements related to the Scheldt;
    - The EU legal framework;
    - The guarantee of democratic control and citizens' rights.
  - Finally, the Ministers, jointly with the provincial governors of Antwerp and Zeeland, signed a separate Memorandum promising to take joint action for making a maximum effort for reducing the risks generated by dangerous cargoes to an acceptable level, through both nautical measures and preventive action at the source. This promise is of paramount importance for gaining the confidence of the local Governments in Zeeland for any new projects with an impact on the Scheldt estuary.

### Lessons learned

The cooperation process on policy making and management of the Scheldt estuary is still in its infancy. However, important steps have been taken to overcome centuries of strife, hidden agendas and mistrust on both sides, and to create new facts and procedures, which will be difficult to shift aside. A very important motor has been the Technical Scheldt Commission, which has proven to be a stable and straightforward official body with excellent access to the competent Ministers and a high degree of mutual openness. This



created a high level of trust among the services concerned, which was additionally triggered by the Long Term Vision process.

Excellent cooperation between central Governments, even if it constitutes an essential element for success, is however not sufficient in such heavily historically burdened situations. The following important conclusions can already be drawn from the recent cooperation process:

- Involve all Government levels at both sides. You need the support of local Governments because they are situated nearest to the citizen; if you neglect them, their interventions and attitudes will easily frustrate cooperation. You need the support of provincial Governments, because they constitute the intermediate decision-making level that is best placed to bring together local Governments, special interest groups and NGOs. You need the support of the ministries involved at central level, because they have the power to stop even a process, which has got the support of anyone else;
- Do not just try to convince external parties, but listen to them and try to learn from them. They may have helpful ideas, which may advance your own aims and even make them more attractive; they may have doubts that you may easily overcome. They even may just want to be listened to and to be taken seriously. The more you listen to them, the less they will be inclined to obstruct the furthering of your aims. And of course, try to get support from all parties that might cause substantial harm to your aims; turn them into allies by looking for win-win situations! Even if this implies that you have to substantially extend the scope of your activities, it will ease the implementation. Making use of independent trusted counsellors, as intermediaries between those parties and the decision-makers may be important;
- Promote transboundary cooperation at the level of all parties involved. It will help them to overcome feelings of mistrust and prejudices. Stimulate nature protection groups to cooperate at both sides of the frontier. React positively, if seaports from both countries succeed in reaching a common position. Bring together local Governments, as well as provincial Governments. And do not hesitate to organize joint meetings of Parliamentary delegations. This will improve understanding and the risk of unilateralist thinking will be improve;
- Keep your focus on integrated research and integrated decision making instead of concentrating on single issues; and, in this context, give due regard to the morphological issue, which constitutes the linking pin between most interests involved in an estuary. Just pushing accessibility interests can prove to be counterproductive if it does not take into consideration the impact on the estuary's system characteristics. The EU legal requirements apply to both sides of the border. And if anything, safety measures against flooding are a subject of mutual concern;
- Communicate jointly with the external world as much as possible. In our case, the existence of a common "Scheldt information centre" has helped a lot to build trust. Common fact-finding is extremely important, because agreement on the facts makes your position stronger against obstructive attempts from single-issue groups or even from the press;
- Take single-issue parties very seriously, but do not allow them to get involved in the final decision-making. Governments are there to find the right balance between the issues at stake.



## Public access to information and participation in decision-making in local, national and transboundary contexts: experience of MAMA-86's drinking-water campaign

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### Introduction

Water is vital for life and the health of people and ecosystems: It is a common good and basic requirement for the sustainable economic and social development.

Ukraine is a water-limited country with unequally distributed water resources. About 75% of the population is supplied from surface waters, the quality of which is insufficient for drinking purposes. More than 814,000 dwellers in 13 oblasts and in the Crimea do not have permanently or timely access to water and use water of low quality. The worsening, and in some regions, already critical condition of water supply and sanitation services, increasingly ineffective water and waste-water treatment, and lack of financial means are pressing problems in the water sector. As a result of this situation, 45% of the population of Ukraine use water, which is below the State standards: this leads to an increasing amount of water-borne diseases, such as hepatitis A in the southern part of Ukraine, adenovirus virus infections in the Odessa oblast, and the “blue baby” syndrome in the Poltava oblast.

Since 1997, the National-Ukrainian environmental NGO MAMA-86 has conducted a drinking-water campaign, which is aimed at improving public access to safe drinking water. It was a grass roots initiative of four local NGOs from different cities and towns of Ukraine: Kiev, Odessa, Artemivsk and Tatarbunary. Now, 11 local organizations are actively working in the MAMA-86's water network. The long-term goals of the MAMA-86's water campaign are to raise public awareness on water problems and involve people into decision-making process related to these issues at all levels.

In 1999, Ukraine ratified the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, done at Aarhus in 1998. This ratification strengthened the legal framework and gave rise to better democracy building and developing environmental rights in our country. The Aarhus Convention stipulates that in the field of the environment, improved access to information and public participation in decision-making enhance the quality and the implementation of decisions, contribute to public awareness of environmental issues, give the public the opportunity to express its concerns and enable public authorities to take due account of such concerns.

For the implementation of the Aarhus Convention, the State should elaborate mechanisms of active provision of the public with environmental information as well as public involvement into the environmental decision-making process. These mechanisms have been extended to the fields of water management, including those issues directly related to water quality recognized as environmental ones.

NGOs actively work on public information and education related to water problems and possible ways of their solutions through the promotion of a dialogue between governmental bodies, local authorities, water utilities, science, business and the public. NGOs are the most active and the best-organized part of the public, and have the high potential and knowledge to protect the rights of the citizens to a healthy environment and the consumers' rights to clean and affordable water.

Drinking water is the key issue for democracy building in our society. The popularisation of sustainable development and democracy-building principles with a focus on water resources management examples is very efficient due to the fact that the problems of drinking-water supply are directly linked to the people's life, performance and health. Due to the absence of State obligatory permanent environmental education, lack of awareness-raising policy and lack of economic regulative instruments, individual consumers have no motivation to participate in the protection of water resources and to use them economically.

### **MAMA-86's public information and education campaign**

One of the main elements of the MAMA-86's drinking water campaign is the raising of public awareness on water issues. For this task, each partner organization of MAMA-86 conducts permanent search for, and collection of official and other information on common and local water problems. In 1998-1999, we undertook an independent analysis of the drinking-water quality in 4 towns of Ukraine, and during the last 3 years, we monitored tap-water quality in Kiev during the period of spring floods. In 1998-1999, we made two public surveys in 11 towns of Ukraine on water problems to clarify the public concerns over water problems. In 2001, we carried out expert interviews regarding a reform of the water sector in 5 Ukrainian cities, where our campaign is running.

In Sevastopol, our local group, together with the youth environmental association "Gaja" and the Children Tourists Center, carried out a 3-5 days long expeditions to the Baydarsky valley to make an inventory of drinking-water sources (mountain streams, wells) and study their conditions. As one of the results of this investigation, we will create a map of the freshwater sources of the valley. We are also planning to present the map to the local authorities and discuss with them local capacities of drinking-water supply.

During the last year, our Poltava regional organization gathered the official data on wells' water quality in the Poltava oblast. The analysis and mapping of these data show that all wells in the rural area of this oblast are highly contaminated by nitrates. In many cases, nitrate concentrations were 3-5 times higher than the standard (45mg/l) and the maximum concentrations in the Semenovskiy district (2,200-2,500 mg/l) were even 50 times higher than the standard. Following the official statistic, in the last year 10-15 cases of the "blue baby" syndrome were detected in this oblast.

Based on our data and official information, we published newsletters, leaflets, brochures, booklets; we prepared articles, video materials and lectures on water issues, and organized exhibitions and book exhibitions for schools and the public. We actively cooperated with experts on different aspects of water problems, such as economic, legal, environmental and social aspects. In the framework of the campaign, analytical papers were published, and reviews were made with experts from scientific institutes and the water sector as well as staff of the Ministry of Ecology and Natural Resources of Ukraine and other State authorities. All our materials are popular among the people: teachers and doctors, children and their parents, consumers of drinking water. These information materials are widely used by the mass media. Most popular are the leaflets on rational water use, nitrates in water, water and health problems, and papers about the methods of additional purification of drinking water.

### ***22 March 2001 – World Water Day***

On World Water Day, 22 March 2001, the MAMA-86's network organized a broad public information campaign on water saving and water and health issues in 11 towns of Ukraine. The Kiev and regional groups have prepared and distributed leaflets (nearly 4,000 copies) on these water issues. There were lectures about local and global water problems (water use, water saving, water resources protection and water-health relations) organized by local groups in schools and collages. On this day, MAMA-86's "Eco-telephone" hotline worked twice as much as usual. Most of the citizens' questions were posed on drinking water quality, additional individual purification methods and other water issues. In Sevastopol, the local group and the dwellers of the village of Peredovoe (48 participants) cleaned a local lake. In Artemivsk, 134 activists – pupils of schools and collages – took active part in MAMA-86's action to clean the Chetverikov River.

This year, we organized "Water Lessons" at schools, and in Kiev, the volunteer's team of MAMA-86 gave lectures in 13 schools for 1,500 schoolchildren. The theme of lessons and leaflets was about water-borne diseases in Ukraine and the basic hygienic rules to avoid them.

### ***MAMA-86 seminars and round tables***

In the framework of the campaign, we organized courses, lectures and seminars on different water issues, varying from local water problems to sustainable development principles of the Ukrainian water sector.

In 1999, for example, MAMA-86's Odessa group has worked with experts to identify alternative drinking-water supply sources for the city. All sources of artesian wells certified by local Sanitary-Epidemiological

Stations and units selling additionally purified water were marked on a map of Odessa. The result of this work was presented at the seminar “Alternative sources of drinking water supply in Odessa” in May 1999. The representatives of the City Council, local self-management, business, science, mass media and NGOs took part in this seminar (more than 60 representatives). The work of the seminar was covered by the local television that reaches 1 million viewers. The materials of the “Alternative sources” seminar were published as booklet “Drinking water in Odessa: problems and solutions” (500 copies).

In February 2000, MAMA-86 held in Kiev the seminar “Basic principles of sustainable water use in Ukraine and the role of NGOs in the preparation of the Third World Water Forum”. 101 participants took part in the seminar, including representatives of 25 Ukrainian NGOs from 15 towns, different levels of authorities (staff of the Ministry of Ecology and Natural Resources and staff of other national and local entities), water utilities, science and business.

The implementation of principles of sustainable development in the management, protection and use of water resources is an urgent and vital issue for Ukraine. Today, the idea of sustainable resources’ use is not yet properly reflected in public opinion, the national and local programmes, the State policy and economic performance. The outcome of the seminar included the NGOs position paper “Basic principles of sustainable water use in Ukraine” and NGO-Government recommendations aimed at awareness raising on, and promotion of, sustainable water use.

We usually used “round tables” to involve representatives of main stakeholders into the discussion of current water problems. The last round table was on the theme “Water meters – an important instrument of the water sector reform in Ukraine” (May 2001, Kiev). During the round-table discussion, different points of view on this problem and as well its social, economic and environmental aspects were discussed by the main stakeholders: State authorities, water utilities, business and the public.

All our information materials – data of independent studies, leaflets, materials of round tables, seminars and training courses, and analytical reports made in the framework of MAMA-86’s drinking-water campaign – are available through our website.

### **MAMA-86’s staff workshops/training**

MAMA-86 regularly organizes workshops and training events for its staff responsible for the water campaign and its whole network on important water issues and the water campaign performance. The aim of these training events is to raise the knowledge of staff and exchange experience and good practices. The main partner-organization actively involved in these training events is Women of Europe for the Common Future (WECF) with whom we fruitfully cooperate in the frame of the drinking-water campaign. WECF experts usually participate in our skill sharing.

The last staff seminar was organized by the MAMA-86’s Kiev office on 12-13 December 2001 and the theme of it was the river basin approach. The MAMA-86’s network staff (10 members from 9 cities) has got basic knowledge on the main basin programmes and implementation problems in Ukraine. Five experts from the Ministry of Ecology and Natural Resources of Ukraine, the GEF project on the Dnieper River, the Institute of Hydrobiology of the Ukrainian Academy of Sciences and the Russian Federation were invited to make presentations. The following issues were discussed: the river basin approach and its legal framework, EU experience and ways and means for its implementation in Ukraine, the Dnieper basin project of GEF, the Black Sea basin programme – problems and perspectives, the Dniester River problems and the Russian experience regarding a basin approach for the catchment area of the Azov Sea.

### **MAMA-86’s network**

In the framework of the drinking-water campaign, the MAMA-86’s network implements pilot projects to provide practical low-cost and cost-efficient alternative solutions for drinking-water supply. Knowledge and sharing of experience on a proper solution of ecological problems (water pilot projects, in particular) are of great importance to facilitate public involvement. MAMA-86 develops and widely shares experience gained under such pilot projects.

### ***Tatarbunary***

In Tatarbunary, located in the Odessa oblast, regional partners have received in 1999 – in the framework of MAMA-86's drinking-water campaign – a water purification device, which supplies a kindergarten with safe drinking water. In 2000-2001, the regional group organized some meetings with the local authorities and the Director of the town school to discuss options to move this water purification unit to the school in order to supply also the pupils with safe drinking water. The contract on collaboration between MAMA-86 and the Director of the town school was signed. In September 2001, the purification device was installed in the school and today it is used for all schoolchildren and children from the kindergarten (1,300 children) for provision of safe drinking water. Today, the local partner provides financial support to maintain device operation.

### ***Sebastopol***

In 1999, MAMA-86 initiated an international project on the rehabilitation of the Sebastopol City Infectious Diseases Hospital, financially supported by the Netherlands. The state of water supply, sewer and heating systems of the Hospital were in a state of emergency. The Hospital's waste water was a dangerous source of pollution of groundwaters and the sea. By end of 2000, the project was successfully finished. At every stage of project implementation, MAMA-86 and the regional partner group "Gaja" organized broad information campaigns in order to make the process transparent, raise additional funds and involve the local population and authorities in the Hospital's reconstruction work.

### ***Artemivsk***

In Artemivsk, the MAMA-86 partner has actively lobbied for the incorporation of public recommendations into the City Programme on Drinking-water Supply. MAMA-86, together with major stakeholders, has prepared recommendations on waste-water treatment plant reconstruction, putting artesian wells in the town into operation and production of bottled drinking water. The local authorities adopted the proposed measures to improve drinking-water supply and financing. In 1999, three town's enterprises producing bottled drinking water were put into operation. Today, the regional group in Artemivsk is continuing to find solutions of local water supply based on the idea of sustainable water use taking into account the capacity of alternative local freshwater sources.

### ***Odessa***

Odessa's MAMA-86 partner is actively developing its activity on rational use of water. They have detected that water use in the Luzanivka district (about 10,000 inhabitants) is 2.3 to 3.6 times higher than standards. The main reasons are losses through leakages in the water-supply system and irrational water use. Due to public activities, the local administration has conducted a repair of taps and pipes in apartments. Based on the obtained data, the leaflet on water saving was published and distributed. This experience is broadly used in MAMA-86's educational work. Today, water meter installation projects are launched in Kiev, Odessa and Kharkov. The aim of this pilot project is to stimulate – through a better education campaign and economic instruments – the public to save water. These measures should essentially reduce the volume of water consumption, encourage rational use of water, lead to a reduction of the water purification facilities' loading, increase water-treatment quality and reduce sewage emissions into surface water bodies.

### **Public participation in policy and decision-making processes**

Today, a reform of the water and sanitation sector is a top priority in Ukraine. In this process, the State made some substantial steps to develop the legal basis, prepare institutional and tariff reforms, and decentralize the responsibility for water supply.

One of the key elements of reform, as highlighted in "Joint Conclusions of the Almaty Ministerial Consultation", Kazakhstan, 16-17 October 2000, is "engaging the public directly in the reform process and making adequate provision for consumer protection. [...] The public should be actively engaged in the process of reforming the urban water system from the very start to receive timely and exhaustive

information, to offer citizens an opportunity to express their views and to participate in the decision-making process. NGOs are able to play a greater role in the process of drafting, implementing and monitoring water reform plans at all levels. [...] NGOs can explain to the public the necessity of reforming the water sector, disseminate information on the reforms underway and promote the dialogue”.

MAMA-86 actively works on public information regarding the water sector reforms, widely disseminates the materials and official documents to involve the concerned public and other NGOs into the policy and decision-making processes at the local and national levels.

### ***MAMA-86's participation in drinking-water law making***

From the end of 1999, the Ukrainian Government has initiated the drawing up of a new drinking-water law. It was an opportunity for NGOs to participate in political decision-making from the very beginning. In January 2000, comments and notes on the structure and content of the draft drinking-water law have been prepared by MAMA-86 and delivered to the law-making working group.

MAMA-86 invited a legal expert, Mrs. Nataliya Malysheva, to prepare an analysis of existing legislation on drinking-water issues in Ukraine. This knowledge was needed for us to understand how the State determinates and guarantees the human right of access to safe drinking water. This analysis was presented and discussed at a training course in November 2000, distributed among the stakeholders and broadly used by the MAMA-86's network for public information and public consultations on the draft law. The conclusions of the analysis were also used as background documentation to develop MAMA-86's position regarding amendments to the draft law.

During 2000-2001, MAMA-86 monitored the law-making process. The Council of Ministers had before it four different draft versions of the law, which came out of the preparatory process. On 18 June 2001, the Ukrainian Parliament passed a Bill on Drinking Water and Drinking-water Supply in the first hearing. The draft law worked out by the State Committee on Architecture, Building and Housing Policy of Ukraine was chosen as the basis for amendments and revisions at the second hearing in Parliament.

In August and September 2001, MAMA-86 initiated public consultations on the draft law. The document was distributed among MAMA-86's network and other Ukrainian environmental NGOs. MAMA-86 invited the representatives of stakeholders to discuss it at the local level. As a result of this process, 155 amendments to the Bill were proposed. On 1 October, MAMA-86 organized a public hearing on the draft law. 64 representatives of the public (22 NGOs from 11 cities of Ukraine) participated in this event. The documents and resolutions of the public hearing were delivered to the Parliament Committee on Environmental Policy, which was responsible for the further work on the draft law. There were 4 rounds (meetings of the working group) of discussion on amendments and their possible incorporation into the draft law. MAMA-86 was invited to participate in these meetings.

Finally, 45 amendments proposed by the public were taken into consideration; one of them was MAMA-86's proposal on public hearings on water issues. As a result of MAMA-86's activity on the draft law, some progress was made on public participation in the decision-making process and the development of a partnership between State authorities and the public. Still we are at the very beginning of making this process transparent and open. NGOs have to demonstrate that they are ready to participate professionally in discussions and present the public point of view at national and local levels.

### ***MAMA-86's participation in the Almaty process***

MAMA-86 actively participated in the NGOs preparatory process to the Ministerial Consultation between Economic, Finance and Environment Ministers on Water Management and Investments in the newly independent States (NIS) in Almaty, Kazakhstan, on 16-17 October 2000.

MAMA-86 regularly informed Ukrainian NGOs about this process and participated in every stage of it (e.g. preparation of comments on official documents and NGO position papers, participation in NGO seminars and the Almaty NGOs Conference). Mrs. Anna Golubovska-Onisimova, the former Director of MAMA-86, was elected as the representative of NIS NGOs at the Almaty Ministerial Consultation.

MAMA-86 widely distributed the materials of the Almaty Ministerial Consultation between Ukrainian NGOs, delivered them to the State Committee on Building and informed about the Almaty Consultation at various seminars on water.

In September 2001 – under the Almaty process – the OECD Task Force for the Implementation of the Environmental Action Programme for Central and Eastern Europe (EAP) organized the first meeting of the Seniors Officials responsible for the reform of water sectors in NIS (Kiev, 10-11 September 2001). The experts from NIS, OECD and Central and Eastern Europe, representatives of donor countries, international financial institutions, business and NGOs took part in this meeting.

At the meeting, special attention was paid to the discussion of social aspects of the water sector's reform. MAMA-86 was invited by OECD – the Task Force secretariat – to participate in the meeting and present the experience of environmental NGOs regarding public participation in the reform process in NIS through a paper entitled “Consumers rights and public participation in the decision-making process in the water sector”. During the discussion, it was recognized that the consumer is the actor of the reform and it is important to organize special workshops on public involvement in this reform process.

On 4-5 March 2002, a workshop on consumer rights protection and public participation in the water sector's reform process in NIS was held in Paris. MAMA-86 was invited by the organizers to present a discussion paper on the issue.

### ***Protocol on Civil Liability***

MAMA-86 as a member of the Pan-European Eco-Forum actively participates in the Water Issue Group (WIG) of Eco-Forum. In the context of the preparations for the Kiev 2003 Ministerial Conference, WIG recognized the participation in the negotiation of a legally binding instrument on civil liability and compensation for damage resulting from the transboundary effects of industrial accidents on transboundary waters as a priority of its work. This negotiation is carried out under the auspices of two UNECE environmental conventions: the UNECE Water Convention and the UNECE Industrial Accidents Convention.<sup>1</sup>

The first Eco-Forum position paper on the issue was prepared by WIG and presented at the joint special session of the Meeting of the Parties to the Water Convention and the Conference of the Parties to the Industrial Accidents Convention (Geneva, 2-3 July 2001). On 21-23 November 2001, the first meeting of Intergovernmental Working Group on Civil Liability took place in Geneva, where the draft documents for working out the draft text of a Protocol were presented and discussed. The Protocol design process is ongoing and open for further contributions. Eco-Forum expressed its commitment and willingness to work on the further development and implementation of the Protocol. WIG is particularly willing to assist in drafting provisions regarding “Access to Information and Justice”. MAMA-86 as a coordinator of WIG is facilitating the preparatory work.<sup>2</sup>

### ***Sustainable rivers basin management: transboundary cooperation***

The problems of the Dniester as a transboundary river became one of the most pressing issues and call for international cooperation. The River Dniester is the main source of drinking water for millions of people (including 2,500 inhabitants of the Odessa oblast). It is now rather polluted.

To develop measures on integrated protection and management of the Dniester River, Ukrainian and Moldavian NGO held the regional eco-forum in Chisinau in October 1999, and found the Dniester River Keepers Association – “Ecotiras”. MAMA-86 actively supports this initiative and was one of the founders of the association.

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<sup>1</sup> Convention on the Protection and Use of Transboundary Watercourses and International Lakes and Convention on the Transboundary Effects of Industrial Accidents, both done at Helsinki on 17 March 1992.

<sup>2</sup> The development of the negotiation process is documented, and the most recent versions of the draft protocol are available, at the Water Convention's and Industrial Accidents Convention's website at <http://www.unece.org/env/civil-liability/welcome.html>.



One of the priorities of Eco-Tiras' activities is to protect and save the ecosystems of the river, and to develop eco-tourism in the region. In 2000, the Ministry of Environment of the Republic of Moldova has prepared a draft Dniester Convention and proposed to Ukraine to support the process of the further elaboration. Today, one of the priorities of Eco-Tiras is to lobby for the further development of the Convention and signing procedure later on. To this end, MAMA-86 organized an international conference of Moldavian and Ukrainian NGOs, which are located in the Dniester River basin, to discuss the draft convention and prepare the NGOs' comments.

In March 2001, the representatives of the Eco-Tiras began a new stage of the negotiations with the Ukrainian Ministry on the Convention issue. But at the same time, Ukraine started to build a new motorway through the Dniester River's wetlands in the downstream part. The decision was made by Ukrainian local authorities without any open discussion and without an environmental assessment of the project.

The environmental NGOs together with the local people organized a direct action to stop the building works. More than 50 environmental NGOs signed a letter to the Presidents of Ukraine and of the Republic of Moldova with the demand to stop destroying the last parts of the native wetland ecosystems of the Dniester River. In August, MAMA-86 and 5 other Ukrainian eco-NGOs organized a public hearing "Save the Dniester wetlands". 120 representatives of NGOs, local people, scientists and local authorities from Ukraine, the Republic of Moldova, the Netherlands and United Kingdom took part in the hearing. Its aim was to attract State attention to the environmental problems of the Dniester wetland region, develop a democracy-building mechanisms for solving environmental problems and involve the public into the decision-making process on important environmental problems of the region. Today, there is no final decision on the future of the motorway building, but as a result of the public protest action and hearing, the construction process temporarily ceased.

Today, there is an initiative to establish a NGO network in the Azov Sea basin. It was started in March 2001, when MAMA-86's regional partner at Mariupol organized a seminar on environmental problems of the Azov Sea: chemical contamination of the Azov Sea, deterioration of the marine ecosystems and dangerous plans to build a new oil terminal at Mariupol. One of the results of the seminar was the idea to establish the Azov Sea NGO network, which is now in progress. After the MAMA-86 staff training on basin approach, we are going to cooperate with Russian NGOs and organize a multi-stakeholder seminar on the Azov Sea problems. The aim is to involve NGOs and other sectors into the discussion of ways and means to implement the basin approach in the Azov Sea catchment area.

MAMA-86's drinking-water campaign is aimed to revive the feeling of citizens' ownership and understand their personal responsibility for national resources, i.e. our rivers, lakes and seas. The goal of the campaign is to educate, not only a rational consumer but also an active citizen, who can be the main driving force for the implementation of sustainable management, protection and use of water resources.



## Strategies for public participation in the management of transboundary waters in countries in transition

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### Introduction

The classical democratic ideal regards mass participation as an integral part of democracy. It is widely recognised that potential benefits of public participation include better-informed and more creative decision-making, more public acceptance, less litigation, fewer delays, and more effective implementation of water policies. Public participation can promote social learning, a more open and integrated government, democracy and sustainable water management (Mostert, 2002). Each individual depends for living on using water for drinking and other communal uses, such as recreation, fishing, transport, and agriculture, and therefore has an inherent interest in living in good environmental conditions and in promoting sustainable use of water resources in his/her local area. However, lack of information, awareness and knowledge about environmental processes as well as resources for participation often impedes wider public participation in water management. Therefore, specific strategies aimed to support public participation in water management have to be developed and implemented.

Role of public and stakeholder involvement in implementation of transboundary water management policies were discussed within a project "Strategies for Public Participation in the Management of Transboundary Waters in Countries in Transition: Cases of Lake Peipsi/Chudskoe (Estonia/Russian Federation) and Lake Ohrid (the former Yugoslav Republic of Macedonia/Albania)" implemented in 2000-2001 by Peipsi Center for Transboundary Cooperation and Alliance for Lake Cooperation in Ohrid and Prespa.

This paper presents some issues discussed within the project, including definitions of public and stakeholders; roles of public and stakeholders in implementing transboundary water regimes in the two lake basins - Peipsi/Chudskoe (hereafter referred to as Peipsi) and Ohrid (see Table 1); and strategies for involving stakeholders in decision-making on transboundary river basins shared by countries in transition.

### Lake Peipsi basin

The total length of the Estonian-Russian border is about 277 km where approximately two-thirds of the border goes through Lake Peipsi (in Russian the lake is named Chudskoe) and the Narva River. Lake Peipsi is the fourth largest lake in Europe, with respect to surface area, after Ladoga, Onega, and Vänern, and is located in the Baltic Sea water basin. It is a shallow lake (see Table 1). Both sides of the Estonian-Russian border zone are mostly agricultural regions. Arable lands, milk and cattle farms, small-scale fishery, timber enterprises and food processing factories are located in this area; however, rural areas, especially on the Russian side, are rather sparsely populated. Most of the population is urban and living in the two largest towns - Tartu in Estonia with about 100,000 inhabitants and Pskov on the Russian side with 300,000 inhabitants. The border on Lake Peipsi between Estonia and the Russian Federation was re-established in 1991, a development that has caused serious social and economic difficulties in areas connected with restructuring the economies and redeveloping cross-border cooperation in the new, international context. Steps to improve cross border cooperation and to ensure safe and secure borders have been made at different levels of Estonian and Russian Governments during the 1990s. Estonian-Russian intergovernmental agreement on protection and use of transboundary waters was signed in 1997 and a transboundary water commission was established in 1998. The commission has set up a special group for cooperation with local authorities, NGOs and international organizations in the management of the Estonian-Russian transboundary waters.

## Lake Ohrid basin

The Region of Ohrid and Prespa Lakes is situated in South-Eastern Europe, extending across the borders of Albania, Greece, and the former Yugoslav Republic of Macedonia (see Table 1). Lakes Ohrid and Prespa are the oldest lakes in Europe, originating from a geotectonic depression dating 2 to 3 million years ago. Because of the karstic underground, a large amount of water from the Lake Prespa seeps into the soil, drains away through a network of underground fissures, and supplies the springs located on the shore of Lake Ohrid. The catchments of these lakes, therefore, constitute a hydrological unit hereinafter referred to as the Lake Ohrid Basin (LOB). After the construction of a dam on the channel connecting River Devoli and Lake Micro Prespa in 1969 and the possibility of diverting the waters from the river into the lake, the natural drainage area of Prespa Lakes was significantly expanded.

The LOB is characterised by a large number of relict flora and fauna species. Hitherto, 146 endemic species are described from Lake Ohrid and 39 endemic species from the Prespa Lakes. Micro Prespa Lake in particular has been recognized as an important wetland ecosystem favouring breeding and feeding of rare water bird species. The flora in LOB is composed of more than 1500 plant species. These exceptional natural resources have been subject to many conservation efforts and regimes in the past.

Currently, in the LOB there are around 213,000 inhabitants. The economic activities throughout LOB vary. On the Albanian part of Lake Ohrid sub-basin, agriculture is the most important economic sector, but in the future, tourism and industry may reduce the economic significance of agriculture. On the side of the sub-basin in the former Yugoslav Republic of Macedonia, tourism and industry are of primary importance. The industry has suffered from considerable structural and economic problems in the beginning of the 1990s. However, because of the existing assets and infrastructure (e.g. airport, arterial roads, attractive living site, etc.) the region may become again an important industrial location in the future. Fruit growing and agriculture are the leading activities in the Prespa sub-basin; tourism, forestry, industry and fishery are of less importance. Intensive apple growing is typical of the sub-basin part in the former Yugoslav Republic of Macedonia, while intensive beam cultivation is the dominant agricultural activity on the Greek side. On the Albanian side, the land is used also for orchards and vineyards, however in a less intensive way.

**Table 1. Geographical information about Lakes Peipsi and Ohrid and their basins**

Assets	Lake Peipsi	Lake Ohrid
Surface Area (km <sup>2</sup> )	3,558 Estonia: 44% Russian Federation: 56%	358.2 Albania: 30% The former Yugoslav Republic of Macedonia: 70%
Basin Area (km <sup>2</sup> )	44,240	3,921
Volume (km <sup>3</sup> )	25.2	50.8
Average Depth (m)	7.1	163
Maximum Depth (m)	15.3	289
Maximum Length (km)	143	30.8
Maximum Width (km)	48	14.8
Shore Line (km)	520	87.5
Trophic State	Eutrophic	Oligotrophic
Population in the Basin	1,000,000	213,000

### Definitions: public vs. stakeholders

A study of practices of public involvement in Peipsi and Ohrid transboundary water basins conducted within the project confirmed a wide-ranging interest in water issues by all sectors of the society and a need for more attention and support to the public involvement in water management. Especially in international basins interests of different groups should be considered, as often these interests are very different or even contrary.

The project demonstrated that it is important to make a distinction between “public” and “stakeholder” participation, to stress the differing mechanisms and approaches that are likely to be needed for involving (a)

the general population living within a river basin district, and (b) those individuals and organizations with a specific interest in water resources management.

In fact, there are many different definitions of public and stakeholder participation. Depending on the objective of a specific study or project, authors use their own working definitions, which best fit into the context of their studies or interests.

For example, discussing the role of the public in adaptive ecosystem management, Kusel et al. (1996) define the public as individuals and organizations that are not included in the groups of managers or scientists. Noting that the public includes a diverse array of interests, they identify two principal communities within the public:

- Communities-of-place include members of the public who may be affected by, or interested in management decisions and actions by nature of their residency within or near management activities;
- Communities-of-interest include groups with a focused interest in (often accompanied by organized efforts to influence) management of resources unrelated to their member residence.

In an analysis of public participation in environmental planning in the Great Lakes Region, Beierle and Konisky (1999) distinguish between the public formally involved in the participatory process and a “wider public”. The first consists of members of stakeholder group (e.g. citizen committee) representing citizens at large, business interests, environmental interests, local governments, etc. In this case, on the government side are the government agencies responsible for either conveying a process and/or acting on its results as the “lead agency”. The “wider public” is thought of as members of the public who are potentially affected by decisions made by the stakeholder groups, but are not themselves participants.

US EPA specialists (2002) define “stakeholders” as natural or legal persons who have specific interests or active role in water management. This includes stakeholders who:

- Are responsible for making or implementing a management action;
- Will be affected by the action;
- Can aid or prevent its implementation.

A number of international conventions also provide definitions of “the public”. Article 2(4) of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) defines “the public” as one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organizations or groups. The Protocol on Water and Health to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes used the same definition of “public” of the Aarhus Convention, the Convention on Environmental Impact Assessment in a Transboundary Context a similar one. In addition, the Aarhus Convention also defines “the public concerned” that means the public affected or likely to be affected by, or having an interest in, the environmental decision-making; for the purposes of this definition, non-governmental organizations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest.

In Europe the term of “stakeholder” came into a focus of discussions in the process of preparation of the Common Implementation Strategy under the European Union Water Framework Directive<sup>1</sup>. The Water Framework Directive (WFD) reforms the EU water legislation by introducing a new model for water management. It entered into force on 22 December 2000. From an environmental point of view, the WFD ultimate aim is to prevent further deterioration and to achieve “good status” in all waters.

Although neither of the countries that share Peipsi and Ohrid are Member States of the European Union (Estonia is an EU accession country), the EU water legislation is quite relevant to the discussion of transboundary water policy implementation in countries of Eastern Europe, including the Russian Federation.

The EU WFD mentions the “public” but also “interested parties” and “users”. The Directive provides no explicit definition of these terms, which makes it necessary to search for other sources.

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<sup>1</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, published in the Official Journal L 327 of 22/12/2000.

“Interested parties” can be defined as “any person, group or organization with an interest or “stake” in an issue either because they will be affected or may have some influence on its outcome” (European Commission, 2002). The EU Water Framework Directive Guidance on Public Participation uses the term stakeholder as a synonym of “interested party”. Essential to the definition are the concepts of interest, affect and influence. The (general) public includes stakeholders and the broad public. According to the WFD Guidance, the selection of relevant stakeholders can be based on:

- Their relation to specific water management issues;
- The scale and context at which they usually act, and who they represent;
- Their involvement, being governor; user/victim/stakeholder; expert and executer of measures;
- Their capacity for engagement;
- The political, social, “environmental” context.

Box 1 below illustrates a possible typology of stakeholders. It makes no assumptions about the relative importance of different stakeholders to the organizer of participation or their interests.

**Box 1. Typology of stakeholders**  
(European Commission, 2002)

Professionals - public and private sector organizations, professional voluntary groups and professional NGOs (social, economic and environmental). This also includes local authorities and government departments, statutory agencies, conservation groups, business, industry, insurance groups and academia.

Local Groups - non-professional organized entities operating at a local level. It usefully breaks down into:

- Communities centred on place - attachment centred on place, which includes groups like residents associations and local councils;
- Communities centred on interest - e.g. farmers’ groups, fishermen, football clubs, hunting groups;
- Communities centred on identity - groups associated by a common characteristic such as age, gender, religion, politics such as women’s groups, school groups, church groups.

Individual citizens, farmers and companies representing themselves. Key individual landowners, for example, or local individual residents.

Each of the stakeholder groups has its own importance and there are distinct groups of stakeholders on different levels of governance, including the international river basin level, national level and local level. Using the definition of stakeholders of the EU WFD Guidance on Public Participation, the following groups of stakeholders were identified for transboundary water basins in Peipsi and Ohrid basins.

At the international basin level, stakeholder groups include international organizations that are involved in development and implementation of policies for management of transboundary waters in Europe such as the World Bank, UNECE, UNDP, UNEP, Council of Europe, IWAC, WWF, the European Commission and other European Union organizations and agencies. In the Baltic Sea region, important international organizations include, among others, the HELCOM, Council of Baltic Sea States, and Baltic Sea Subregional Cooperation Council. In the case of the Lake Ohrid, international stakeholders, such as the World Bank, the German Agency for Technical Cooperation, UNDP and others, have played an important, sometimes even decisive, role in implementing new approaches to management, such as ecosystem based management or watershed approach. There are numerous research and business communities interested in different aspects of managing waters in the Lake Peipsi and Ohrid basins, and many research projects and investments activities take place in these transboundary areas.

At an international basin level, stakeholders often play an important role in promoting trust building in transboundary water basins and enhancing information exchange and communication, which are important components in the transboundary water management. Stakeholder involvement at international level helps to attain a more effective implementation of international environmental policies and agreements (see Boxes 2 and 3). Main actors in managing transboundary waters are Governments of riparian States. Due to a lack of capacity and financial and human resources, at the international level only a few stronger non-state actors are involved in decision-making concerning the international water basin level. Most of the smaller groups and organizations are weak and do not have sufficient capacity for large-scale activities. External financial support is necessary to enable non-state actors to get involved in the management of transboundary waters.

The Global Environmental Facility (GEF) plays an important role in promoting stakeholder and public participation in transboundary water basins shared by countries in transition - GEF supports the Lake Ohrid Conservation Project and will also support in 2002- 2005 involvement of NGOs, local authorities and stakeholders in preparation and implementation of the Lake Peipsi Basin Management Programme.

**Box 2. The role of international organizations and other actors in the environmental management of the Lake Ohrid watershed**

World Bank, UNDP, WWF, the Governments of the Federal Republic of Germany and the Swiss Federation, as well as other international actors, have played an important role in the transboundary management of the natural resources in the Region of Ohrid and the Prespa Lakes. The Lake Ohrid Conservation Project and the transboundary Prespa Park are typical examples.

The primary objective of the Lake Ohrid Conservation Project (LOCP) is to provide a basis for sustainable economic development of the Lake Ohrid watershed by promoting cost-effective solutions for transboundary management of the natural resources and pollution problems. The implementation of LOCP is under the responsibility of the Ministry of Environment of Albania (MEA) and the Ministry of Environment and Physical Planning of the former Yugoslav Republic of Macedonia. However, this role of governing agencies was to a great extent influenced or even shared by the World Bank. The World Bank, having the role of an implementing agency for LOCP on behalf of GEF, has not only supervised the implementation of the tasks described in the Project Implementation Plan, but has also played the role of independent consultant, influencing and even designing the implementation of the project on a day-to-day basis.

The Prime Ministers of Albania, Greece and the former Yugoslav Republic of Macedonia, on the occasion of the World Wetlands Day, 2 February 2000, at Aghios Germanos in Greece, decided to declare the "Prespa Park" as the first transboundary protected area in South-Eastern Europe and presented this initiative as a "gift to the earth" in the context of the WWF Living Planet Campaign. In their "Declaration", they recognized and valued the importance of the role of environmental non-governmental organizations, particularly the Greek Society for the Protection of Prespa (SPP). SPP was established in 1999 by 10 NGOs from Greece, including WWF-Greece, but also from United Kingdom, France and Denmark. Moreover, a representative of the Convention on Wetlands of International Importance especially as Waterfowl Habitat - the Mediterranean Wetlands Initiative, MedWet - participates in the work of the Committee, as an ex officio observer. Despite of the progress recently made in reforming the environmental management regimes for the region, the involvement of international organizations in the future is nevertheless essential both in terms of financing and consultancy.

**Box 3. Involvement of non-state actors in the work of the Estonian-Russian Transboundary Water Commission**

The Estonian-Russian Transboundary Water Commission was established in 1997 after signing of an intergovernmental agreement on the protection and sustainable use of transboundary water bodies between the Republic of Estonia and the Russian Federation (more information on the Commission is available at [www.envir.ee/jc](http://www.envir.ee/jc)). Four working groups were established under the Commission. Working Group on Cooperation with local authorities, population, international and non-governmental organizations includes representatives of local authorities and NGOs who can provide their input into the work of the Commission by proposing activities and projects into the annual Commission working plan.

A traditional annual activity, initiated under this Working Group by Pskov Regional Education Board, Russian Federation, NGO Peipsi Center for Transboundary Cooperation and Estonian municipality of Mustvee, is an annual contest of children art works "World of Water Through the Eyes of Children" where about 5000 children from Estonia, Russian Federation and Latvia participate every year. Winners of the contest from the three countries meet at an organized summer camp on Lake Peipsi where they are also actively involved in games and studies on the environment and have a good possibility for establishing personal contacts with children from the other side of the lake. The contest helped to develop more regular cooperation between schools, NGOs and local authorities of Estonia and the Russian Federation, in this transboundary region.

At the national level, public participation is important to promote the effective development and implementation of national legislations that at the same time contribute to sustainable development in transboundary water basins. National stakeholder groups, including business, farmers' associations, scientists, local authorities and NGOs, communicate their needs to the Governments in order to prepare

possible new legislative acts. Involvement of these stakeholders is critical for the effective implementation of the national legislation (see Box 4).

**Box 4. The role of the Water Basin Management Committees in Albania and in the former Yugoslav Republic of Macedonia in the involvement of stakeholders in environmental decision-making in Lake Ohrid basin**

The basic principle guiding the design of the institutional arrangements of Lake Ohrid Conservation Project (LOCP) is that implementation should be the responsibility of local specialist and public officials in the Lake Ohrid Basin (LOB). This principle is reflected in the composition of Lake Ohrid Management Board and its subsidiary bodies (the task forces and committees). The public throughout the watershed participated in the activities of LOCP through different methods and techniques. The Participatory Watershed Management Approach Programme of LOCP has been particularly important in involving local authorities, experts, NGOs and other stakeholders within the watershed in the implementation of LOCP. In the frame of this programme, two Watershed Management Committees have been established in the Albanian part and in the part in the former Yugoslav Republic of Macedonia of the LOB to facilitate the necessary coordination within the water management sector, and between the water management sector and other sectors, such as land use and environment, in order to achieve sustainable water use and maintain the balance of the LOB ecosystem. The involvement of the public through this programme ranged from education and information exchange to direct involvement in decision-making; there were different ways for stakeholders and the general public to participate: directly (e.g. workshops, public meetings, etc.) or indirectly through their representatives or by the local leaders. The different participatory methods and techniques applied in the frame of the LOCP were instrumental to environmental education of the public and deliberation among the stakeholders.

However, scaling up of the participation process across the State borders in the region proved to be more difficult, at all levels. Though the political barriers within the Lake Ohrid watershed have been weakened recently, the overall level of cooperation and communication can be regarded as poor. It applies to both, the political (State and local) authorities and the “citizens” of the watershed, particularly in the Prespa sub-watershed. Despite the evident progress made recently, also because of the LOCP, the flow of information across the border, including that pertinent to environment, is poor. Moreover, there is currently no institutional or organizational capacity for making a substantial progress in this respect. The poor transboundary communication and collaboration hinders the development of awareness of the public of the regional (transboundary) eco-sociological system. Currently there is no, or rudimentary, “transboundary public” or awareness that spans the political boundaries of the three countries and that is aware of the “system” - the Lake Ohrid watershed.

Involving stakeholders at a local level is important and can be most effective when it concerns local environmental problems, such as water pollution, (see examples in Boxes 5, 6 and 7). One of the most important local level stakeholder groups is local government. Local governments are responsible for water management within their territory and recognize the link between development and sustainable management of water resources. On the basis of studies on the involvement of local authorities in developing and transition countries, it has become an internationally understood fact that, at a local level of authority, insufficient planning and implementation occur due to inadequate resources, limited awareness and protracted central level planning (Coltier, 1999). Along with the local authorities, other stakeholders, such as schools, local businesses, women and youth groups, and grassroots NGOs, play important roles in the implementation of water management policies.



**Box 5. Public consultation as part of preparation of municipal water management plan in Nõo rural municipality in Estonia**

Nõo rural municipality (population: 4,000 people) involved public in discussions on the preparation of its water management plan. At the preparatory stage, the local government informed on the beginning of the preparation of the water management plan in a local newspaper, and organized a sociological survey that helped to clarify perceptions by local inhabitants of the situation concerning drinking and waste waters. Results of the study complemented an assessment of the state of drinking and waste waters conducted by water engineers. After the initial assessment, the local government published in the local newspaper results of the studies and asked for comments. Publishing concrete facts and especially a map of the area with specific information on water quality in wells and location of the wells brought interest and feedback from landowners to the water quality issues. Local government conducted a series of meetings with local people to discuss water quality in the wells and other issues that concerned development of the municipal water management plan. Experts had meetings with farmers at farms, and meetings with inhabitants were regularly organized by the authorities.

Estonian national water legislation requires that after 31 December 2007, 95% of waste waters be treated in villages connected with the central sewage system in the rural district. The conducted consultation with the public showed that this goal is not achievable given local resources and low incomes of the population in the area. A tailor-made investment plan is being developed to ensure that the Nõo rural municipality water management plan is economically feasible and realistic. Use of public consultation techniques allowed the small rural municipality in a country in transition to map problems related to drinking and waste waters that might have not been noticed without public consultation, and to elaborate a more detailed and economically feasible water management plan.

**Box 6. Local initiatives on the Russian side of the Lake Peipsi Basin**

In Pskov, Russian Federation, the NGO “Lake Chudskoe Project” established an environmental information centre that issues a bi-weekly environmental information bulletin, sent, by e-mail and as hard copy, to local NGOs, regional and local authorities, universities and schools to inform people on the Russian side of the lake region about major environmental issues, projects and organizations. The environmental information centre also organizes local environmental campaigns, maintains a library on environmental protection topics. The environmental centre Advisory Board includes representatives of the regional committee for natural resources, Pskov municipality, representatives of mass media and NGOs.

**Box 7. The grant programmes for pilot projects and catalytic measure of the Watershed Management Committees (WMCs) in Albania and in the former Yugoslav Republic of Macedonia**

In order to promote action and results on the ground in the watershed, the WMCs in Albania and in the former Yugoslav Republic of Macedonia endorsed programmes to finance a number of carefully selected and designed pilot projects and catalytic measures. In the former Yugoslav Republic of Macedonia, the Watershed Management Committee adopted five general topics of the grant programme and the criteria for application and selection of the proposals. Subsequently, the Project Implementation Unit of the Lake Ohrid Conservation Project (LOCP) in Ohrid published a call for proposals in two national newspapers inviting the local governments, public and private businesses from the watershed and their partners from the country or abroad to apply. The selection of the applications under the Grant Programmes was made in two phases. During the first phase of the selection process, WMC established several commissions consisting of committee members and selected local and national experts. These commissions selected the best Concept Papers to continue into the second stage of the evaluation procedure. For the selection of the proposals in the second round, the WMC established several panels of two or three independent evaluators (both local and national) that evaluated the applications according to the criteria developed by the committee. Drawing upon the evaluation of the panels of experts and taking into consideration the overall priorities of the Committee stated in its Charter or work plans, the Committee decided to award in total approximately 280,000 USD to 10 applicants.

In Albania, the WMC prepared a list of 23 pilot project and catalytic measures concepts to guide the applicants in proposing detailed project proposals. The Project Implementation Unit in Pogradec published a request for applications inviting institutions and organizations (State and private) from the watershed, but also from Korca and Tirana, to apply. 31 Concept Proposals were received covering eight of the nine broad project topics and adding one new topic. Using a scoring system based on 20 criteria, each member of the WMC individually scored each of the concept proposals. Based on the individual evaluations of the members, the WMC decided to finance 8 projects with a total budget of approximately 55,000 USD.

## Strategies for public and stakeholder participation

The Peipsi-Ohrid project implementation showed that there are many stakeholders with a large spectrum of interests differing from each other.

The main actors in development and implementation of transboundary water regimes are States represented by the Governments of countries sharing transboundary waters. To ensure effective and sustainable implementation of transboundary water policies, cooperation between the national Governments and other stakeholders participating in specific transboundary water regimes at national, international and subnational levels has to be developed and institutionalised. As mentioned above, unlike government agencies, non-state actors do not always have sufficient access to information, knowledge and other resources that would allow them to participate in the decision-making on a long-term basis. Therefore strategies for public and stakeholder participation discussed in this chapter address direct participation of non-governmental stakeholders in transboundary water basins shared by countries in transition.

Each of these non-governmental stakeholder groups at every management level needs a special tailor-made approach to reach its needs and interests - different channels and tools of communication, different information packages, different timing should be used to ensure participation of different stakeholder groups in managing transboundary waters. Mostert (2002) grouped available approaches to public participation (see Box 8)

### Box 8. Approaches to public participation (Mostert, 2002)

Information: public gets information through mass media, information centres, cultural events, leaflets and brochures;

Consultation: public is asked its opinion: interviews, comments in writing, opinion polls, public hearings, and Internet discussions;

Discussion: real interaction takes place between the public and Government: workshops;

Co-designing: public takes an active part in developing policy or designing projects;

Co-deciding: Negotiations, resulting in a "Volunteer agreement";

Deciding: Public performs public tasks independently: water users' associations.

At the international basin level, in both Lake Peipsi and Lake Ohrid basins networks/communities of stakeholders were formed thanks to regional cross-border cooperation projects and initiatives supported by authorities and international funding agencies, such as the Global Environmental Facility. Information is communicated in these two transboundary regions through regular regional conferences and workshops. Personal communication among stakeholders remains to be the most important factor to create trust and facilitate new regional initiatives. Stakeholders exchange and disseminate their information also through Internet, including multiple thematic web sites and e-mail lists. The Peipsi - Ohrid project confirmed the results of a study on public participation in other regions of Europe, which showed that in all large international basins, involvement of the wider public at the international level would most likely remain limited to a few large (international) NGOs and well-organized interest groups (Mostert, 2000).

Strategies for public participation at international basin level should be two-fold:

- On one hand, they should include support to large NGOs and interest groups that play a role of facilitators of the cooperation with many other smaller actors and organizations in the regions, and communicate to the main actors - Governments - local issues, problems and interests of local stakeholders. These larger non-governmental stakeholders in transboundary water region could effectively contribute to co-design transboundary water policies. This can be done through developing special working groups or advisory boards with involvement of major non-governmental actors under the joint transboundary water commissions and secretariats;
- On the other hand, consultations with many small actors in transboundary water regions can be conducted through recurring sociological studies and regional events. Region-wide public information and education programmes and campaigns are also very important to support effective implementation of policies aimed at

sustainable use of water resources in transboundary water basins. Information dissemination and educational campaigns promote more awareness about the importance of the natural and cultural heritage in the region and lead to make behaviour of people living by a lake or a river basin more environmental friendly. The education campaigns also help bring people together - children and adults - from all around the region and promote development of a shared vision for an international lake or a river basin. Role of mass media, especially of TV, radio and local newspapers is crucial to ensure active involvement of local stakeholders.

At the local level, also local community events are very important channels of communication. The majority of local stakeholders in rural communities have very limited access to Internet or do not use Internet at all for obtaining information. Furthermore, local stakeholders use as a rule only their mother tongue for the communication. Communication at the local level in a local language and in a simple non-technical language is critically important. External funding for public awareness and educational activities at local level is decisively important to ensure effective implementation of transboundary water policies, as usually local municipalities in countries in transition have very limited budgets and capacity to implement such activities independently.

### **Final comments**

There is a very large range of stakeholders with different interests in international water basins and packages of programmes and activities to enhance public participation on different levels of management should be as diverse as possible and tailor-made to the needs of the specific stakeholder groups. No cookbooks are available for public and stakeholder participation: for each water basin, a stakeholder analysis (who are the stakeholders and what are their inherent interests) has to be conducted and a stakeholder involvement plan should be developed. The stakeholder involvement plan has to be tailor-made applying the most suitable available public participation methods for each level of governance and each step of preparation and implementation of a basin management plan.

The involvement of the wider public into water management issues is rather challenging and it is not an easy task even for the environmental administrators and experts to find ways for the public to take part in complicated water management discussions and decision-making. One of the most important pre-condition for stakeholder involvement is to formulate very clearly the problems and questions in which stakeholders can contribute the most.

The more developed is the society, the more it is concerned about the state of the environment and the more important is environmental protection. In a developed society the need and will for information is raising as well. The most important element for contributing to water management at all levels is trust building in stakeholders through information exchange and regular communication. The Peipsi-Ohrid project was a good example of this kind of cooperation between different cultures and contexts.

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## **Institutional challenges for ensuring active involvement of the public in the implementation of the EU Water Framework Directive**

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### **Introduction - the EU Water Framework Directive and its perspective**

The EU Water Framework Directive<sup>1</sup> (WFD) is a critical piece of legislation and potentially a major milestone in safeguarding water resources for both people and nature. It will provide a common framework across Europe to address many of the entrenched problems in Community water policy, stemming from the piecemeal development of instruments over the last 25 years. These have resulted in incoherent legislative provisions with differing, and sometimes conflicting, methods, definitions and aims, as well as uneven implementation of Community environmental legislation across Europe.

The overall aim of the Directive is to protect all waters - surface waters and groundwaters - in the EU through a framework with a common approach, based on the river basin as the management unit, and with common objectives, principles, terminology and basic measures.

WWF believes that, in addition to the clear benefits for water and environment protection, the Directive has also a huge potential to contribute to an integrated approach to land use and thereby to support sustainable rural development.

According to the WFD, river basin districts, the main unit for management, shall be defined and characterised in accordance with annex II by the end of 2004. The future timescale for implementation is short. Environmental objectives identified under the first river basin management plans, to be published by 2009, shall be achieved by 2015.

The WFD represents a new approach to river management from different perspectives. In particular:

- It is an ongoing process of planning rather than a plan itself;
- The approach is strategic and integrated in its scope, calling for an holistic look at river systems; and
- The approach is participatory.

WWF and the European Commission organized a series of three technical meetings held between February 2000 and May 2001, each dealing with a specific key issue for the implementation of the WFD:

- Water and agriculture;
- The role of wetlands in integrated river basin management; and
- Good practice in river basin planning.

More than 300 water stakeholders, from governmental, non-governmental and business sectors of both EU Member States and EU candidate countries, participated in the "Water Seminar Series".

A series of seminar reports and a final synthesis note called Elements of Good Practice in Integrated River Basin Management have been produced.<sup>2</sup>

The seminar series emphasised the need for comprehensive public participation if the objectives of the WFD are to be reached. The seminars, as well as several subsequent events dealing with the WFD, also called for early stage involvement of the public.

The WFD "minimum compliance" deadlines require public consultation on the river basin management plan process to be initiated by 2006. However, early provision of transparent and accessible information, together

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<sup>1</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, published in the Official Journal L 327 of 22/12/2000.

<sup>2</sup> Seminar synthesis notes and proceedings are available on the WWF web site, among the European publications, at [http://www.panda.org/news\\_facts/publications/europe/index.cfm](http://www.panda.org/news_facts/publications/europe/index.cfm).

with genuine opportunities for participation in planning and decision-making mechanisms, increase the chances of ultimate success in achieving “good water status”.

Therefore, participation of stakeholders should be prioritised from the start, with carefully planned actions to demonstrate early results and to build and maintain stakeholder commitment.

It should always been stressed that public participation is not only a matter of allowing NGOs and other interested parties to express their opinion and provide input for the process (which in some cases seems to be the interpretation of public participation), but also a matter of mobilising water users and water polluters - industry, agriculture and households - as partners in achieving good water quality.

#### **Article 14 of the WFD - requirements related to public participation**

Given social, political and legislative trends at EU, national and regional levels, notably the 1998 Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), it is highly unlikely that any river basin management plan can be implemented successfully if it does not meet broad public acceptance and, in particular, if it is not supported by key stakeholder groups within a basin, including local residents and sectoral land/water users. Achieving acceptance will require a broad dialogue with the public, at a higher level of participation than normally implied by the authorities.

This fact is fully recognised in Article 14 of the Water Framework Directive. Article 14 also sets out specific but somewhat limited provisions governing consultation on river basin management plans and availability of background documents and information:

“Member States shall encourage the active involvement of all interested parties in the implementation of this Directive, in particular in the production, review and updating of the river basin management plans. Member States shall ensure that, for each river basin district, they publish and make available for comments to the public, including users:

- a) a timetable and work programme for the production of the plan, including a statement of the consultation measures to be taken, at least three years before the beginning of the period to which the plan refers;
- b) an interim overview of the significant water management issues identified in the river basin, at least two years before the beginning of the period to which the plan refers;
- c) draft copies of the river basin management plan, at least one year before the beginning of the period to which the plan refers.”

WFD Article 14 though entitled “Public information and consultation” refers to “information”, “consultation” and “participation”. It is essential to recognise that these three terms are fundamentally different and should never be interchanged.

On the other hand, it should be stressed that the Article 14 of the WFD consists of 2 parts: the first part, which calls for active involvement, and the second part, which outlines the consultation formalities regarding the planning process. In this latter context, significantly, the WFD requires the public to be consulted only with regard to the management plan for the entire river basin district, which contains a summary of the measures programme. The WFD does not mandate separate public consultation with regard to the programme of measures per se. It is likely that the transposition of the WFD to the respective national legislation will focus primarily on the consultation formalities, while at the same time - one way or the other - recognising the active involvement dimension.

It needs to be noted that Working Group 2.9<sup>3</sup> is preparing a Guidance on public participation, which will provide Member States and accession countries with general instructions for public participation, explore the legal requirements in greater depth, and provide common understanding, in particular on practical applications. The guidance document is expected by December 2002.

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<sup>3</sup> One of the Working Groups within the framework of the Common Implementation Strategy, responsible for developing guidance on best practices in river basin planning.

Although the EU adopted a Directive on public access to information as long ago as 1990<sup>4</sup>, the WFD is the first case of water-related EU Directive specifically including requirements for more active involvement of the public. What this means in practice is still left very much to individual Member States. The following chapter will provide an attempt to approach such a definition.

### **Defining public participation**

The UN Economic Commission for Europe, in the 1998 Aarhus Convention, has set out the principle of increased involvement of public and stakeholders in environmental decision-making. This convention has constituted one of the cornerstones for setting the legal and conceptual framework for public participation, mostly with reference to the involvement of stakeholders in decision-making, whereas involvement of stakeholders in implementation is yet to be decided within each river basin district.

Articles 6, 7 and 8 of the Aarhus Convention deal with participation. Article 7 is particularly relevant to the WFD implementation as it requires Parties to the Convention to “make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes relating to the environment, within a transparent and fair framework, having provided the necessary information to the public ... [and to] endeavour to provide opportunities for public participation in the preparation of policies relating to the environment.”

In response to the Aarhus Convention, the European Commission has prepared a proposal for a new Directive<sup>5</sup> providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending certain existing directives to make them compatible with the Aarhus Convention. The EC has thus accepted that public participation is needed to achieve the environmental objectives of the EC Treaty.

Thus, while provision of information - if carried out in an open and timely fashion - is an important preparatory step, actual participation implies a dynamic, interactive process. Similarly, consultation may be conducted in a manner that provides little or no opportunity for those consulted to have real involvement/influence in planning or decision-making processes.

A range of actors need to be involved (again, different actors at different times and at different levels) including civil society organizations (especially community development and environmental NGOs), professional associations, users or consumers associations, the private sector, and academic, educational and research institutions.

As a response to this stipulation, the EU Drafting Group on public participation within the Common Implementation strategy notes that “Member States (and accession countries) are recommended to go beyond this basic level to reach the objectives of the WFD”, a conclusion supported by the EC/WWF practical resource document which concluded that “genuine opportunities for participation in planning and decision-making mechanisms” are required in order to achieve “good water status”. Thus, public participation, as defined above and as understood by most actors, is much more than just information and consultation.

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<sup>4</sup> Directive 90/313/EEC on the freedom of access to information on the environment, published in the Official Journal L 158 of 23/06/1990.

<sup>5</sup> Available on the Internet at: [http://europa.eu.int/eur-lex/en/com/pdf/2000/en\\_500PC0839.pdf](http://europa.eu.int/eur-lex/en/com/pdf/2000/en_500PC0839.pdf)

<b>Level of participation</b>	<b>Possible public participation methods</b>
<b>1. Information</b> The public gets information (not real public participation)	<ol style="list-style-type: none"> <li>1. Leaflets and brochures</li> <li>2. Mailings</li> <li>3. Involving the media: press release, press conference</li> <li>4. Information centres</li> <li>5. Repositories (other than 4, e.g. libraries and city halls)</li> <li>6. Exhibitions</li> <li>7. Information lines/ contact persons</li> <li>8. Open house</li> <li>9. Field trips</li> <li>10. Briefings (at meetings of residents associations, women's clubs, etc.)</li> <li>11. Internet</li> <li>12. Cultural events (e.g. street theatre, especially for awareness raising)</li> </ol>
<b>2. Consultation</b> The public is asked its opinion	<ol style="list-style-type: none"> <li>13. Reply forms</li> <li>14. Possibility to comment in writing</li> <li>15. Public hearings</li> <li>16. Interviews</li> <li>17. Opinion polls</li> <li>18. "Stakeholder analysis"</li> <li>19. Gaming</li> <li>20. Internet discussions</li> <li>21. Advisory commissions/ boards, focus group</li> <li>22. Non-binding referenda</li> </ol> <p>Consultation implies information. Some of the information methods (4, 6, 7, 8, 9, 10) could be used for consultation too.</p>
<b>3. Discussion</b> Real interaction takes place between the public and government	<ol style="list-style-type: none"> <li>23. Small group meetings in different phases, with different tasks (e.g. analysis of problems, development of a view, development of solutions) and with different formats ("workshops", "charrettes", "coffee meetings", "round tables", "study circles", "brainstorm sessions", "planning cells", "citizen juries", etc.)</li> <li>24. Large group meetings involving splitting up into smaller groups and/ or rotation between front benches and back benches or between subgroups (e.g. working groups, "Samoan circle", "open space meetings", carousel)</li> </ol> <p>Methods 8, 9, 10, 19, 21 can be used too.</p>
<b>4. Co-designing</b> The public takes an active part in developing policy or designing projects	Several of the meetings mentioned under 23, 24.
<b>5. Co-deciding</b> The public shares decision-making powers with government	<ol style="list-style-type: none"> <li>25. Negotiations, e.g. resulting in a "voluntary agreement"</li> <li>26. Representation in governing boards</li> <li>27. Corrective referenda and all binding referenda initiated by government</li> </ol> <p>Some of the meeting formats mentioned under 23 and 24 can be used too.</p>
<b>6. Deciding</b> The public performs public tasks independently	<ol style="list-style-type: none"> <li>28. Water users' associations and other NGOs performing public functions</li> <li>29. Popular initiatives</li> </ol> <p>Some of the meeting formats mentioned under 23 and 24 can be used too.</p>

**Table 1: Public Participation levels (participation ladder) and pertinent methods (developed by E. Mostert <sup>6</sup>)**

<sup>6</sup> Delft University of Technology, Centre for Research on River Basin Administration, Analysis and Management.



### **Benefits and complications related to public participation**

Paragraph 14 of the preamble of the WFD notes that “the success of this Directive relies on close cooperation and coherent action at Community, Member State and local level as well as on information, consultation and involvement of the public, including users”.

This is so clearly stated in the opening paragraphs of the WFD because public participation brings many potential benefits to the WFD process. Public participation fulfils the following functions, which will all contribute to WFD implementation:<sup>7</sup>

- Only through proper public participation is a strong sense of shared ownership of decisions (and river basin management plans) possible, and this radically improves the chances of successful implementation of measures. The programme of measures is more likely to be politically and culturally realistic and acceptable;
- Where public participation is strong, government accountability and efficiency increases;
- Where public awareness of environmental problems and the policy response is high, “regulatory” costs of implementation normally decrease;
- Public participation builds a culture of cooperation defusing and preventing conflicts and tension;
- Stakeholders (especially NGOs) often hold and can provide locally-relevant information essential for decision-making e.g. during the definition of programmes of measures, for analyses of impacts and pressures, etc.;
- Public participation provides an increased pool of ideas and knowledge for policy formulation, decision-making and implementation. Solutions will be more creative and the knowledge, experience, aspirations and concerns of local communities are built into the river basin management plans and programmes of measures from the beginning;
- Public participation saves money in the long-term. Implementation costs are likely to be lower when existing stakeholder knowledge and know-how is applied to avoid potentially costly errors and/or duplication of information. A World Bank study concluded that projects with a built-in public participation element are actually better value in the long-term than those without public participation and yield a longer and more sustainable flow of benefits (such as increased uptake of services, decreased operational costs, increased rate of return, increased stakeholder income, etc.);
- Public participation (especially through the role of NGOs and academic bodies) increases public environmental awareness - universally recognised as essential, especially in Eastern Europe;
- NGOs and other stakeholders can effectively play the role of (e.g. environmental) watchdog on the implementation process, either formally, through the required monitoring structures, or independently, and this generally increases the chances of successful implementation;
- There is a better chance that both regulatory and voluntary approaches will be enforceable if they have been developed in partnership with stakeholder (this point is closely linked with lower costs and improved conflict resolution/avoidance);
- In contrast, the following actions and approaches may lead to potential complications with regard to the dialogue with the public and should accordingly be taken into account:
- No serious follow-up to public participation could result in disappointment and less public acceptance of decisions;
- Limited and unrepresentative response;
- Uninformed response;
- Inconsistent decision-making;
- More complex negotiations;
- Protracted decision-making;
- Public participation starting too late and leaving no time for participants to engage as equal partners;
- Expectations not fulfilled due to lack of careful planning, including lack of stakeholder analysis;
- Water authorities do not communicate in an understandable, non-technical language.

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<sup>7</sup> Adapted from Hauser, 2001. Public Participation in the Danube River Basin Planning Process, paper presented at EC/WWF Seminar on Good Practice in RBM Planning, Brussels, May 2001.

### **Institutional challenges**

Given these considerations, it becomes clear that a real institutional change is required if stakeholders and Governments are to work constructively together.

#### ***Manpower and financial resources***

Participation does not just happen. On the contrary, it must be actively encouraged and river basin authorities must be prepared to devote time to careful planning and to invest significant financial and human resources. Such investment has the potential to be extremely cost-effective in terms of the benefits derived for the WFD implementation. Additional points to be noted are:

- The process will be time-consuming, quite expensive in the short-term, although, as noted above, will save money in the long-term;
- Consultants and independent facilitators could be useful;
- The authority responsible for the process should expect that a lot of consulted people will participate as volunteers, whereas others will require compensation for their time and expertise.

#### ***Capacity-building and training - institutional reform***

Active involvement will imply for many authorities an entire shift of paradigm for their interaction with the public. In order to initiate a successful process, training of the staff may easily pay off.

As the process will require some specific skills, the use of consultants and independent facilitators could prove helpful. Staff will need to be trained on mediation skills, on how to communicate with stakeholders, on its new role and new approach.

Additional capacity-building and training could be necessary for the stakeholders themselves.

#### ***Coordination of public participation - management of expectations***

Expectations must be managed carefully. It is essential not to promise more than what can be delivered, otherwise public interest and support will at best evaporate or, at worst, be transformed into active hostility. In this respect, it is particularly important to distinguish between consultation and involvement at the planning phase, and consultation and involvement at the decision-making and implementation stages. The limits of participation must be clear for all parties involved.

In addition, experience shows that for participation to be effective, it has to have real impacts on the ground. Without concrete results obvious to stakeholders at the scale in which they are interested, maintaining active involvement becomes more difficult. Early and repeated efforts towards public participation motivate stakeholders to continue to engage. As in most of the cases solution to problems at one level does not automatically add up to solve problems at another level, it is debatable whether there is an irreconcilable conflict between the need for strategic planning and the need to effectively involve stakeholders who may have different scales of perspective in that.

The two processes - community analysis and policy development - should proceed in parallel. The key to the success of the approach is a strong commitment from those initiating the process and an understanding that both "levels" are needed. In essence, success may depend on the ability of authorities or agencies to "bridge this gap" and to translate messages, needs and perceptions from the community level ("bottom-up") into broadly acceptable policy or programmatic decisions ("top-down"). Often, NGOs or research/academic institutions have great experience in playing this bridging role, so partnership between Governments and such stakeholders can in part provide the framework for achieving this subtle connection. Also, with regard to "levels", the balancing between geographic scales and existing administrative boundaries should be kept in mind:

- In consultations undertaken at international, national, regional and local levels;
- With administrative entities;
- Between the different national districts;
- In transboundary river basins (timetable, methods, translations in different languages, cultural differences);

- Linking local/implementation level with national/river basin district/strategic level.

### ***Evaluation of the public participation process***

Public participation, as part of the cyclic planning process, will be an ongoing activity. It should be regularly monitored and revised accordingly. Special attention should be given to:

- The criteria for evaluation and the methods to draw lessons for the next processes;
- The evolution of the public and stakeholders perceptions (establishment of an observatory of public perceptions, monitoring unit for public opinion and behaviour concerning the environment, etc.);
- Differences in perceptions, realities and priorities between women and men, age groups (monitoring of perceptions through interviews, focus groups, etc.).

### ***Representation - stakeholder relations***

It is important to recognise that different components of the public will have their own views, needs, priorities and expectations. In order to be successful, information, consultation and participation processes need to be tailored for particular target groups. These may include: the general public, NGOs, sectoral stakeholder groups within a basin or sub-basin (e.g. farmers' associations), and local residents. Special interest groups might be expected to participate at a more strategic level, e.g. through representation in basin advisory committees, whereas local communities are more likely to seek and value participation at the field/action programme level (link with cross-cutting principle of scale). It should also be taken into account that:

- Wise targeting of interest groups can also help to reduce the danger of "consultation fatigue", where stakeholders feel overwhelmed by information and perceived bureaucracy. On the contrary, there should be tangible and demonstrable benefits for participants;
- Working with interest groups also raises issues of legitimate representation. In the interests of openness and democracy it is important that "umbrella groups" clearly set out and justify the extent to which they are representative of a particular constituency.

### ***Enabling actors to be partners in water management***

Capacity-building will be a central concern if the WFD is to be successfully implemented. Early action in participatory processes is often aimed at raising awareness of issues in a catchment among local stakeholders and others. The danger is that those responsible for setting up such processes see this as the end of the task. The WFD also calls for stakeholders to have adequate opportunities to engage. As a result, very soon differences in process capacities - differences in perceptions, differences in language and culture, in ability to engage or manage new institutional structures - will arise. Increasing the "knowledge" capacity will be an essential starting point. A particular problem is that local capacity for participation is sometimes impoverished and largely static.

The deadlines for achieving the objectives of the WFD are extremely challenging. Unfortunately, the fact that there are clear time-tabled requirements for the different elements of participation in the WFD has led to many assuming that issues do not need to be tackled until the deadline is looming. To be effective, participation must be planned from the start and must occur at all stages and at all levels. One of the clearest messages from all participants of the WWF seminar on participation in Perth, Scotland (13 December 2001) was the need for a clear and agreed strategy for participation at this moment. It was suggested that this should not only cover the process of participatory planning itself but also awareness raising and capacity-building before the process starts. Participation in the transposition stage of the WFD is as important as during the implementation of river basin districts planning. Attempts to move beyond consultation alone in the early thinking about what the WFD means could be via the establishment of a WFD Stakeholder Group.

A further instructive example is that of a large European river basin, the Danube River basin (see Box 1). Here, the designated international competent authority, the International Commission for the Protection of the Danube River (ICPDR), has already invited stakeholder as "observers" in one of its expert groups to jointly prepare an Issues Paper on public participation, as a first guidance to Governments on what is required, and

why. These observers (WWF, Global Water Partnership, REC and Danube Environmental Forum) see this guidance as a way to start developing a joint strategy on public participation at basin, sub-basin, national and (to a lesser extent) local levels. Such an approach could be considered within the Baltic process.

In fact, experience has shown that it is better to begin participation “early and imperfectly” rather than waiting for the perfect situation. Growth in capacity is stimulated mainly by the need for it, created through participation. This applies to the question of involving stakeholders as to other requirements. It means for example, asking stakeholders to help define what are the problems within a catchment area and what drives them, not just what is the needed reaction to a set of problems predefined by “experts”. The authorities will have to start a process, where the stakeholders undergo capacity-building in order to become equal partners.

### Box 1. Participation in planning the Danube River basin

Planning of the Danube River basin is developed at different levels from sub-catchment/communities to international commissions. Participation of stakeholders occurs in different ways, at different levels, in the overall process. The cascade of approaches to public participation, from working with communities directly at one level to ensuring that representative organizations are involved at an international level, is a good illustration that public participation means different things at different levels but should have a common set of principles of transparency of process and inclusion.

**Danube Basin level:** the International Commission for the Protection of the Danube River (ICPDR) is the coordinating body for international aspects of the WFD implementation. ICPDR is promoting public participation in the planning process, through financial support to the ICPDR Information System, including the Danube Watch, as well as operating networks such as the Danube Environmental Forum (DEF), the Monitoring, Laboratory and Information Management Expert Group (MLIM/EG) and the Danube Accident Emergency Warning System (AEWS). NGOs’ observers attend the ICPDR Meetings, and provide significant input to the work of the Commission (for example in the establishment of an Ecological Expert Group).

The Danube Environmental Forum (DEF) is an NGOs’ platform with combined local and regional structure, established in 1999 to promote NGOs’ participation in government fora, programmes and initiatives. The DEF network and operation is still under development.

**Regional and sub-basin level:** examples include the Tisza Platform, established after the Baia Mare accident, for the monitoring and surveillance of its long-term effects on the river ecosystems, as well as for the transboundary Tisza basin planning. The platform includes 16 organizations and has provided valuable input to the work of the Baia Mare Task Force set-up by the EU.

The Lower Danube Green Corridor between Romania, Bulgaria, Ukraine and the Republic of Moldova, with a commitment for 900,000 ha of existing and new protected areas, as well as restored wetlands, is an example of regional cooperation among governments and NGOs. The initiative involves two countries not applying for EU membership. WWF and local NGOs are working closely with the Governments for the implementation of the Green Corridor. The long-term vision is to extend the corridor to the entire Danube River.

**National Level:** a successful example is the development of a network of Bulgarian NGOs, based on a number of structures: an e-network (Bluelink) including NGOs website with information about activities, donors, including links to other websites; general NGOs e-mailing list (NGOs@bluelink.net) and mailing lists on specific topics (e.g. the Kresna Gorge case), etc.; regular NGOs meetings and annual National Conferences; commonly adopted procedures for the election of representatives; linking with international platforms and forums, etc.