

REFERENCES TO OTHER TOPICS

ITLOS: New Chamber to Address Maritime Delimitation Disputes

The International Tribunal for the Law of the Sea (ITLOS), in its 23rd Session has adopted a "standing special chamber" called the "Chamber for Maritime Delimitation Disputes" to handle disputes regarding the interpretation or application of any provision of the UN Convention on the Law of the Sea relevant to matters within its special mandate. The eight-member chamber includes ITLOS President Rüdiger Wolfrum as *ex-officio* President of the Chamber, and Judges Doliver Nelson, Chandasekhara Rao, Tafsir Malick Ndiaye, José Luis Jesus, Jean-Pierre Cot, Stanislaw Pawlak and Shunji Yanai. These judges will serve during the first term of the Tribunal, which will cover a period of 18 months, ending on 30 September 2008.

Commission on Limits of Continental Shelf

The 19th Session of the Commission on Limits of the Continental Shelf, last March considered its seventh new submission (Norway), while continuing work on five of the previous six submissions. Consideration by the Commission is required wherever a State seeks to apply the clause of UNCLOS Article 76 which allows a country to extend the outer boundary of their outer continental shelf (OCS) further than the general standard of 200 nautical miles beyond the outer boundary of its territorial sea, under certain rigorously enforced scientific conditions. If any State intends to avail itself of the option to extend its OCS, it must do so by 13 May 2009 or 10 years from the date it became a party to the Convention, whichever is later. (See page 321).

IPCC-WG-II: Building the Scientific Base of Climate Change Policy

In its eighth session, the IPCC's Working Group II (vulnerability) continued the IPCC's work of maximising the scientific information available on climate change, and presenting it in the form most useful to policy makers. While much of the data and findings are technical and statistical, the Group and IPCC provide useful information, noting, for example, that 20–30% of plant and animal species will be vulnerable (face extinction); and hundreds of millions of people will be exposed to increased "water stress", if global average temperatures rise by more than 1.5–2.5°C. The primary deliberations involved drafting and agreeing on a "summary for policy makers" covering the working group's findings over the term of its work – providing a useful example of the problems of integrating science/technology into international policy negotiations (see Earth Negotiations Bulletin, online at <http://www.iisd.ca/climate/ipwg2/>).

UNCCD: Committee for Review

The Committee for the Review of the Implementation of the Convention (CRIC 5) met for the fifth time in Buenos Aires, focusing its attention on the implementation of the UNCCD in desertification-affected countries in regions other than Africa. Beginning with a strong statement concerning the linkage between the UNCCD and the Millennium Development Goals, the Committee reviewed the continuing problems of funding and implementation, but focused on the non-African countries facing these problems (<http://www.unccd.int>).

The IMoSEB Process – Scientific Expertise and Biodiversity Policy

The International Consultative Process Towards an International Mechanism of Scientific Expertise on Biodiversity (IMoSEB) has continued its work on the development of the mechanism through a series of consultative meetings in Africa, North America and Europe. Initiated during the 2005 Paris Conference on Biodiversity, Science and Governance, with support from French President Jacques Chirac and the French Government, the IMoSEB proposal calls for improvement in the current science/policy interface in the area of biodiversity. Although it is too early in the process to consider the development of consensus, current discussions focus around four options: (i) partnership between existing mechanisms; (ii) a new mechanism consisting of intergov-

ernmental and non-governmental components; (iii) inviting the Intergovernmental Panel on Climate Change to consider developing a biodiversity component; and (iv) strengthening the existing network of scientists through a small coordination mechanism. Experts from the Secretariat of the IMoSEB process will bring an in-depth discussion of this work to an upcoming issue of EPL.

FAO: Committee on Forestry Discusses Broadened Action Programme

The 18th session of the FAO Committee on Forestry (COFO-18) was held in Rome from 12–16 March, 2007, and adopted calls for increased involvement in energy, climate and water policy. Particular outcomes include requests for (i) programmatic assistance to developing countries in development of comprehensive and integrated national bio-energy strategies, (ii) further studies into the impact of forest tenure systems on forest sustainability and poverty alleviation, (iii) better integration of forestry in NPRSPs, and (iv) strengthening national capacity to develop and implement climate change mitigation and adaptation measures, including reduction of deforestation and support to critical forest habitats. Proposals also considered the need for regional and subregional coordination, particularly in the area of invasive species control, programmatic work on sustainable forest management, and information-sharing to enhance compliance with law. (ATL)

Symposium on the State of Whale Conservation

An NGO-funded symposium on international whaling and conservation issues, held in the UN Headquarters in New York City, considered the question of how to address current impasses in whale-related action at the international level. Most tellingly, the symposium's conclusions included recognition that "pro-whaling countries will only be interested in negotiation when they see a potential gain, and quiet diplomacy is more fruitful than aiming for public embarrassment of one country" (as reported by the ENB, at <http://www.iisd.ca/ymb/whales/>). In addition, however, the group focused on more traditional questions of illegal whaling and "scientific whaling" which continue to divide the International Whaling Commission (which will meet this June).

Criticism of Whaling Countries

In preparation for the IWC and CITES meetings this May and June, German governmental record has published an information statement prepared at request of the German Green Party and three representatives, detailing the increased whale harvest quotas set by Norway, Greenland and Iceland (which has announced the resumption of commercial whaling) with regard to whale capture within their respective EEZs. The information statement has also noted Japan's proposals to CITES and to the IWC, seeking "periodic review of all cetacean species", as well as its efforts to further the role of the IWC "as a mechanism for enabling and regulating whaling and not for impeding it." A number of whaling proposals have been submitted for consideration at CITES COP 14 (June 2007). "Commercial whaling activities in European waters." March 2, 2007. Deutscher Bundestag #16/4510.

UNICEF Sends a Strong Message on Malaria in Africa

The UN Children's Fund has issued a strong statement urging the international community to reverse the spread of malaria, a disease that infects 350–500 million people and kills over a million per year – in Africa alone, killing at least one person every 30 seconds and crippling many children. Noting the existence of long-term solutions that are both effective and cost-effective, UNICEF decried the failure of the international community to provide the funds necessary to eliminate this menace (http://www.unicef.org/media/media_39455.html). The eradication of malaria in many regions of the world has come at a great environmental cost, through the use of DDT and other materials in standing water. Unlike smallpox, malaria cannot be eliminated by vaccine, since it infects wild and domesticated animals, as well as humans.

At nearly the same time, the World Bank has publicised significant funding (over US\$700 million, including more than 130 million in World Bank funds) for a programme in Nigeria to combat the disease, which is rampant in the country. ➤

EU:**– Natural Resource Strategy**

The European Parliament has called on the Commission to develop a “clear vision on how to meet the overall objective” of sustainable use of natural resources, giving it detailed instructions for the development of a formal EU Thematic Strategy on this topic (Doc A6-0054/2007). Noting that “a policy can only be implemented in the public and consumers are also encouraged to alter their consumption patterns to take account of environmental and health requirements,” the decision calls for binding targets and timetables for natural resources to “develop and implement best practices for every production chain and to achieve a quantitative greenhouse gas reduction of at least 30% by 2020 and 80% by 2050, against 1990 levels.” Other provisions note that “by postponing practical action, the EU will surrender its competitive position in the field of innovation and trade in new eco-efficient technologies” and call for “decoupling natural resource use from economic growth”.

**– Strategy for Biomass and Biofuels**

In a similarly detailed instrument, the Parliament called for the development of a Strategy for Biomass and Biofuels, noting that “sustainable solutions to the energy challenge are to be achieved through energy savings and at the same time through the expansion of renewable energy sources” including biofuels which are “the only carbon carrier among renewable energies”, and thus a tool in the challenge of decreasing carbon and greenhouse gas emissions in the energy sector (which is responsible for more than 20% of current emissions) (A6-0347/2006). Among other provisions, the decision specifically calls on Member States to provide incentives for biomass-based energy, and to develop national biomass action plans.

– Impact Assessment – Inclusion of Aviation in GHG Trading Scheme

The European Commission has released a working document which summarises its assessment of the impact of including the aviation industry within the EU’s greenhouse gas emissions trading scheme (EU-ETS) (C6-0011/07). The analysis concludes that the aviation system will not be unduly impacted by inclusion in the ETS – a trading system by which industrial enterprises can meet their greenhouse gas reduction targets either by direct reductions or by purchasing credits from industries in which reductions have exceeded requirements. Given the high levels of emissions currently, coupled with significant impacts beyond Europe if the system were to include flights from other regions arriving in or departing from Europe, the net impact of such inclusion has been considered to be important.

Innovation Proposal: Tradable Biodiversity Rights

A German technology forum (the *Forum für Wissenschaft, Industrie und Wirtschaft*) reports a new proposal from Professor Steven De Bie, for “tradable biodiversity rights” as a tool for improving the sustainable management of biodiversity (http://www.innovations-report.de/html/berichte/umwelt_naturschutz/bericht-79965.html). The use of trading mechanisms has long been accepted in the context of air emissions, but is seeing a resurgence as it is being tested for use in climate change. International agencies, academics and NGOs are proposing similar mechanisms for wetlands, forests, fisheries, water use and now biodiversity.

USA: California adopts Climate Change Legislation

The US State of California has decided not to wait for federal climate-change legislation. Its new climate change law, the California Global Warming Solutions Act,¹ signed by Governor Arnold Schwarzenegger late last year, recently entered into effect. Although only one among the 50 US states, California notes that if it were a separate country, it would have “the world’s fifth largest economy”.² After a long debate between industry (calling for the creation of an “emissions trading market”) and environmental groups (opposed to any measures that could mitigate mandatory direct reductions), the lawmakers effectively postponed the decision, and placed it in other hands, by providing that the California Air Resources Board

“may adopt a regulation that establishes a system of market-based declining annual aggregate emission limits for sources or categories of sources that emit greenhouse gas emissions.” More emphatically it requires the CARB to adopt mandatory greenhouse gas reporting requirements, set emissions limits, develop and implement a “list of discrete early action greenhouse gas emission reduction measures.” All of these actions must be implemented not later than 1 January 2010. Within one year thereafter, the Board must adopt and implement mandatory emission reduction standards (potentially including the emissions trading.)

The law is important for more than its provisions, however, in that it was signed into law by a Republican Governor, on the basis of specific findings that global warming is a serious threat, and caused by human-caused emissions of greenhouse gases, and noting that “[n]ational and international actions are necessary to fully address the issue of global warming”. However, action taken by California to reduce emissions of greenhouse gases will have far-reaching effects by encouraging other states, the federal government, and other countries to act. (See page 353).


1 California Global Warming Solutions Act of 2006, 2006 Cal. State. 488 (proposed as AB 32.)

2 Sloan, B. 2006. “New Climate Change Law – Kyoto in California” in *The Dirt*, Morrison & Foerster, LLP.

Canada: Admits Inability to Achieve its 2012 Targets under Kyoto

The International Herald Tribune reports that the Canadian Government, in presenting its new plan for cutting greenhouse gas emissions, has admitted that it will not be able to meet its original commitment of a 6% cut in levels as they stood in 1990. Noting that the country’s emissions are now 30% above 1990 levels, the government stated that: “The plan we are presenting today does meet Kyoto, if today was 1997” and that it regrets the loss of ten years of action (<http://www.ihf.com/articles/ap/2007/04/27/america/NA-GEN-Canada-Climate-Change.php>).

New Zealand: Proposes Interim Closures and Other High-seas Measures

Continuing its high-profile push for high-seas conservation and management, New Zealand has regularly proposed (through the South Pacific Regional Fisheries Management Organisation) the closure of certain marine areas that are outside of any country’s jurisdiction, “as a temporary measure to address the impacts of bottom trawling on vulnerable areas.” When these proposals were not adopted, New Zealand’s ministers have entertained a proposal by which they could lead by example – a proposal to take national measures to close certain areas of the country’s EEZ to all bottom trawling. This proposal has necessitated bilateral discussions between New Zealand and Australia, the country which led opposition to closures in the earlier international negotiations. According to reports, Australia’s opposition is based on its interpretation that the interim closures would constitute “marine protected areas”. It has claimed that New Zealand does not have legislative means to protect ecosystems in closed areas of their EEZ beyond the territorial sea, and that the power to impose a fishery closure in those areas is not enough to justify the adoption of such closures. Presumably, negotiations will unwind these inconsistencies between the two positions (New Zealand’s closure provisions are not MPAs) and result in positive measures. 

Correction:

An error appears in the caption (printed on the back cover) to the photograph that appears on the front cover of our last regular issue (Volume 37, issue 1.) That caption should read “The power station of Linth-Limmern in Switzerland uses the water inflow from the approximately 140-square-kilometre catchment area surrounding the source of the river Linth, producing an average 460 million kilowatt-hours of energy per year. As a storage power station it is able to meet sudden energy spikes when demand is particularly high.”

The editorial staff intended no slight to the power station in overlooking the inadvertent omission of the word shown in italics above.