

## REFERENCES TO OTHER TOPICS

### UNGA – Environmental Leadership in the Post-2015 Development Agenda

About 100 leaders from civil society, government, the private sector, UN agencies and international organisations participated in the UNDP/UNEP-convened Leadership Meeting of the Global Thematic Consultation on Environmental Sustainability in the Post-2015 Development Agenda, in San José, Costa Rica. With an eye on their role in developing a portion of the UNGA's Post-2015 Development Agenda, the leaders considered a range of themes, including “capitalizing on the Millennium Development Goals (MDGs), [especially] MDG 7 (ensuring environmental sustainability) achievements and addressing the gaps; and addressing environmental sustainability in the post-2015 agenda”. *EPL* is hoping that a participant from that meeting will provide a report on it for issue 3; in the meantime, IISD has provided an in-depth report of the Forum, available online at <http://www.iisd.ca/post2015/sustainability/html/crsvol208num7e.html>.

### ICJ: New Zealand Intervenes in Australia v. Japan

New Zealand has been granted leave to intervene in the Antarctic Whaling case filed by Australia in 2010, alleging that Antarctic whaling activities by Japanese vessels constituted an alleged breach of Japan's international obligations concerning whaling. In its decision to permit intervention, the International Court of Justice (ICJ) stated that a key element of Australia's allegations involves construction of the International Convention for the Regulation of Whaling (ICRW), under which, “any Contracting Government may grant to any of its nationals a special permit authorizing that national to kill, take, and treat whales for purposes of scientific research subject to such restrictions as to number and subject to such other conditions as the Contracting Government thinks fit”. As a Party to the ICRW, New Zealand intervened to offer its position on the interpretation of that provision. “Whaling in the Antarctic (Australia v. Japan): Declaration of Intervention of New Zealand”. Available online at <http://www.icj-cij.org/docket/files/148/17268.pdf>.

### Law of the Sea Tribunal to Advise on IUU Fishing

The International Tribunal for the Law of the Sea (ITLOS) reports that it has received a request for an Advisory Opinion from the Sub-Regional Fisheries Commission, an intergovernmental body comprising seven west African States: Cape Verde, the Gambia, Guinea, Guinea-Bissau, Mauritania, Senegal and Sierra Leone. The request asks for ITLOS's guidance on four questions regarding a flag State's obligations when vessels under its flag are conducting illegal, unreported and unregulated (IUU) fishing activities within the Exclusive Economic Zone of third-party States, and more generally about the “rights and obligations of the coastal State in ensuring the sustainable management of shared stocks and stocks of common interest, especially the small pelagic species and tuna”. ITLOS Press release 190, 28 March 2012, available at [http://www.itlos.org/fileadmin/itlos/documents/press\\_releases\\_english/PR\\_190\\_E.pdf](http://www.itlos.org/fileadmin/itlos/documents/press_releases_english/PR_190_E.pdf).

### High-Level Meeting on Water

In recognition of World Water Day (22 March), the UN Water Programme sponsored a two-day “High-Level Meeting on Water Cooperation and on the Global Thematic Consultation on Water” in The Hague, Netherlands, featuring thematic discussions on the relationships between water cooperation and the environment, the economy, peace and gender equality. The meeting also featured many award ceremonies and cultural performances as well as a panel discussion bringing together high-level representatives of key UN Agencies and national governments addressing relevant issues. An interactive link connected this meeting to the UN's High-Level Interactive Dialogue on Water Cooperation in New York.

### The Caribbean Forum Promotes Unified Regional Goals.

With the goal of “shaping a sustainable development agenda to address the Caribbean reality in the 21st century”,

the Economic Commission for Latin America and the Caribbean, the Caribbean Community, and the Government of Colombia co-sponsored a gathering of over 250 ministers and other delegates, to address development goals, aspects of global and regional governance, and the implications, from a regional perspective, of the UN Conference on Sustainable Development (Rio+20). The participants also addressed preparations for the Third International Conference on Small Island Developing States (SIDS) to be held in Samoa in 2014. IISD has provided an in-depth report of the Forum, available online at <http://www.iisd.ca/vol05/enb05306e.html>.

### European Union: – Environment Council Considers Key Policy Issues

The EU Environment Council reports that key debates have been held considering the possibility of submitting a draft directive on a new “indirect land-use” clause designed to encourage a transition to biofuels, and consequent “greenhouse gas savings”. Other recent policy debates have focused on possible amendments to the environmental impact assessment directive, the draft regulation on access and benefit sharing, the REACH system for the Registration, Evaluation, Authorisation and Restriction of Chemicals, the Rio+20 follow-up processes and the UN's post-2015 development agenda. Details are available online at [http://europa.eu/index\\_en.htm](http://europa.eu/index_en.htm).

### – New Venture Capital Framework Linked to Energy Issues

The EU Environment Council has adopted a new venture capital framework and an energy infrastructure regulation aimed at facilitating access to finance for European companies, while modernising and expanding Europe's energy infrastructure in line with core policy objectives of competitiveness, sustainability and security of supply. See [http://europa.eu/index\\_en.htm](http://europa.eu/index_en.htm).

### Germany: The First “Truly Green” House

In Hamburg, a German developer, Strategic Science Consult, has developed the first biologically heated building, using a new “bioreactor façade” – an external covering composed of microscopic plantlife (algae) from a tributary of the Elbe River. The process is based on the fact that photosynthetic processes produce heat. The building is part of a brownfield redevelopment programme. Biomass from the processing of the algae can also be processed to produce biogas. See “Algae façade makes house truly green”. 20 March 2013. *The Local*. Online at <http://www.thelocal.de/sci-tech/20130320-48635.html>.

### Japan: Biodegradable Apparel

Japanese apparel maker and retailer Onward Kashiyama Co. has successfully commercialised its new biodegradable blazer, the “Bio Tech Jacket”, which it has been selling in commercial markets since release of its autumn/winter line in 2012. Entirely made of biodegradable materials, the jacket (including buttons) will break down completely into water and carbon dioxide if buried or deposited in a landfill. A part of the revenues from jacket sales are donated to the late Wangari Matthai's Green Belt Movement. Reported by *Japan for Sustainability*, online at <http://www.japanfs.org/en/pages/032678.html>.

### United Kingdom: EDF Drops Suit Against Climate Activists

EDF, the international energy conglomerate, has dropped the UK £5 million lawsuit it filed against activists who occupied one of its gas-fired power plants in protest, in October 2012. The energy giant reportedly faced a significant public and financial backlash as a result of the suit against 21 individual protesters who were increasingly viewed in a very heroic light. The protesters will still be sentenced for trespass, and reportedly accept that result as an element of civil disobedience. Ball, J., 13 March 2013, “Victory! EDF drops lawsuit against environmental activists after backlash”, *The Guardian* Online, at <http://climate-connections.org/2013/03/14/victory-edf-drops-lawsuit-against-environmental-activists-after-backlash/>.

### United States: – Nominee to Head Department of Interior

President Obama has nominated Sally Jewell, former CEO of the successful outdoor gear company REI, to replace Ken Salazar, who resigned that post, effective 31 March 2013. The nomination has been approved by the Senate Confirmation Committee, but must still receive the approval of a majority of the full Senate. Jewell is renowned for her involvement in the Administration's past environmental efforts, and the fact that under her leadership REI was named on Fortune Magazine's list of the “100 Best Companies to Work For”. Conservatives have criticised her work with organisations that challenge the government for environmentally damaging choices, while liberals have expressed concern about her outspoken support for the expansion of petroleum exploration on public lands. Jewell is a recipient of the 2009 Rachel Carson Award for Environmental Conservation from the Audubon Society. See <http://www.cnn.com/interactive/2012/11/politics/obama-cabinet/index.html>.

### – California High-Speed Rail Project Resolves Legal Challenges

The California High-speed Rail Authority (dubbed the “Bullet Train”) has resolved two of the four environmental lawsuits filed against it following the decision to develop a high-speed rail system in the state, last year. The lawsuits were filed under the state's environmental impact assessment law, which has long been the preferred legal tool of trade unions and others seeking to alter or delay proposed development. One of the cases has been dismissed by the judge, and the second settled by payment of US \$300,000.00 to the plaintiffs. “Environmental lawsuit against state bullet train settled” *Los Angeles Times*, January 28, 2013, available online at <http://latimesblogs.latimes.com/lanow/2013/01/high-speed-rail-california-bullet-train-lawsuit-chowchilla-.html>.

## SELECTED DOCUMENTS

### UNEP/GC-27

### Decision 27/9: Advancing justice, governance and law for environmental sustainability<sup>1</sup>

**The Governing Council,**  
**Recalling** its decision 25/11 (I) concerning the Fourth Programme for the Development and Periodic Review of Environmental Law,

**Recalling** the 1997 Nairobi Declaration on the Role and Mandate of the United Nations Environment Programme,

**Noting** principle 10 of the Rio Declaration on Environment and Development and acknowledging the importance given to broad public participation and access to information and judicial and administrative proceedings in the outcome document, “The future we want”, of the United Nations Conference on Sustainable Development and in regional and national regimes and processes,

**Recalling** the guidelines for the development of national legislation on access to information, public participation and access to justice in environmental matters, as well as the guidelines for the development of domestic legislation on liability, response action and compensation for damage caused by activities dangerous to the environment, both adopted by the Governing Council in its decision SS.XI/5 A and B,

**Welcoming** the important contributions made to sustainable development by environmental law and constitutional provisions and rights of some countries related to nature,

**Noting** that democracy, good governance and the rule of law, at the national and international levels, as well as an enabling environment, are essential for sustainable development, including sustained and inclusive economic growth, social development, environmental protection and the eradication of poverty and hunger,

**Noting** also that offenses against the environment, in particular trafficking in hazardous waste, wildlife and illegal timber, is increasingly committed by organized criminal groups and recalling that international cooperation at all levels in accordance with international law while respecting national jurisdictions contributes to combating those offenses more effectively,

**Recognizing** the important contribution made by the legal and auditing community worldwide to the enforcement of standards and safeguards for environmental sustainability,

### – New Hampshire Sues Big Oil Companies Over Unsafe Additive

The State of New Hampshire's lawsuit against 26 oil companies, including Exxon-Mobil and Citgo, is finally entering the trial phase. Filed in 2004, the case alleges that the gasoline additive methyl tertiary butyl ether (MTBE) has contaminated the groundwater of the state, affecting over 60 percent of the state's population. The state is seeking over US \$700 million to address the damage caused by the contamination. “NH involved in record environmental lawsuit against Big Oil”, *Common Ground Online*, 2 Jan 2013, <http://commonground.edrnet.com/posts/d25e891d40>.

### The Françoise Burhenne Fellowship

The IUCN Council has unanimously adopted a resolution proposed by the World Commission on Environmental Law, creating the “Françoise Burhenne Fellowship in Environmental Law” in honour of “Françoise Burhenne-Guilmin's inspiring force behind the scenes of international environmental law since the 1960s, her contribution to IUCN's leading position in international environmental law, and encouragement and support over the years for numerous researchers and interns at IUCN's Environmental Law Centre [ELC]”. The Council mentioned her many contributions to the drafting and implementation of the Convention on International Trade in Endangered Species, the Convention on Migratory Species, and the Convention on Biological Diversity, and her 40+ years of service to IUCN – as legal officer, as Director of the ELC, and now as Senior Council. (Resolution of the 81st meeting of the IUCN Council, 28-30 January 2013).

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United Nations Environment Programme activities to be taken in coordination with States and others in the development and implementation of Environmental law for the decade beginning in 2010. Acknowledges the work of chief justices, heads of jurisdiction, attorneys general, auditors general, chief prosecutors and other high-ranking representatives of the judicial, legal and auditing professions at the World Congress on Justice, Governance and Law for Environmental Sustainability, 17–20 June 2012, Rio de Janeiro, Brazil;

1. **Notes** that an independent judiciary and judicial process are vital for the implementation, development and enforcement of environmental law;

2. **Emphasizes** that environmental and sustainability auditing are important in ensuring transparency, access to information, accountability and the efficient use of public finances while protecting the environment for future generations;

3. **Emphasizes** also that justice, including participatory decision-making, access to information and judicial and administrative proceedings as well as the protection of vulnerable groups from disproportionate adverse environmental impacts, should be seen as an intrinsic element of environmental sustainability;

4. **Recognizes** that the violation of environmental law has the potential to undermine sustainable development and the implementation of agreed environmental goals and objectives at all levels and that the rule of law and effective governance play an essential role in reducing such violations and invites Governments and relevant organizations to further strengthen mechanisms and explore initiatives for exchanging information and sharing experiences in order to reinforce international, regional and subregional cooperation to combat the noncompliance with environmental laws, including, *inter*

*alia*, measures to increase the effectiveness of administrative, civil and criminal enforcement mechanisms, institutions and laws in the field of environment as well as applicable education and training;

5. **Requests** the Executive Director:

(a) To lead the United Nations system and support national Governments upon their request in the development and implementation of environmental rule of law with attention at all levels to mutually supporting governance features, including information disclosure, public participation, implementable and enforceable laws, and implementation and accountability mechanisms including coordination of roles as well as environmental auditing and criminal, civil and administrative enforcement with timely, impartial and independent dispute resolution;

(b) To improve coherence and coordination, seek opportunities to collaborate and promote partnership with, and avoid duplication among, United Nations entities and other relevant entities working to promote improved environmental governance at the national level and to provide support for existing efforts and initiatives in coordination with the Rule of Law Coordination and Resource Group;

(c) To promote quality information and data exchange among the legal and auditing communities and improve education, capacity-building and technical assistance, including with the aim of strengthening effective national environmental governance systems and improving the effectiveness of rule of law systems;

(d) To encourage the further expansion of information sharing about environmental jurisprudence and the development of specialized expertise in environmental law among judges, prosecutors and law enforcement officials;

(e) To promote the continued engage-

ment in the work referred to above of judges, prosecutors, auditors and other related authorities such as inspectors, investigators, police, regulatory enforcement officials and other components of the environmental, legal and enforcement community and the institutions they represent, including associated networks, and exploring the possible establishment of an international institutional network;

6. **Invites** Governments to cooperate to build and support the capacity of courts and tribunals as well as prosecutors, auditors and other related authorities such as inspectors, investigators, police and regulatory enforcement officials at the national, subregional and regional levels to implement environmental law so as to promote effective domestic judiciary and enforcement institutions in environmental matters and to facilitate exchanges of best practices in order to achieve environmental sustainability, including through networks at the international and regional levels;

7. **Acknowledges** with appreciation the significant work and initiatives already undertaken by individual countries, international organizations and other entities to promote improved environmental governance at the national level,

8. **Requests** the Executive Director to present a report on the progress made in the implementation of the present decision, as part of a report on the mid-term review of the Fourth Programme for the Development and Periodic Review of Environmental Law envisaged in Decision 25/11 (I), to the Governing Council at its twenty-eighth session.

#### Notes

1 UNEP/GC.27/17, 22.02.2013, Decisions adopted by the Governing Council/Global Ministerial Environment Forum at its first universal session

2 UNEP/GC.27/13.



### High-Level Meeting on the Rule of Law and the Environment

Held on the eve of the 27<sup>th</sup> session of UNEP/GC, this one-day event was attended by judicial, legal and auditing experts with the aim of providing a platform to discuss important recent developments and new opportunities regarding the rule of law in the field of the environment; and to consider how the rule of law can be promoted for greater effect to achieve sustainable development and social justice. Sessions included “UNEP, UNCSD (Rio+20) and new perspectives for the rule of law in the environment”; “The mutually supportive relationship between the adherence to the rule of law and respect for human rights”; and “Access to justice, public participation and information; and the challenges to sustainable development and the rule of law”.

Briefing Note: [http://www.iisd.ca/unepegc/27unepegc/hlmrle/brief/brief\\_hlmrle.html](http://www.iisd.ca/unepegc/27unepegc/hlmrle/brief/brief_hlmrle.html)

[Editor-in-Chief]



Courtesy: IISD