

URBAN PLANNING AND ENVIRONMENTAL LAW QUARTERLY
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With a nice ironical touch, the Department of Justice recently hosted a seminar entitled “Environmental Law Conference 2012 – Enforcement and Awareness” at which issues and problems concerning enforcement of Hong Kong’s environmental laws were discussed. In this edition we summarise a number of points made at the conference.

The Editors

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THE FRUSTRATION OF ADEQUATE LAWS COMBINED WITH INADEQUATE ENFORCEMENT

Environment law conference 2012 (DOJ)

It may have been somewhat ironical, but nevertheless most welcome, that on 27 April 2012 the Department of Justice ran a conference to review and discuss Hong Kong’s record of enforcing our environment – protection statutes, and how enforcement might be improved.

To be fair, it is the Environmental Protection Department’s prosecutions section which substantially controls environmental prosecutions, rather than the DOJ, but ultimately the DOJ is in a position to influence a more robust and realistic prosecutions policy, such as advising EPD to bring serious cases (such as serial offenders – and there are a number of them!) in the District Court and to appeal manifestly inadequate sentences, of which there are almost daily examples.

The conference moderator was the DPP, Kevin Zervos SC. His opening remarks and comments during the conference indicated that he has both a clear understanding of what is needed to redress our persistent environmental woes (such as an almost complete lack of interest in the environment by big business) and the personal commitment to improving enforcement standards, which itself was the most encouraging aspect of the conference.

The keynote speaker was Professor Simon Molesworth AM, QC, a world renowned Australian environmental lawyer and academic. For many years Professor Molesworth has been at the forefront of town planning and environmental causes and

litigation in Australia and internationally. The following are several of the main points he made regarding what is a world-wide malaise: inadequate enforcement of laws designed to afford some degree of protection of the environment and complex composite ecosystems (i.e. we are not dealing here with only air pollution).

Constitutional right to environmental protection

Firstly – and broadly – there is a move internationally to link environmental protection with human rights. We have a right to live in a clean, unpolluted environment with healthy ecosystems.

Since the famous *Brundtland Report* (1972), virtually every nation has, gradually, legislated for at least some degree of environmental protection. The level of protection varies greatly; typically industrialised countries have more sophisticated environmental legislation, but all countries have some laws, at least, which are aimed at protecting some aspects of their environment.

Until recently, however, no country conferred on its people a constitutional right to have the environment protected. But we are now seeing this connection between human rights and healthy environment embraced by more enlightened administrations. For example, the constitution of Ecuador contains the following provisions:

Preamble

Celebrating nature, the Pachamama (Earth Mother), of which we are part and which is vital to our existence,

A new form of coexistent citizenship, in diversity and in harmony with nature, to achieve the good life, the sumak kawsay;

Art. 1. Nature or Pachamama, where life is reproduced and exists, has the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution.

Every person, people, community or nationality, will be able to demand the recognition of rights for nature before public institutions. The application and interpretation of these rights will follow the related principles established in the Constitution.

Art. 2. Nature has the right to an integral restoration. This integral restoration is independent of the obligation of natural and juridical persons or the State to indemnify the people and the collectives that depend on the natural systems.

In case of severe or permanent environmental impact, including that caused by the exploitation of non renewable natural resources, the State will establish the most efficient mechanisms for restoration, and will adopt adequate measures to eliminate or mitigate the harmful environmental consequences.

Art. 3. The State will motivate natural and juridical persons as well as collectives to protect nature; it will promote respect towards all the elements that form an ecosystem.

Art. 4. The State will apply precaution and restriction measures in all the activities that can lead to the extinction of species, the destruction of the ecosystems or the permanent alteration of the natural cycles.

The introduction of organisms and organic and inorganic material that can alter the national genetic heritage in a definitive way is prohibited.

Art. 5. The persons, people, communities and nationalities will have the right to benefit from the environment and from natural wealth that will allow wellbeing.

These new articles of Ecuador's constitution were approved by 83% of voters in a referendum. They establish as a constitutional plank a principle that many environmentalists have argued for in world forums for years : that the environment has an inherent value (not just a value in terms of how it can be used for human benefit, whether for this or succeeding generations) and is entitled to protection in its own right, not only to sustain it for future generations.

[Some other nations (notably not Western developed nations) have adopted similar pro-environment constitutional provisions – such as India and the Philippines. In May 2012 Bolivia went even further by introducing legislation which not only recognises the inherent value of the environment but provides the Earth with rights to, for example: life and regeneration; biodiversity; freedom from genetic modification; and clear air and water.]

In Hong Kong, only one of the 160 articles of the Basic Law refers to the environment:

Article 119

The Government of the Hong Kong Special Administrative Region shall formulate appropriate policies to promote and co-ordinate the development of various trades

such as manufacturing, commerce, tourism, real estate, transport, public utilities, services, agriculture and fisheries, and pay regard to the protection of the environment.

So, constitutionally we are a long way behind Ecuador in our approach to protecting the environment. However, it has been argued in other places that a clean, healthy environment is part of the culture of the community. Therefore, it is reasonable to argue that constitutional protections for our culture also offer protection for our environment.

Healthy environment is part of our culture

The Basic Law has several references to culture which could be used as the foundation for citizens' suits seeking environmental protection. A couple of examples are:

Art. 34. Hong Kong residents shall have freedom to engage in academic research, literary and artistic creation and other cultural activities.

Art. 140. The Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on culture and protect by law...

Whilst our "constitution" falls far short of the far-sighted Ecuadoran constitution in terms of the importance accorded the environment, there is sufficient reference to "environment" and "culture" on which a plausible argument could be based to force inactive and ineffective government agencies to take more stringent measures to protect the environment.

The curse of judicial disinterest

Internationally, effective enforcement of environmental laws is greatly compromised by the common problem of the failure of courts to impose adequate penalties. For some reason, the judiciary in virtually all countries view environmental offences as less serious than other crimes, or quasi-crimes, regardless of the range of penalties imposed by the statutes. [This is a point previously made by the UPELQ; e.g. *Weak Penalties Undermine Enforcement of Environmental Laws*, April 2009.]

A more realistic and just enforcement of the raft Hong Kong's environment-protection laws will require a sea-change in the courts' attitude to this branch of the criminal law, which is unlikely to happen unless the Court of Appeal or Court of Final Appeal lays down realistic sentencing guidelines. The catch-22 is, however, that the EPD rarely if ever appeals inadequate penalties decisions, which is one of the fundamental weaknesses of our entire environmental protection regime.

Importance of NGOs

The tremendous advance made internationally since the 1970s, generally speaking, in regulatory protection of key aspects of the environment would not have been possible without the work and influence of dedicated NGOs. [This is so for Hong Kong especially : see *Hong Kong Owes a Debt to Green NGOs*, UPELQ, Dec. 2010.]

A good example of this is Australia, where twenty years or so ago an Environment Defenders' Office was established in Victoria; now there are EDOs in every state

and territory. The EDOs receive a small amount of government funding, but depend heavily on private donations and volunteers. EDOs are staffed by lawyers who take on environmental cases on behalf of private litigants. Their work has helped in the cause of bringing about stricter adherence to conservation and anti-polluting laws.

Initiatives to make enforcement more effective

There are a number of initiatives which would improve environmental protection in Hong Kong, such as :

(1) A specialist environmental court should be established to deal with all matters under our environmental legislation; e.g. challenges to environmental assessments, prosecutions of offences under statutes concerning pollution and conservation; appeals concerning permits decisions, etc. The court, or tribunal, should comprise people with environmental expertise.

(2) Give private citizens the right to bring proceedings to enforce environmental laws when the responsible agency does not do so.

"Citizens' suits" components of USA environmental legislation have been the main reason for the comparative effectiveness of the legislation. In the USA, as seemingly everywhere, government agencies traditionally are reluctant to discharge their responsibilities under environment-protection statutes.

(3) Prosecution authorities should ensure that environmental prosecutions are dealt with only by people who are trained in the area of environmental protection and who understand the seriousness of environmental crimes.

(4) The prosecution process would be more effective if we introduced "victim impact statements" to environmental prosecutions. These would spell out clearly for the court the likely adverse environmental impacts of the offender's conduct.

(5) Introduce "corporate social responsibility" obligations into the *Companies Ordinance*. This was done in Australia some years ago. CSR reporting requirements mandate that public companies report annually on their environmental record; e.g. how they have structured processes to prevent or minimise damage to the environment.

The EPD's view

The Chief Prosecution Officer of the EPD, James K. Pong, was also a speaker on the conference panel. Concerning the establishment of an environmental court, Mr. Pong implied that EPD had brought about a

de facto specialist environmental court system, in that the EPD has adopted the practice of bringing prosecutions in only three magistracies, so as to ensure prosecutions are heard only by magistrates with some experience in that field. [It could be said that all this has done is guarantee uniformly inadequate penalties.]

He acknowledged that, historically, environmental penalties have been low. However, in recent years there has been a gradual increase in average penalties from about \$1,000-\$2,000 to about \$10,000 for, say, noise offences.

Mr. Pong also said that whilst EPD prosecutors do not submit “victim statements” to the court, they often will inform the magistrate of their calculation of the costs saved or profit earned by the offender from the offence. [Reducing matters to the HK\$ is, unfortunately, the typical Hong Kong approach.]

The DPP made several accurate and robust observations concerning prosecution of environmental offences. One was that it is high time that individual directors/managers are prosecuted, and gaoled if appropriate, for serious environmental offences committed by companies.

Conclusion

There were some reasons to be encouraged by the speakers’ comments, particularly those of the DPP (as moderator) and Professor Molesworth. However, at the end of the day it is inescapable that Hong Kong’s prosecuting authorities and judiciary do not treat environmental offences in the same way as other regulatory offences, or crimes – such as copyright offences.

Mr. Pong, who has a leading role in the enforcement of our environment – related laws, pointed to the proportional increase in fines imposed today for environmental offences as indicating an improved enforcement performance. However, he did not remind us that the prescribed maximum fine for, say, a first offence under section 6 (construction site noise) of the *Noise Control Ordinance* (Cap.400) is HK\$100,000, and the fine is \$200,000 for a second offence! Nor did he explain why prosecutions of repeat offenders are not brought in the District Court (which has power to impose higher penalties than the magistracies), and why the EPD does not appeal against manifestly inadequate sentences.

Whether the *status quo* continues under the Hong Kong’s new Chief Executive remains to be seen. But given the track record of previous administrations, it is hard to be optimistic that Hong Kong will enforce environmental laws more effectively in the future.

LEGISLATION DIGEST

Fisheries Protection (Amendment) Ordinance 2012 [Gazette published on 15 June 2012, No.24 Vol.16, Legal Supplement No.1]

Fish catch and fishing efforts in Hong Kong waters have far exceeded the ‘maximum sustainable yield’ and ‘optimal fishing effort’. To bring the fisheries industry back to a sustainable path, *Fisheries Protection (Amendment) Ordinance 2012* (“Amendment Ordinance”), which took effect on 15 June 2012 (“Commencement Date”), amends the *Fisheries Protection Ordinance* (Cap. 171) and implements a series of fisheries management measures which are complementary to the recently announced ban on trawling. The combined initiatives are aimed at regulating in a more sustainable way fishing activities in Hong Kong waters. The fisheries management measures include:-

- (a) limiting the entry of new fishing vessels into the local fisheries industry by introducing a registration system to maintain an appropriate level of fishing;
- (b) prohibiting fishing activities with the use or aid of non-local fishing vessels;
- (c) restricting fishing activities with the use or aid of non-fishing vessels; and
- (d) designation of fisheries protection areas (“FPAs”).

Registration system for local fishing vessels

To limit the entry of new fishing vessels, the Amendment Ordinance introduces a registration system, with the Director of Agriculture, Fisheries and Conservation (“DAFC”) as the authority for registration. Owners of local fishing vessels will have to register their vessels if they are to be used for fishing in Hong Kong waters.

New section 14 provides that the DAFC may, on application, register existing local fishing vessels which already possess a valid operating licence issued by the Marine Department (“MD”) on the Commencement Date. A vessel constructed or acquired after the Commencement Date may also be eligible for registration if its owner has an approval-in-principle letter issued by the MD that is valid on the Commencement Date and a valid operating licence can be produced at the time of application for registration. An application for registration must be made within 12 months immediately following the Commencement Date.

A certificate of registration will include details such as: engine power; number of ancillary vessels and fishing method(s) of the registered vessel; and period during, and area(s) of the waters of Hong Kong in which, fishing is allowed. The registered vessel will be required to operate in accordance with the conditions.

Use or aid of non-fishing and non-local vessels

The Amendment Ordinance restricts fishing with the use or aid of non-fishing vessels (both local and non-local) and prohibits fishing with the use or aid of non-local fishing vessels. New section 11(1) provides that no person may engage in fishing with the use or aid of a vessel in any area of Hong Kong waters, unless:-

- (a) the vessel is a registered vessel, of which the engine power and number of ancillary vessels do not exceed those allowed under the certificate of registration, and is operating in accordance with conditions regulating fishing imposed by the DAFC, including: (i) the area within which any fishing may be carried out; (ii) the period during which any fishing in any such area may be carried out; and (iii) the fishing method and fishing gear that may be employed by the vessel;
- (b) the person is fishing in accordance with a valid research fishing permit issued by the DAFC for fishing with the use or aid of a local fishing vessel for the purpose of scientific research, environmental monitoring or related purposes; and
- (c) the fishing is “Permitted Fishing with Use or Aid of Vessels other than Non-Local Fishing Vessels” specified in the new schedule 2, including fishing: i) by hand-lining; ii) with the use of a hand net; iii) without any fishing gear; and iv) during diving supported by self contained underwater breathing apparatus, with the use or aid of a non-fishing vessel.

It is an offence to contravene the restrictions without reasonable excuse. An offender is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

Fisheries Protection Areas (FPAs)

Under the Amendment Ordinance, certain areas in Hong Kong waters can be designated as FPAs in order to protect fish fry, juvenile and spawning fish in important spawning and nursery grounds, help restore fisheries resources in Hong Kong waters, and promote their sustainable growth in the long run. New sections 4A and 4B provide that –

- (a) the Secretary for Food and Health may by order designate any area in Hong Kong waters as FPAs, and appoint a person to be the Authority for the management and control of fishing in an FPA; and
- (b) upon the designation of an FPA, the Authority may make rules for the management and control of fishing in any FPA, including but not limited to the specification of any zone within any FPA and the prohibition of any fishing in the specified zone.

TOWN PLANNING

Loop cut to size so birds fly free

The Development Bureau proposes to impose stricter height limits on the buildings in the Lok Ma Chau Loop area. In particular, high-tech research and cultural centres will be reduced from 15 storeys to 12, education related-buildings from 15 to 10, and commercial buildings are capped at nine storeys.

The Development Bureau claims that these reduced limits take into account migration routes of birds flying to the Mai Po wetland each year.

The Loop will be converted to an education hub, with facilities for high-tech research and development, cultural and creative industries, and commercial activities. The project will develop 1.2 million square metres of space

accommodating 24,000 students with on-site hostel facilities. The project will also provide 29,000 job opportunities. One side of the Loop, scheduled for education purposes, will be backed by a new business district, with innovative commercial activities and upscale hotels on the other side of the Loop.

Connecting roads will be constructed to link the Loop to Kwu Tung North New Development Area and San Tin interchange. Construction is expected to start in 2013 and to be completed by 2020.

[*The Standard*, 16/05/2012]

Plans for 30,000 new private homes

The Hong Kong government has been exploring options for increasing Hong Kong's land supply. These include: developing new townships in the New Territories; reclaiming land in areas outside of Victoria Harbour; rezoning agricultural land and industrial facilities for residential and commercial use; and relocating certain public facilities to existing rock caverns.

The government aims to provide 40,000 new homes in an average year, divided into 20,000 private units, 15,000 rental homes and 5,000 subsidised flats. The government views the general home-construction atmosphere as good, citing the absence of abortive tender and competitive bids for government sites as examples.

The government supplied 19,500 private units last fiscal year, and plans in the long term to supply more than 40,000 new homes each year if needed. However, the government will not regulate housing prices "at a certain level", but instead will try to construct subsidised housing.

[*The Wall Street Journal*, 17/05/2012]

Stage 3 Kai Tak North Apron Area infrastructure works

According to a government notice published in the gazette, the Kai Tak Development Project will include: government, institution or community facilities; comprehensive development area; and commercial and other specified uses in the North Apron Area of Kai Tak Airport. Construction works will include:

1. construction of carriageways and slip roads ("proposed roads") and associated footpaths;
2. construction of a landscaped elevated walkway across Prince Edward Road East;
3. construction of an underpass to form part of the proposed roads;
4. construction of two sections of a pedestrian subway across Prince Edward Road East and part of the proposed roads;
5. construction of a pedestrian subway extension;
6. widening and re-alignment of Concorde Road and Eastern Road to form part of the proposed roads;
7. temporary closure and reconstruction of sections of the existing carriageways and footpaths;
8. permanent closure of sections of the existing carriageways and conversion of parts of the closed sections into footpaths, amenity area, central medians or traffic islands;

9. permanent closure of sections of the existing footpaths and conversion of parts of the closed sections into carriageways, amenity area, central medians or traffic islands;
10. permanent closure and demolition of the existing flyover across Prince Edward Road East and Eastern Road; and
11. ancillary works including drainage, water, utility and landscaping works.

The works are expected to be completed in 2019.

[*Government Press Release*, 18/05/2012]

Draft Ta Kwu Ling North Development Permission Area Plan approved

The Chief Executive in Council has approved the draft *Ta Kwu Ling North Development Permission Area Plan*. The Plan provides an opportunity to study land use patterns, infrastructural provisions and development options before formulating an outline zoning plan.

Catering for cross-border infrastructure and Hong Kong as a whole, the Plan calls for cultural conservation as well as recreational travels, and preservation of the natural environment.

The land will be zoned for different land uses, including: village type development (25.37 hectares); government, institution or community land use (1.98 hectares); recreation (115.19 hectares); other specified uses (23.82 hectares); agriculture (55.33 hectares); green belt (207.82 hectares) and conservation area (1.1 hectares). The largest zoning, namely "recreation", aims at developing active and/or passive recreation and tourism/eco-tourism. The conservation area includes "feng-shui" woods, which is presumed not for development.

[*Government Press Release*, 18/05/2012]

Draft Sai Ying Pun and Sheung Wan Outline Zoning Plan approved

The draft *Sai Ying Pun and Sheung Wan Outline Zoning Plan* was approved. The Plan covers about 146 hectares, which will be zoned for: commercial use (21 hectares); comprehensive development area (0.07 hectares); residential area (38.64 hectares); government, institution or community areas (13.31 hectares); open space (13.25 hectares) and other specified uses (13 hectares).

The largest zone – the residential area – will be for high-density residential development. Part of the zone will be under specified plot ratio and building height restrictions.

Other specified uses include historical sites preserved for commercial, creative industries, cultural and recreational uses.

The approved Plan will provide guidance to the development and redevelopment within Sai Ying Pun and Sheung Wan area.

[*Government Press Release*, 18/05/2012]

Plan to create 25 islands threatens wildlife

The government is seeking public opinion on the best way to meet future development needs, and has suggested reclaiming land to create 25 islands and waterfront extensions

of hundreds of hectares. The Plan was outlined at recent seminars and exhibitions.

Environmentalists are concerned that the natural habitat will be wiped out by such large scale reclamation works. A range of experts argued that the Civil Engineering and Development Department's assumptions in creating the plan were wrong, due to faulty reasoning and flawed process.

The government admitted that 200,000 flats are standing empty, and more than 5,000 hectares of other land has also been identified for rezoning. Space is also available in old factory areas to convert to residential use. Indeed, a 2007 government study, "Hong Kong 2030", stressed the need for a more sustainable quality of life and warned against rampant reclamation. Critics say that reclamation should be the last resort, and should be preceded by a study of the environmental and ecological impacts.

[*The Guardian*, 27/05/2012]

Proposed relocation of Sha Tin Sewage Treatment Works to caverns

The Drainage Services Department has appointed a consultant to carry out a feasibility study of the proposed relocation of the Sha Tin Sewage Treatment Works to caverns.

It is estimated that the relocation will release 28 hectares of land for housing and other purposes. The Stanley Sewage Treatment Works, the first sewage treatment works in Hong Kong, may offer some guidance in respect of relocation.

The scope of the study includes: ground investigation; preparation of an outline design for the engineering works; formulation of implementation strategies and programmes; and public engagement exercise. The future use of the Sha Tin Sewage Treatment Works site will also be reviewed.

[*Government Press Release*, 30/05/2012]

Transformation of Kowloon East in full swing

The Secretary for Development announced that the government will transform Kowloon East into another attractive core business district. The transformation will take place under the name "Energising Kowloon East".

The government has exchanged views with District Councils and a number of organisations and industry stakeholders concerning the project. After consultation, the plan has included proposals to strengthen the integration of Kowloon East and the neighbouring districts, improve pedestrian connectivity and the streetscape, and enhance the harbourfront area.

The Energising Kowloon East Office will implement measures such as greening the streets, upgrading transport facilities, consolidating public space to provide more areas for social activities and enhancing footbridge networks in the district for better crowd management.

[*Government Press Release*, 07/06/2012]

Setback for runway

The government has requested the Airport Authority to provide more information

regarding the proposal to build a third runway at the Chek Lap Kok Airport, before carrying out an environmental assessment. The requested information must include specific aspects of the affected area's ecology and associated noise, health and hazards.

Twelve green groups called for a more detailed project profile, as the profile will determine the extent and scope of the environmental assessment to be carried out. The profile previously submitted by the Airport Authority did not mention nitrogen emissions, fine suspended particulates and ozone, three important pollution indicators. The Airport Authority was also criticised for making use of outdated figures to assess the runway construction's impact on Hong Kong's rare pink dolphins.

After receiving the additional information, the Environmental Protection Department will carry out another 2-week consultation.

[*The Standard*, 12/06/2012]

WEST KOWLOON CULTURAL DISTRICT (WKCD)

Major collection donation to West Kowloon Cultural District

The West Kowloon Cultural District Authority (WKCD) announced on 12 June 2012 a donation of 1,463 Chinese contemporary artworks to the permanent collection of M+, Hong Kong's future museum for visual culture, which is due to open in 2017. The collection, conservatively valued at HKD1.3 billion, was donated by Dr Uli Sigg of Switzerland, the world's leading collector of Chinese contemporary art.

The Sigg Collection is universally recognised as the largest, most comprehensive and most important collection in the world of Chinese contemporary art from the 1970s to the present. Consisting of works by 350 artists, it has been systematically built as a coherent museum-quality collection since the early 1990s, representing the historical development of contemporary art in China as a whole.

Dr Sigg has donated the majority of his Chinese contemporary art collection to M+. Under a part gift/part purchase agreement, M+ acquired a further 47 works from Dr. Sigg's collection for the sum of HK\$77 million. Part gift/ part purchase is an increasingly common international model for museums to obtain collections. The main aspect of this model is that the museum clearly shows its commitment to the collection.

Mr Michael Lynch, Chief Executive Officer of the WKCD, expressed wholehearted gratitude to Dr Sigg for his dedication to art and faith in M+ as the long-term home for his rich collection.

The donation and purchase were approved by the WKCD Board on 12 June 2012. The Board also approved the setting up of a trust to hold the collection. The collection will be displayed in dedicated galleries when M+ opens in 2017. M+ will also be involved in the Chinese Contemporary Art Award, founded by Dr. Sigg in 1997, and the CCAA Art Critic Award.

M+ will be the museum for visual culture in Hong Kong, focusing on 20th- and 21st-century art, design, architecture and the moving image from a Hong Kong perspective and expanding to other regions of China, Asia and the rest of the world. With its ambition to become a world-class museum, M+ aims to build a world-class collection of Hong Kong, Chinese and Asian visual culture. The scale of the building, at around 60,000 square metres, will be on par with the Museum of Modern Art in New York. It is a project with a strong public service ethos, and is conceived as a museum for Hong Kong and Asia, firmly rooted in the location and its unique culture.

[*West Kowloon Cultural District Authority release*, 12/06/2012]

Setting the stage

The HK\$21.6 billion West Kowloon Cultural District will provide a variety of facilities aimed at addressing a lack of performance venues in Hong Kong and providing a much needed boost for music and the arts.

The Great Park

This is an open area which will contain an outdoor theatre and a lawn big enough for 10,000 standing people to enjoy a concert.

Free space

Inside the Great Park will be a live music venue and an outdoor theatre.

Performance venues

- (1) Mega Performance Venue is an indoor arena that will mainly host pop music concerts. It will also contain a convention and exhibition hall.
- (2) Lyric Theatre is for ballet, opera, dance, musicals and other theatrical performances. Surrounding it will be a free outdoor cinema showing short films and screenings of major world events.
- (3) Great Theatre is a proscenium theatre with a cruciform stage for large-scale opera, ballet, dance and theatrical productions.
- (4) Musical Theatre is designed to host musicals and other large-scale commercial productions.
- (5) Music Centre is a concert hall acoustically designed to support unamplified performances, and includes a 300-seat hall for recitals and chamber music.
- (6) Contemporary Performance Centre contains three differently designed blackbox theatres to suit various scales of performance, and also will feature education facilities.
- (7) Medium Theatre 1 is a proscenium theatre designed to be a home for mainstream theatre and dance.
- (8) Medium Theatre 2 will either be a medium-sized theatre with a thrust stage to provide a more intimate performance, or a chamber hall in a shoebox style suitable for small drama and dance shows.
- (9) Xiqu Centre will house a theatre and a teahouse hosting traditional Chinese performance arts, such as Cantonese opera, as well as arts education facilities.

[*SCMP*, 19/05/2012]

Chairman gratefully accepts arts donation

On 12 June 2012, the Chairman of the Board of the WKCD, Mr Stephen Lam spoke at a press event to announce the donation of

Chinese artworks to M+ by Dr. Uli Sigg. He expressed thanks to Dr. Sigg for his donation and offered the following comments.

In the last few years the WKCD has tried to further the cause of West Kowloon and to roll out the cultural hub's infrastructure hardware programme. For example, most recently WKCD launched an architectural competition for designing the Xiqu Centre. The Authority is also making real progress in terms of the software - artwork which Hong Kong people will be able to appreciate.

Secondly, the collection which Dr Sigg has put together dates from 1979 to 2009. This is precisely the three decades during which China's Four Modernisations and the open-door policy were in force, which has strongly affected China's development. The Authority is very pleased to be able to have this collection in Hong Kong to show the world how China has progressed in cultural and artistic terms.

Thirdly, Dr Sigg has been in the commercial world, operating in China. He has also represented his country, Switzerland, as ambassador. He knows China and he has a passion for Chinese art and culture. The collection which Dr Sigg has donated will strengthen Hong Kong's position as the cultural hub in Asia. It will also strengthen the city's exchanges with the arts world around the world, and with fellow museums on the Mainland and in Europe, America and Asia.

[*Information Services Department release*, 12/06/2012]

HONG KONG BRIEFING

Hong Kong's air pollution downgrades its livability

Air pollution continues to hold Hong Kong back from ranking top in an annual Asian cities' livability study. Singapore took that title instead. Hong Kong did jump from fifth spot to third, but only because rival cities were affected by recent natural disasters.

Hong Kong is one of Asia's most polluted cities, with air quality that ranks behind Beijing's and New Delhi's. Businesses have stated that the poor air damages Hong Kong's ability to attract and retain talent.

[*Clean Air Network newsletter*, 30/04/2012]

Local sources to blame for poor air quality

The Environmental Protection Department and the Department of Environmental Protection of Guangdong Province have released the *2011 Pearl River Delta Regional Air Quality Report*.

The Report shows continued improvement of air quality in the Pearl River Delta area, while, according to the *2011 Air Quality Review* conducted by CAN, Hong Kong's own air quality only carries on deteriorating. This demonstrates that Hong Kong's poor air quality is due to local sources, and not the PRD, which, as the Report states, has better air quality than before, due to the efforts of both governments.

[*Clean Air Network newsletter*, 30/04/2012]

Seven hundred new clean buses for Hong Kong

Three bus companies operating services to the airport and North Lantau were recently awarded new 10-year franchises by the government. Whilst New World First Bus Services, Long Win Bus Company and Citybus have agreed to replace 700 old buses with cleaner buses by 2016, this arrangement is only two years ahead of the original schedule.

The government's failure to take advantage of this opportunity to press for greater advances in removing polluting vehicles from our roads only shows their lack of commitment to protecting public health.

[*Clean Air Network newsletter*, 30/04/2012]

Controversial third runway proposal

The Environmental Protection Department is pressing the Airport Authority for more information and data concerning the ecological effects of its proposed multibillion-dollar third runway. It is understood that the formal request covers air pollution, marine life and aircraft noise.

The Authority submitted an EIA project profile setting out the scope of the scheme and its potential impact, but green groups said vital details of the project's potential impact were missing and some data quoted was outdated. Without the additional details, the final impact assessment report would not show the runway's impact on the area of Lantau affected by the scheme, for which 650 hectares of reclamation from the sea would be required. There is no deadline for the extra data to be submitted but all information provided would be subject to two weeks of public comment.

An Authority spokesman said the requested information would be provided as soon as possible. If the EPD is satisfied with the profile, it can issue a study brief outlining the specific and technical requirements for the EIA. The Authority has pledged to finish the environmental impact assessment study within two years.

More than 200 submissions were received during the two-week consultation on the original profile. Twelve green groups, in a joint submission, said the runway profile was flawed because it failed to take into account the potential noise impact on Tuen Mun and Ma Wan and recent declining trends of the Chinese White Dolphin population. They said the profile was also ambiguous on the matter of differing air pollutants. The WWF, Hong Kong, said the project failed to recognise the impact on dolphins of narrowing water channels.

The third runway is estimated to cost more than HK\$130 billion to build. The projected economic benefits to the city have been put at HK\$900 billion.

The project requires reclaiming 650 hectares of sea north of the airport, which is the habitat of the threatened Chinese white dolphin. Former Observatory chief Lam Chiu-ying, has publicly opposed its construction.

The Authority says it is exploring ways to gauge the social costs and benefits of the runway and the extra carbon emissions it will generate.

[*SCMP*, 12/06/2012]

Setback for runway planners

The Airport Authority's proposal to build a third runway has suffered a setback, as the government demands a more detailed project plan so as to set its scope of the environmental assessment, including information concerning ecology, noise, health and hazards issues.

An Authority spokesman said that the organisation was firmly committed to fulfilling all statutory requirements under the *Environmental Impact Assessment Ordinance* and will provide the requested information once it is ready.

To prepare an environmental impact assessment, a project profile must first be done and agreed by the EPD to outline the scope of the assessment. The two-week public consultation concerning the first profile ended 11 June 2011. The EPD received 209 sets of public comments.

On receiving further information from the Authority, the EPD will publish the EIA profile in the gazette. A two-week consultation will be carried out so as to collect public views on the proposed profile.

Twelve green groups have called for a more detailed profile, on the basis that the profile is very important in determining how the environmental assessment should be carried out.

Erica Chan Fong-ying, campaign manager of *Clean Air Network*, said that the submitted profile did not mention the three important pollution indicators that relate to the third runway construction, namely nitrogen oxide, fine suspended particulates and ozone. These indicators are of paramount importance as these pollutants can cause serious harm to human beings; but surprisingly they were completely ignored in the first profile.

Chan also pointed out that assessment the incidence of these elements was essential because the pollution monitoring station in Tung Chung recorded the worst pollution among all 14 stations, which indicates that in Hong Kong the air pollution in Tung Chung is the most serious.

Another defect in the Authority's environmental impacts assessment to date is that the Authority makes use of out-dated data to assess the impact of runway construction on Hong Kong's rare pink dolphins. The WWF says that the Agriculture, Fisheries and Conservation Department released estimates of the number of dolphins in Hong Kong every year; however, the Authority still uses the 2007 and 2008 estimates in its profile.

It is believed that the number of dolphins was still quite stable in 2007 and 2008, but that the number has dropped significantly in 2011.

[*The Standard*, 12/06/2012]

Why idling law makes me fume

The Motor Vehicle Idling (Fixed Penalty) Ordinance was hotly contested before it was passed by Legco last year.

Unexpectedly, what is becoming more controversial than the legislation itself is the way that the EPD has been enforcing it since

it came into effect in December 2011. Nobody has been prosecuted, even though it is still not uncommon to see parked cars with engines idling. The law is heading for its most stringent test yet, as motorists brace for the sweltering summer heat.

The law is there for citizens to adhere to; of course, this legislation is no exception. Unfortunately, it seems that drivers can rest assured they will be safe, if the EPD continues to refrain from enforcing the legislation.

It has been argued that there were some practical difficulties in enforcing the law. To prosecute offenders, inspectors have to get close to the car's engine to listen if it is running, and also watch the exhaust pipe for fume emissions. As well, drivers do not need to switch off the engine immediately, but must do so within three minutes of stopping. The penalty for contravening the anti-idling law is a fine of \$320.

More than 180 inspections of stationary vehicles were made in the first five months of the legislation, yet nobody has been prosecuted. This raises serious doubts that the EPD will ever be able to convict any offender, should their tactics remain unchanged.

Traffic police raise a lot of eyebrows when they adopt hide-and-seek tactics to catch motorists violating traffic signs. Offending drivers may complain, but they will remember not to commit the same offence again in the same spot where they were caught. Whilst educational tactics are always encouraged, imposing penalties brings a strong deterrent effect and helps to entrench the norm of practice which the legislation is designed to encourage.

The EPD claims that the mere presence of inspectors on the streets has caused many motorists to turn off their engines, even though no tickets have been issued to anyone. But commentators argue that this observation does not reflect the whole picture, as there are more motorists on the road than EPD inspectors.

[*The Standard*, 08/06/2012]

Sha Lo Tung project in doubt

Ten environmental NGOs oppose a proposal to build a columbarium in the ecologically sensitive Sha Lo Tung valley. They say the project would destroy a butterfly and dragonfly haven nearby. The NGOs describe the proposal as "against common sense" and "not in line with government policies".

Commentators also argue that the project is not in line with the government's policy for this sensitive area announced in 2004, and should be shelved until the incoming government can review the policy.

The developer has submitted an environmental impact assessment report and the Advisory Committee on the Environment will discuss this report in the near future.

The site is home to 65 per cent of Hong Kong's dragonfly species and 35 per cent of butterfly species, as well as numerous kinds of birds and fish. Approximately 90 per cent of the area is owned by the Hong Kong government.

[*SCMP*, 14/06/2012]

Vision curbed by our 'green' guidelines

The phrase "Green architecture" is used everyday but many of us do not understand it well.

"Green architecture" is based on sustainability; it has the aim of ensuring people live comfortably with minimal environmental impact. Green architecture embraces urban planning and infrastructure design, neighborhood arrangement and landscaped park layouts, and entails criteria such as building and unit ventilation, heat gain, energy consumption and refuse disposal and management.

Due to competition in the market, the term "green" has begun to gain traction in the layman's mindset and is seen as an extra selling point to make a project more appealing. However, today's green architecture has become more restrictive, narrow minded and is often short-sighted.

Commentators argue that we live in a society whose focus is on short-term results and mechanical functionalism; inevitably we have become the victim of our own creation. Nowadays, the true meaning of "sustainable living" and "green architecture" is often lost.

[*The Standard*, 11/06/2012]

CLIMATE CHANGE

United Nations Climate Change Conference hosted in Germany

The United Nations Climate Change Conference 2012 took place in May in Bonn, Germany.

The Conference discussed ways to reduce the rate of production of exhaust gas and the formation of carbon, thus alleviating the growing impact of global warming. Participating members were urged to turn political promises into actions in order to save the world.

Developing countries expressed the view that developed states should conform to stricter carbon controls. The Conference heard that according to the existing carbon-reduction plan, the temperature of the earth would increase by at least 5 degrees Celsius compared to the pre-industrialisation era, which is way above the upper limit of 2 degrees Celsius set.

The Conference saw some progress in several key areas. An agenda was set for the Ad Hoc Working Group on the Durban Platform for Enhanced Action. The working group's major task is to devise an international climate agreement by 2015, which is planned to be executed by all nations in 2020.

The international climate agreement should aim at reducing the production of exhaust gas and the rate of climate change. The 2012 Conference also confirmed the appointment of the chairman of the working group. Given the sensitivity of the issue, there were fierce and vigorous arguments on this issue. It was in the end resolved that in the first year, the chair will be jointly filled by India and Norway.

[*Ming Pao*, 26/05/2012]

China and Hong Kong cooperate in combating climate change

Canton-Hong Kong Climate Change Coordination Group had its first meeting in Guangzhou. The meeting confirmed the details of the Canton-Hong Kong Climate Change Cooperation Plan for 2012-2013. The plan mainly seeks to explore areas concerning climate change which may be open to cross-border cooperation between Hong Kong and Canton.

The plan covers a few major areas of cooperation. One of these is to set up a report and exchange mechanism in relation to extreme climate incidents. Another is to improve cross-border climate change coordination. The Plan also includes discussions of the possibility of Canton-Hong Kong cooperation in the area of renewable energy sources.

[*Hong Kong Radio*, 21/05/2012]

Energy efficiency in new public housing estates

Newly built public housing estates have mostly adopted micro-climate designs, which improve air circulation and lighting within the estates. The result is a reduction in the daily consumption of electricity in respect of air conditioners. Some households report that their electricity charges have reduced by 50% compared to the old public housing estates.

The Housing Authority introduced micro-climate designs to public estates in 2001. The designs were adopted in all estates in 2004. All public estates need to undergo micro-climate assessments to assist in the architectural design of the estates to maximise lighting and air-circulation aspects. Computer-generated tests are used to achieve these assessments.

In order to continuously maintain this low level of electricity consumption, it has been suggested that public meters should be installed in new public estates to display the power consumption of every household. This is intended to raise residents' awareness in relation to electricity-consumption, thereby encouraging households to reduce electricity consumption.

Residents expressed the view that there should be an award system to encourage residents to conserve electricity. Some residents suggest that an upper monthly limit be set in relation to electricity consumption for each household. If the monthly limit is not exceeded for a defined period, some kind of cash coupons could be awarded to the successful household(s). This form of encouragement was perceived by some residents to be a more effective way of achieving reduced electricity consumption goals.

[*Ta Kung Pao*, 11/06/2012]

European Union urges China and India to release carbon data

The European Union implemented the *Emissions Trading Scheme* in November 2008. Under this scheme, airlines with flights departing from or arriving in the European Union must submit carbon emission reports to the European Union. Each airline is given a certain quota in relation to carbon emissions. Carbon emissions exceeding the quota will be charged. This Scheme is opposed vigorously by several non-European states, including India and China.

As at March 2012, the European Union received approximately 1200 carbon emission reports from various airline companies. Nearly all airline companies which participated in the Scheme handed in carbon emission data to the European Union, with the exception of eight Chinese airline companies and two Indian airline companies. The European Union says that if the companies concerned do not hand in the emission data by mid June, it will impose punitive measures.

[*Oriental Daily*, 17/05/2012]

Climate Change threatens nuclear and fuel power generation

Scientists claim that due to the increase in river temperatures and reduction in the volume of river water, European and American power plants frequently face the problem of power interruption. Surveys show that between 2031 and 2060, electricity generation by American power plants will reduce by 4% -- 16%, and European power plants will reduce power generation by 6% -- 19%.

Fuel and nuclear plants use massive quantities of water, which is turned into steam to power generators. Water inside the power plants must be maintained at a certain level of temperature. If the water temperature is too high, the operation of power plants may also be adversely affected.

Researchers point out that power interruptions have occurred in recent years. In the summers of 2003, 2006 and 2009, certain European power plants substantially increased electricity charges due to the limited availability of river water. Power plants which utilise less water (such as natural gas power plants) should be built in preference to coal-fueled generators. New nuclear plants could also be constructed near to the sea to reduce the effect of limited river water on power generation.

[*Reuters*, 04/06/2012]

Report of Council for Sustainable Development

The HK government is supportive of the report *Combating Climate Change: Energy Saving and Carbon Emission reduction in Buildings* recently published by the Council for Sustainable Development. The government says that it will implement proposals outlined in the report. The Environmental Protection Department concurs with the report in relation to the importance of increasing energy efficiency and reducing carbon production. The major responses of the EPP concerning the report were as follows:

- (1) Public education and awareness should be enhanced. In order to facilitate a change in public electricity consumption behavior, the government will launch an event which promotes energy saving. This will be an event for all the community. The government will also launch different events which target various society groups to raise public awareness of the need for energy savings.
- (2) More electricity consumption information will be shown on monthly electricity bills. The government is consulting with the two electricity supply companies on the

issue. Apart from the amount of electricity consumed for the past few months, other information, such as the average electricity consumption level per person and the amount of carbon emission per quarter year, will also be included. This should help individuals to understand and manage power consumption more efficiently.

- (3) To promote energy efficiency, the *Building Energy Code* will be revised and strengthened. After the new *Code* has come in to effect (September 2012), the government will review the standard of lighting devices used in Hong Kong. The standards set out in the *Code* will be reviewed every three years. The *Mandatory Energy Efficiency Labeling Scheme* will also be subject to review.
- (4) Green buildings will also be promoted by the government, which will cooperate closely with professional organisations, and promote the appreciation of *BEAM Plus* standards in buildings.

[Sing Tao Daily, 07/06/2012]

ADVISORY COUNCIL ON THE ENVIRONMENT (ACE)

Summary of minutes of the 185th Meeting of the Advisory Council on the Environment held on 7 February 2012

Members were briefed on ACE Paper 3/2012 dealing with the purpose of commissioning the Urban Climate Map and Standards for Wind Environment Feasibility Study (“UCM Study”). Salient points arising from the meeting are:-

1. The UCM Study began in 2006 with the objectives to:-
 - (a) examine Hong Kong’s urban climatic conditions;
 - (b) identify appropriate planning and design measures to achieve long-term improvement of the urban climate;
 - (c) establish a wind performance criterion for assessing if a development proposal is acceptable from air ventilation perspective; and
 - (d) refine the air ventilation assessment (“AVA”) system.
2. The findings and recommendations of the UCM Study include the following:-
 - (a) to adopt the urban climatic planning map (“UC-ReMap”) delineating five urban climatic planning zones (“UCPZs”);
 - (b) broad strategic planning actions recommended for each UCPZ;
 - (c) proposed planning and design measures for improving urban climate; and
 - (d) a refined AVA system, including a wind performance criterion for future AVAs.
3. The strategy is based on a progressive introduction of mitigation measures, beginning with individual sites, which could then be agglomerated to form larger sites wherever practicable, so as to improve the overall urban living

environment in Hong Kong in the long run.

4. Members expressed their concerns that implementation of certain of the study’s recommendations might require amendments to relevant building regulations; e.g. reduction in ground coverage of buildings, which runs contrary to the prevailing practice of the property sector in maximising the permitted plot ratios when designing buildings.
5. The government replied that the proposed mitigating design measures would be implemented through existing planning and development control systems. At district planning level, the Planning Department would take forward the study recommendations as to appropriate building height profiles and other matters. The development intensity permitted in the Outline Zoning Plans (“OZPs”) would not be affected.
6. In planning New Development Areas, AVA would be undertaken to ensure consideration of air ventilation in early planning and lease conditions. The Planning Department would also liaise with the Building Department to align the proposed measures where appropriate. It was recommended by the Planning Department that more greenery and reduced ground coverage in planning new development areas like Kai Tak will be adopted as a design measure to help mitigate the urban heat-island effect.
7. In response to members’ concern regarding the proposed implementation mechanism, the government said that existing statutory and administrative mechanisms would be sufficient to take forward the study’s recommendations. With incorporation of the UC-ReMap and the refined AVA system in to the Technical Circular and Hong Kong Planning Standards and Guidelines (“HKPSG”), both the government and private sectors have to carry out AVA for projects that might have air ventilation implications under existing planning and development controls. Regarding the long-term goal for wind performance, the government said that it needs to plan wisely so that a desirable wind environment will be restored and maintained.
8. ACE suggested the implementation of the AVA, particularly in very large sites like Kai Tak, could adversely affect a project’s visual impact and permitted development intensity. The government explained that whilst controlling building volume would reduce heat dissipation and thermal load, it was not the sole determining factor. Given the same development intensity, the impact of individual projects on urban climate will vary from site to site. In this respect, the Planning Department is working to mandate that the proposed planning and building design measures be followed by the private sector in their project planning and design.
9. Overall, ACE was supportive of the UCM Study’s recommendations. The Council expressed the view that only by concerted efforts of both the public and private sectors will the

recommendations bring about gradual improvement in the urban climate and the quality of the living environment in Hong Kong.

Summary of ACE Paper 5/2012 on the proposed new Air Quality Objectives (AQOs)

The Proposal

On 17 January 2012, the government announced the following:-

- (a) the proposed new AQOs will be adopted together with air quality improvement measures, which will be implemented subject to resource availability;
- (b) the preparatory work for the amendment of the *Air Pollution Control Ordinance* (Cap. 311) (“APCO”) has begun, with the aim of tabling the *Amendment Bill* in the 2012-13 Legco session and introducing the new AQOs in 2014; and
- (c) government projects for which EIA studies have not yet commenced should endeavour to adopt the proposed new AQOs as the benchmark for conducting air quality impact assessments as part of the EIAs.

Achieving the proposed new AQOs

To attain the proposed new AQOs, the AQOs review has recommended 19 Phase I air quality improvement measures. These include the following:-

- (a) using cleaner fuel to generate electricity;
- (b) early replacement of old vehicles;
- (c) wider adoption of hybrid and electric vehicles;
- (d) transport management measures, such as: bus route rationalisation; setting up low emission zones; expanding the rail network; and promotion of energy efficient transport;
- (e) reduction of emissions from ocean-going vessels and upgrading the quality of marine fuels used by local vessels;
- (f) retrofit Euro II and III franchised buses with selective catalytic reduction devices to reduce their emissions of nitrogen dioxides; and
- (g) introduce a strengthened emission control regime for petrol and liquefied petroleum gas vehicles.

Environmental and economic implications of updating the AQOs

The proposed new AQOs aim at providing better protection of public health against air pollution. Modeling results show that with implementation of the proposed air quality improvement measures, coupled with continuous efforts of Guangdong in reducing air pollution, Hong Kong’s ambient air quality should eventually broadly comply with the proposed new AQOs.

The air quality improvement measures should improve quality of life, reducing medical costs and indirectly raising labour productivity. It is estimated that about 4,200 unnecessary hospital admissions and 7,400 statistical life years would be saved each year on attainment of the proposed new AQOs. The proposal would also facilitate further collaborative efforts with Guangdong in improving regional air quality and the development of an environmental industry in the region.

The proposed measures may have a more significant impact on certain sectors of the

economy, such as the power and transport sectors, than others. The AQOs review estimates that the proposal for increasing the share of natural gas to 50% Hong Kong's domestic electricity generation would raise electricity tariffs by at least 20%.

Summary of ACE Paper 6/2012 on the water quality of gazetted beaches in Hong Kong in 2011

The Environmental Protection Department ("EPD") runs a monitoring programme to assess the water quality of the 41 gazetted beaches in Hong Kong.

Beach water quality is assessed through a ranking system which links the water quality of a beach with swimming-associated health risks, as indicated by the number of *E. coli* bacteria in the water. According to this system, beaches are ranked as "Good", "Fair", "Poor" or "Very Poor". Only those beaches in the ranks of "Good" and "Fair" meet the Water Quality Objective ("WQO") for bathing waters.

In 2011, 76% of the 41 gazetted beaches were ranked as "Good" and the remaining 24% were ranked as "Fair". In 2010, none of the beaches was rated as "Poor" or "Very Poor", thus maintaining full compliance with the WQO for bathing waters. The number of beaches receiving the "Good" ranking has increased from 23 in 2010 to 31.

Through continuous efforts of the government to implement pollution abatement measures, all of Hong Kong's beaches have now achieved the required standard for bathing waters for two consecutive years (2010 and 2011). Close monitoring of all the beaches will continue in 2012 to ascertain that the observed achievement can be sustained and that beach water quality continues to meet the WQO.

REGIONAL & INTERNATIONAL

CHINA

China considers ways of reducing harmful emissions

Despite leading in some aspects of green technology, such as solar and wind power, China still faces a challenge to reduce its level of greenhouse gas emissions.

In November 2011 Beijing expanded its resources tax after more than a year of trials. The resources tax not only covers China's oil and gas giants, but will also be extended to include iron ore, coking coal and rare earth ores. Heating coal, which is widely used by the general public, has not been included in the tax.

The government hopes the resources tax will help local governments offset some of the environmental damage caused by mining in the poorer and more remote corners of the country.

However, China still needs to invest more if it is to reduce pollution levels, especially carbon emissions. In fact, Beijing is considering a tax on carbon emissions based on each tonne of carbon dioxide emitted. In doing so the government hopes to channel money from the emissions tax to green energy projects, including research and development. A tax on carbon is also one of

several policy options open to China to reduce emissions of greenhouse gases.

According to the China climate and energy policy director, any proposed tax on carbon would likely start from a low rate of approximately RMB10 per tonne of carbon dioxide. It is estimated that levying a carbon tax could help encourage improvements in industrial energy efficiency of anywhere from 5 percent to 25 percent. A carbon tax would also help save energy by increasing the price of fossil fuels and would also reduce carbon emissions. A carbon tax would also be easier to administer than a carbon cap and trade programme because it would focus on upstream producers of fossil fuels rather than downstream consumers. As the carbon tax will initially be at a relatively low rate, it will have a very small impact on industries and consumers in China.

[China Daily, 15/06/2012]

JAPAN

Post-Fukushima radiation levels are 'low'

The earthquake and tsunami in Japan in March 2011 triggered a nuclear meltdown at Fukushima Daiichi nuclear plant, causing radiation leaks and forcing the evacuation of thousands of people.

According to a World Health Organization (WHO) report published in May 2012, radiation levels in most of Japan are below cancer-causing levels a year after the Fukushima plant accident. The preliminary report is part of a wider ongoing health assessment by WHO.

The Fukushima nuclear plant was badly damaged in the earthquake. Two areas near the plant have relatively higher levels of radiation, but radiation levels in surrounding countries are close to normal.

Namie town and Itate village, near the plant in eastern Japan, are exposed to radiation levels of 10-50 millisieverts (mSv). The rest of Fukushima has radiation levels of 1-10 mSv. Most of Japan has levels of 0.1-1 mSv; neighbouring countries have less than 0.01 mSv.

The report says that levels outside Japan are below those regarded by the international radiological protection community as "very small". People are exposed on average to around 2 mSv of radiation a year from the natural environment, although there is considerable variation between individuals. The single-year limit for occupational exposure of workers is 50 mSv. To avoid any underestimation of radiation levels, the report used conservative assumptions, and says some of the levels may have been overestimated.

Separately a UN scientific committee said several workers at the plant had been irradiated after contamination of their skin. According to a statement issued on interim findings by the United Nations Scientific Committee on the Effects of Radiation (UNSCEAR), six workers have died since the accident, but none of the deaths was linked to irradiation.

[BBC News, 24/05/2012]

AUSTRALIA

Environment groups have called for an immediate halt to development around the Great Barrier Reef after a United Nations report expressed "extreme concern" about its future. In a report released early this morning UNESCO said no further major development should go ahead without an overall assessment of the Reef's health.

"Considering the high rate of approvals over the past 12 years, this unprecedented scale of development affecting or potentially affecting the property poses serious concerns over its long-term conservation," the UNESCO report found. It says the area could be listed as a World Heritage Site in danger if "threatening" developments are allowed to proceed.

UNESCO says the "in danger" status could be applied if the federal government does not give the world heritage committee evidence of substantial progress before February 1 next year.

Greenpeace campaigner Ben Pearson said development on the Reef was "out of control".

"There are 35 major development applications seeking approval within the next 18 months that would impact on the reef. Thankfully UNESCO has recognised the scale of the threat and is calling for urgent action. We may as well kiss the Reef goodbye if we sign off on even half of sixfold expansion of coal port capacity planned in the World Heritage Area," Mr Pearson said.

GetUp's environmental campaigns director said: "This report by UNESCO clearly shows the Reef is at risk. UNESCO knows it. The Australian people know it. And now it is time for the federal and state governments to do something about these very real concerns."

[The Age, 02/06/2012]

Australia has world class renewable energy resources across a range of technologies, from solar and wind through to hot rocks and oceans. Australia should lead the world into a 100% renewable energy future. However, this is not happening.

Australia has one of the world's best and biggest solar energy resources, yet today less than 1% of its electricity is generated from this clean energy source. And despite a decade of government renewable energy targets, the nation currently generates only about 7% of electricity from renewable energy sources. But things may be changing for the better.

Clean energy development in Australia recently received a massive boost that could lead to exciting outcomes. The federal government's clean energy package to put a price on pollution and included an unprecedented investment of \$13.2 billion for national clean energy development. From this, the government could unlock a clean energy boom of up to \$100 billion in private investment that would put Australia on track to be a leader in the clean energy race.

The Australian Conservation Foundation is campaigning to make sure that these funds are released and investments are made as soon as possible. The ACF wants to make sure investment supports the new clean

technologies that can't yet compete in the energy market, and will try to leverage the maximum amount of money from the private sector to do it. It is critical that these funds successfully unleash a boom in large-scale renewable energy projects that will end our dependence on coal and gas.

The transition to a clean energy economy is slowly ramping up in Australia. In 2001 the Howard government introduced the *Mandatory Renewable Energy Target* to increase the amount of renewable energy in Australia by 2 per cent. From this slow beginning the government has now moved to a 20 per cent Renewable Energy Target by 2020, legislated in 2010. Investment in large-scale renewable energy projects and rooftop solar generators have increased significantly.

ACF maintains that Australia should pick up the pace and aim for 40 per cent of its energy being sourced from renewable energy sources as soon as 2020. The \$3.2 billion *Australian Renewable Energy Agency* (ARENA) will primarily support research and development in new clean energy technologies.

[ACF press release, 02/06/2012]

A SCATHING United Nations report demanding Australia act to protect the endangered Great Barrier Reef has been rebuffed by the Queensland government. The report, by the UN's environment organisation UNESCO, said continuing development on the mainland in areas close to the Reef could threaten its World Heritage status.

But Queensland Premier Campbell Newman has made it clear he will not stop development in and around the Reef despite the UNESCO threat to classify it as a "World Heritage site in danger" unless substantial changes are made to the way Australia manages the area. Mr. Newman said that, although he was concerned about the effect of development on the Reef, "we are not going to see the economic future of Queensland shut down".

"We are in the coal business. If you want decent hospitals, schools and police on the beat we all need to understand that," Mr. Newman said.

The federal Minister for the Environment, Tony Burke, yesterday acknowledged the Great Barrier Reef was "at a crossroads" but said there was not much he could do to stop development applications already in progress.

The federal and state governments are completing a joint assessment of the impact of proposed developments on the Reef.

Much of the development – and therefore the environmental concern – centres around the coal boom in the Galilee basin in central Queensland. Extra shipping will be required to meet the needs of nine mines proposed for the area, seven of which would be bigger than any other mine in the country, according to Greenpeace.

The plans the Queensland government are considering right now would see thousands more ships sailing right past the Great Barrier Reef Heritage Area. There will be a massive increase in traffic near the reef, which will lead to a massive increase in the risk of oil spills, according to green groups.

In July this year UNESCO will make its final decision about the state of the Reef's World Heritage listing.

[*The Age*, 03/06/2012]

Huge marine parks created

The federal government has announced the world's largest network of marine sanctuaries covering an area of approximately 2.3 million square kilometres. This represents a turning point in the conservation and management of Australia's oceans. Scientific evidence has shown that over-fishing is the key threat to the health of marine life. Creation of the new marine parks signals official recognition of this key threat and a clear change in direction toward action to safeguard critical areas for the future. Just like national parks on land, marine sanctuaries are now an accepted and mainstream part of the national agenda to address the unprecedented threats facing Australia's unique marine life.

Whilst the tide has now turned, it's important to recognise that the federal government could and should have gone further. None of us is under any illusions that the challenge of protecting our oceans could be resolved overnight, and many hotspots that whales, dolphins, sea lions and other magnificent marine life call home remain at risk. Over-fishing and oil drilling remain real threats that will need to be dealt with.

The marine reserves will have difference levels of safeguards for their various components. The fully protected sanctuary – which bans all forms of exploitation, including oil/minerals exploration – comprises an area of 850,000 square kilometres. This is the single largest area that any country has ever protected – land or sea – by one declaration, and is larger than all of Germany and Spain combined.

Australia will now have marine parks surrounding it, not just the Great Barrier Reef and several other sites as is the present situation.

The marine parks will be places that will forever now provide sanctuary to thousands of species of marine life, from bizarre and delicate leafy sea dragons, to magnificent southern right whales, to ancient Loggerhead turtles, and swirling schools of fish.

[*Safe Our Marine Life* and *The Wilderness Society*, press releases, 14/06/2012]

Australia plans world's largest marine reserve and bans drilling

The Australian government announced on 14th June 2012 that Australia plans to create the world's largest network of marine reserves, encompassing a 3.1 million square kilometre patchwork of coastal waters. The move is aimed at balancing protection for the country's delicate reefs and marine life, which are facing increasing environmental pressures, especially due to the demands of its booming resource-driven economy.

The health of the World Heritage-listed Great Barrier Reef has become a major concern, as scientists have warned that climate change and population pressures pose threats to its long-term survival. Under the plan, commercial fishing and oil and gas exploration would be restricted in nearly one-third of Australia's territorial waters, an area of 1.2 million square miles that includes

the pristine Coral Sea off the country's northeastern coast and the iconic Great Barrier Reef.

The number of marine reserves will be increased from 27 to 60, covering 800,000 square kilometres of protected waters. The proposal is expected to be approved by Parliament and take effect late this year. The government expects to pay about AUD100 million to the fishing industry in compensation for the new restrictions.

However, the plan drew mixed reviews from environmental groups, which, while broadly supportive of the overall goal of sheltering delicate marine ecosystems from exploitation, complained that it did not go far enough to safeguard areas that are rich in oil and natural gas reserves or under pressure from industrial fishing.

The Australian Conservation Foundation, a leading environmental group, welcomed the protections the plan would grant to areas that it said are home to 45 of the world's 78 whale and dolphin species, six of the seven known species of marine turtle, and 4,000 fish species. But ACF was critical of exemptions for exploration in energy-rich areas, particularly along the coast of Western Australia.

In May 2012, the minister for resources and energy opened up 27 new areas for oil and gas exploration, even though these had been under consideration for marine protection, raising concerns among environmental groups and advocates for the fishing industry about concessions made to the mining sector in mapping out the reserves.

Among the areas excluded from the plan are resource-rich regions off the west coast and in the Great Australian Bight — a massive open bay off the central and western portions of the country's southern coastline. That led critics like the Greens party to criticise the proposal as a "cave-in to the oil and gas industry".

[*The New York Times*, 14/06/2012]

SINGAPORE

Singapore to boost 'green' buildings

Nearly all electricity used by Singapore is produced by burning fossil fuels, which in 2010 contributed to the largest carbon footprint per head in the Asia-Pacific region, according to conservation group the World Wide Fund for Nature (WWF). South Korea and third-placed Japan follow close behind.

For environmentalists, the scenario is all too familiar in the Asia region, where urban populations will soar from 1.9 billion to 3.3 billion by 2050 according to United Nations data. Such growth puts sustainability on top of the agenda, but critics say Asia's megacities are not doing enough to curb their voracious appetite for energy. Singapore is recognised as one of the worst offenders.

The WWF added that buildings contribute some 16 percent of Singapore's carbon emissions. Whilst Singapore contends that the WWF's per capita measurement of carbon emissions "disadvantages countries with small populations", compared to the

likes of rapidly industrialising China, it has nevertheless been spurred into action.

In 2005, the Singaporean government embarked on a project to promote the development of high-tech, low-energy buildings and the retrofitting of older ones in a push to "green" at least 80 percent of all buildings by 2030. Since then 1,000 government-certified green buildings have been built in Singapore, accounting for 13 percent of gross floor space in the country. Together with cash incentives, developers who meet targets set by the Building and Construction Authority (BCA) are given more leeway to have bigger floor areas.

United World College Southeast Asia, an international school, is one of the torchbearers of the drive. Its 5.5-hectare (13.5 acres) campus in Singapore's eastern region was awarded the nation's Green Mark Platinum award in 2011, the highest accolade in the official rating system. The college worked closely with architects to design a building that had energy efficiency as a central objective. Features like rooftop solar panels, cascading walls that block off heat, and optimal use of natural light make the campus about 30 percent more energy-efficient than conventional buildings of similar size. The 2,500 students are also kept aware of daily water and electricity consumption levels by meters which are prominently displayed on every floor.

Despite the surge in constructing "green" buildings, BCA chief executive said some developers are still averse to riding the green wave, due to what they see as relatively high costs of green technologies, such as solar. Developers who shun green technologies may not be fully aware of the scale of savings they are missing out on.

Although the cost of solar panels is falling by about four percent every year, solar-derived electricity remains more expensive than that from the power grid. This is mainly due to its relatively high capital costs as well as maintenance costs, according to Singapore's Energy Market Authority.

City Developments Limited, one of Singapore's top property groups, is nevertheless confident that environmentally-friendly buildings will become the norm as "green consumerism" gains traction. Its City Square Mall has an integrated park and solar-pannelled roof.

In addition to making buildings more energy-efficient, Singapore is also aggressively developing desalination and sewage-recycling technology to address its chronic water shortages.

With Singaporeans increasingly aware of environmental issues, there will be greater public demand for investment in green innovations and technology.

[Agence France-Presse (AFP), 24/04/2012]

MEXICO

Mexico enacts climate change legislation

Mexico's President signed a law introducing binding emission targets on 5th June 2012, the UN Environment Programme's World Environment Day. Mexico is now committed to reducing greenhouse gas emissions by 30% by 2020 and by 50% by 2050.

The legislation, which sets targets for reducing greenhouse gas emissions and increasing the use of renewable energy, is only the second of its kind in the world. It would make Mexico the first developing country with integral legislation dealing with climate change.

The measures had been passed by the Senate in April 2012 by 78 votes to nil.

As well as setting a target for greenhouse gas emissions, the law stipulates that 35% of Mexico's energy must come from renewable sources by 2024, and that government agencies will be obliged to use renewable energy sources. The law also establishes a trading scheme for greenhouse gas emissions permits.

The only similar legislation to have been enacted so far elsewhere in the world was introduced by the UK government in 2008, by which the UK pledged to reduce greenhouse gas emissions by at least 80% by 2050.

[BBC News, 06/06/2012]

UNITED STATES

U.S. greenhouse gas emissions are increasing

After dropping for two years during the recession, U.S. emissions of gases blamed for global warming rose in 2010 as the economy heated up, the Environmental Protection Agency (EPA) reported in its annual inventory of greenhouse gases.

Output of carbon dioxide and other heat-trapping gasses was up 3.2 percent from 2009 as the nation climbed slowly out of the deepest economic downturn since the Great Depression.

EPA reported that the increase from 2009 to 2010 was primarily due to an increase in economic output, resulting in an increase in energy consumption across all sectors, and much warmer summer conditions which caused an increase in electricity demand for air conditioning powered by electricity generated primarily by combusting coal and natural gas.

The report, produced for domestic policymakers and for the United Nations Framework Convention on Climate Change, covers emissions of the six main greenhouse gases: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride. It said that emissions of those gases dropped by about 8 percent from 2007 to 2009 following 15 years of fairly steady increases. Total United States emissions rose 10.5 percent from 1990 to 2010.

The President has promised the United Nations that domestic greenhouse gas emissions will fall in the range of 17 percent below 2005 levels by 2020, through a combination of government policy steps, energy innovation and the deployment of low-carbon production techniques. Emissions in 2010 were 5 percent below those of 2005, indicating that the goal could be met with aggressive efforts by government and industry.

[New York Times, 16/04/2012]

Clean air and natural gas

The Obama administration's new rules were announced by the EPA on 18th April 2012. The rules, aimed at cutting harmful emissions from natural gas wells, are the first federal effort to address air pollution problems associated with hydraulic fracturing. They will require drillers to capture toxic and smog-forming pollutants, along with methane, a powerful greenhouse gas, before they escape into the air.

Roughly 13,000 wells are "fractured" each year. The rules would require drillers to undertake "green completions", in which gases emerging at the wellhead are captured and stored in trailer-mounted tanks and routed back into pipelines.

President Obama has repeatedly said that he favours robust exploration for natural gas, in part because it is plentiful and cheap, but also because it produces only about half the greenhouse gas emissions that coal does. Coal produces nearly half the country's electricity. However, natural gas' share, now a little over one-fifth, is rising as more supplies are found and prices drop.

There are still legitimate concerns about hydrofracturing's potential impact on water supplies; an E.P.A. study is due next year. But the rules should ease concerns about the process' effect on air pollution and global warming. Far from presenting new obstacles to drilling, the rules could win supporters for hydrofracturing.

[New York Times, 20/04/2012]

NIGERIA

Nigeria lead poisoning

The charity Medecins Sans Frontieres (MSF) has called on the Nigerian government to do more to deal with a deadly outbreak of lead poisoning. MSF is concerned that the situation in Zamfara is deteriorating as the water supply becomes polluted.

In 2009, hundreds of children in the northern state of Zamfara died from exposure to lead. They were poisoned by dust released by gold miners breaking open rocks near their homes. The charity said 4,000 other children remain contaminated; many of them were unable to get treatment.

In November 2011, the Nigerian government said it would spend more than US\$5m cleaning up Zamfara, and in some areas this work has already begun. At a two-day conference in Abuja, Human Rights Watch noted that the government had not sent senior officials and suggested this underlined the fact that authorities were not taking the situation seriously enough. MSF said that although the government has started a clean up it must do more to stop people mining.

The outbreak began after the price of gold shot up and villagers realised they could make more money from exploiting local gold deposits than from farming. They carried rocks home to break them open, but as well as gold the rocks contained high levels of lead, so poisonous dust and flakes were released into the community. Contaminated soil was also dumped in water sources and there were fears that rain would also spread pollutants.

Exposure to high levels of lead can damage the brain and nervous system, and in severe cases cause seizures, coma and death. MSF said the situation in Zamfara was one of the worst ever cases ever, if not the worst case, of lead poisoning.

The BBC's Nigeria correspondent said that since the problem first came to light about three years ago, the price of gold has almost doubled. More people have turned to mining, despite the health risks to their families. Although the authorities have told people to stop mining, MSF wants to see better education in place to alert people to the health risks.

[BBC News, 11/05/2012]

WORLD

Will Rio +20 solve world's environmental problems?

Rio +20, a major international environmental conference to take place in Brazil in June 2012, is described by its organisers as a "once in a lifetime" opportunity to safeguard our planet for generations to come.

The key issues surrounding the conference are:-

What is Rio + 20?

Rio+20 is a three-day summit taking place from June 20 – 22, 2012 and organised by the United Nations to tackle environmental issues. Its name signifies it is being held in Rio de Janeiro 20 years after a similar "Earth Summit" in the same city. It is the biggest U.N. conference in years.

What will they talk about?

The summit will essentially look at how to safeguard global economic growth without destroying the planet in the process. It also aims to ensure that any new environmental policies will transcend international borders. Within these goals, there are key areas of discussion, including food security, water and energy -- and a focus on developing countries.

Why is it important?

The world's environment has continued to suffer since the 1992 summit. The World Wildlife Fund's recent *Living Planet* report said the ever-swelling global population is still consuming far more than can be replenished. The report said there was a widening and "potentially catastrophic" gap between the ecological footprints of rich and poor nations. Global consumption of natural resources, carbon emissions and poverty have all continued to increase. Although some contest such claims, scientific research points to a steady rise in world temperature which, if unchecked, is forecast to have catastrophic consequences for the planet.

What do organizers hope to achieve?

It is hoped that the conference will produce, or at least lay the groundwork for, a set of sustainable development goals that can be adopted worldwide. These will set targets for consumption and production and put in place a system of checks to ensure they are met.

Reports quoting documents leaked ahead of the summit suggest that countries will be asked to sign up to 10 separate goals. These

could include a deal on protecting oceans, the establishment of a powerful global agency for the environment, financial support to encourage sustainability for poorer nations and the appointment of an ecological high commissioner.

Will they succeed?

The best that can be hoped for is that Rio +20 will be the start of a process that leads to some or all of these goals being met. Few expect hard and fast policies to be put in place after three days of discussion and the likelihood is that participants will sign up to a document committing themselves to further action in the future.

What is open to question is how effective that document will be, given the struggle to build consensus ahead of the conference. The absence of key players like Obama has cast a shadow, as has the relative failure of the 1997 *Kyoto Protocol* on limiting greenhouse gases, which was set in motion at the 1992 Rio summit.

There are also numerous sticking points. Wealthy and poorer nations are likely to argue over sharing the burden of cutting carbon emissions. There are also concerns over the exclusion of references to basic human rights, such as access to water. Environmental monitoring methods are also expected to spark dissent.

[CNN News, 11/06/2012]

World leaders accused of Rio + 20 failure

More than 100 world leaders, but not America's Barack Obama or Britain's David Cameron, gathered in Rio de Janeiro yesterday for a three-day UN summit on sustainable development – the formula for bringing millions of people out of poverty without trashing the environment.

The gathering at "Rio Plus 20" marks the 20th anniversary of the so-called "Earth Summit" in Rio in June 1992, regarded as one of the most influential environmental gatherings ever, not least for the two UN treaties it saw signed on climate change and biodiversity.

Expectations this time are much lower and have been steadily dropping all week, especially since the draft final text, entitled *The Future We Want*, was released two nights ago. Many environmental groups say it contains no new commitments for anyone to do anything, no targets and no timetables, and it is unlikely to be strengthened when heads of state and government sign off on it.

"This summit was over before it even started," Oxfam's Antonio Hill said last night. "World leaders failed to seize the day. This summit will be recognised as a failure – a fail on equity, a fail on ecology and a fail on economy. We always knew governments' ambitions were low, but the final deal lacks a single new meaningful commitment."

The sense that the conference might not make decisions of substance clearly influenced Mr Obama and Mr Cameron's decisions to stay away. The President has sent Hillary Clinton, his Secretary of State, in his place, and Mr Cameron has sent the Deputy Prime Minister, Nick Clegg. German Chancellor Angela Merkel is another prominent rich-country absentee. But all the leaders of the "Brics" group of leading

developing countries – Brazil, Russia, India, China and South Africa – are present, as the issue of development is something they cannot afford to ignore.

[The Independent, 21/06/2012]

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**Convictions under environmental legislation:
April to May 2012 (June data not available)**

[Note: the EPD no longer classifies second
(and subsequent) offences.]

The EPD's summary of convictions recorded and
fines imposed during the above period is as
follows:

April 2012

Sixteen convictions were recorded in April for
breaches of legislation enforced by the
Environmental Protection Department.

Three of the convictions were under the Air
Pollution Control Ordinance, 5 under the Noise
Control Ordinance and 8 under the Waste
Disposal Ordinance.

The heaviest fine in April was \$50,000, assessed
against a company that imported controlled waste
without a permit.

May 2012

Twenty-three convictions were recorded in May
for breaches of legislation enforced by the
Environmental Protection Department.

Five of the convictions were under the Air
Pollution Control Ordinance, 9 under the Noise
Control Ordinance, 1 under the Ozone Layer
Protection Ordinance and 8 under the Waste
Disposal Ordinance.

The heaviest fine in May was \$18,000 imposed
on a company that carried out prescribed
construction work in designated area without
valid construction noise permit.

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