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## URBAN PLANNING AND ENVIRONMENTAL LAW QUARTERLY

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*In a world in which human activities increasingly degrade all aspects of our environment, it is time the legal profession in Hong Kong gave higher priority to promoting effective environmental protection, not only in Hong Kong and China, but in all parts of the world.*

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*The Editors*

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### LEGAL PROFESSION'S RESPONSIBILITY TO ASSIST IN AVERTING WHOLESAL ENVIRONMENTAL DEGRADATION

Today, all regions of the world face serious environmental threats from human activity, more so than at any previous time in history. In this context, it is a major challenge for the legal profession to become more relevant to, and active in, promoting professional and community standards which pay proper respect to the concept of environmental conservation.

The overwhelming majority of environmental scientists and organisations warn that governments must take far stronger and effective measures to avert even greater degradation than has already been inflicted on our environment; otherwise, we face local and global catastrophes as serious as wide-spread armed conflicts – if not more so!

#### Background

The *U.N. Conference on the Environment* held in Stockholm in 1972 was an early, key event in the world's awakening to the extent of man-made environmental degradation, and the bleak prospect of even wider damage being caused in the years to come.

At approximately the same time, the U.S.A. enacted the first of its now comprehensive range of statutes which are collectively aimed at providing meaningful protection of the environment. Other developed countries followed in the middle to late 1970s with similar, if not always as robust, statutory environmental protection laws.

Today, most countries – developed, developing and undeveloped – have *prima facie* environmental laws; the universal problem has been – and remains – lack of political will to enforce such laws rigorously. Hong Kong's past and

present environmental protection regime is a classic example of such bureaucratic malaise.

In 1987 Dr. Brundland published the now famous U.N. commissioned report, *Our Common Future*, in which the policy of "sustainable development" was first articulated as: *development that meets the needs of the present without compromising the ability of future generations to meet their own needs.*

The report highlighted three fundamental components to sustainable development: environmental protection, social equity and economic growth. Whilst there have been, of course, some exceptions, it is fair to say that to date political, business and professional leaders have focused mainly on the *economic growth* component.

The time has long come for Hong Kong to address and change this policy imbalance. To do so will depend to a large extent on professional groups, such as lawyers, because the world's politicians and business leaders have so far demonstrated an unwillingness or inability to reverse the trend of unreasonable environmental exploitation in favour of truly sustainable policies and practices. This is clearly demonstrated by the sorry history of the climate change meetings to date.

#### Climate-change

It should be stressed that climate change due to the warming effects of excessive human-generated greenhouse gas emissions (*GHGs*) – which is a scientific fact if we believe the vast majority of scientific opinion – is not the only serious environmental problem we face, albeit it the problem with the widest environmental impacts. Numerous ecosystem-specific threats also deserve our urgent attention. These tend to be overlooked today in the thick of the climate-change debate (although, climate change also affects directly these ecosystems). We mention below several of these other, specific areas of environmental concern.

In June 1992, Rio de Janeiro hosted the *U.N. Conference on Environment and Development*, popularly known as the *Earth*

*Summit.* More than 2,400 official, and 17,000 unofficial, NGO representatives attended, as well as numerous officials from the approximately 190 countries represented. Various seemingly enlightened declarations were adopted, including the *U.N. Framework Convention on Climate Change*.

The next significant step in the climate change debate was the follow-up conference in 1997 in Kyoto, when the majority of countries signed on to the *Kyoto Protocol*. The 1992 *Convention* had merely encouraged member states to curb their GHGs. The *Kyoto Protocol* bound signatories to do so, by an average of 5% reduction of 1990 GHG emission levels, with the heaviest reduction burdens imposed on industrialised nations.

However – as we all are too well aware – the *Kyoto Protocol* has been ineffective in meeting the climate change challenge, mainly because certain major polluting countries refused to adopt it.

Since Kyoto, there have been a further five meetings to discuss or refine the *Protocol*, but none has produced a workable, binding GHG reductions programme. At the last of these meetings – in Copenhagen in December 2009 – only a “voluntary” emissions reduction plan was adopted by a limited number of nations (40 developed and 52 developing nations, accounting for 83% of total GHG emissions). The plan aims to limit to 2°C any increase in the world’s temperatures. However, even if fully implemented, it is doubtful the plan would achieve this goal. And, even a 2°C increase would be catastrophic for low-lying countries (e.g. the Maldives) and many components of the environment (e.g. glaciers).

Copenhagen’s outcomes represent the world’s best efforts to deal with the monumental environmental effects of climate change presently rest; this is a situation most people will see as unacceptable, indeed, plainly uncivilised if the international community is at all serious about curbing the effects of climate change and conserving a meaningful level of ecosystems’ integrity.

#### Examples of other environmental dangers

The year 2010 is designated by the United Nations as the *International Year of Biodiversity*, yet landscapes and seascapes are under continuing pressure, resulting in loss of habitat and, ultimately, species loss.

*Desertification:* is a prominent manifestation of habitat and biodiversity loss. “Desertification” is the persistent degradation of dryland ecosystems caused by human activities and climate variations. That desertification is a singularly serious environmental problem (although not widely discussed or publicised) is evident from the fact that drylands account for approximately half of the Earth’s land area and are home to nearly one third of the world’s population.

In its background report for *Earth Summit +5* (New York, June 1997) UNEP (United Nations Environment Programme) estimated that 25% of the earth’s land area is threatened by desertification, directly affecting or jeopardising the livelihoods of well over 1 billion people in more than 100 countries (400 million in China alone). Desertification also significantly contributes to other forms of environmental degradation, such as global warming and loss of biodiversity. About 6 million hectares of productive land are lost to desertification each year.

As always, there is also a direct economic impact of this kind of environmental degradation. UNEP estimates that desertification costs the world US\$42 billion in lost production each year. Of this total, Africa loses some US\$9 billion a year, Asia US\$21 billion, North America US\$5 billion, Australia and South America US\$3 billion each, and Europe US\$1 billion.

China faces enormous problems due to desertification; over 27% of China is desert, with an average 2,460 km<sup>2</sup> added to this area each year. Most of Australia consists of severely threatened dryland regions.

*Deforestation:* is another world-wide environmental tragedy happening before our eyes. Approximately 50% of the earth’s forests have now been cleared. Each year we lose more than 16 million hectares of native forests, due to both legal and illegal logging.

In countries such as Indonesia and Papua New Guinea – which have some of the last great rain forests – illegal

logging is encouraged by eager consumers in other countries – especially China.

*Water scarcity:* is a hugely significant environmental issue. The world now, belatedly, recognises that collectively we face serious fresh water shortages. Very few countries are immune. Previously water rich countries, like the U.S.A., India and China, now have wide – spread shortages of potable water for communities and fresh water for agriculture. This dire situation is due largely to over-extraction, construction of too many dams, and, in China’s case especially, severe pollution of rivers, lakes and aquifer.

Regional wars over scarce fresh water resources are increasingly likely; examples of water “hot-spots” are the over-use/damming of the Jordan, Nile and Mekong rivers, all of which have been or, in the case of the Mekong, are about to be over exploited by one or more of the nations through which they run.

*Loss of species of fauna and flora:* is occurring at a faster rate than ever before. There is increasing recognition by governments and related institutions that the diversity of species of fauna and flora is an irreplaceable natural heritage which is crucial to the well-being of humankind. [Although, the more enlightened and accurate environmental guideline is that fauna and flora ecosystems have an inherent value – not just a value in terms of their usefulness to humankind.]

However, little is being done by governments or industries to reflect biodiversity principles in their policies and practices. Just one glaring example of this shameful inactivity was the CITES (*Convention on the International Trade of Wild Fauna and Flora*) parties’ meeting in Doha in December 2010. At that meeting, a large number of highly endangered species (e.g. several shark species) were proposed by the secretariat’s experts for urgent listing under CITES due to their advanced state of depletion in the wild, but the majority of the parties (led by China), rejected every single one of the nominations.

#### What can lawyers do?

Lawyers are involved as professional advisers in virtually all human activities which adversely impact the environment. For example, legal and illegal logging rely substantially on commercial agreements drawn-up by lawyers for sale of the timber. Other environmentally dangerous or destructive industries – such as mining, “developments” of all kinds, fishing and agriculture – rely heavily on legal advisers to guide them through or around environmental protection laws.

The Law Society and Bar Council should encourage members to give full recognition to environmental issues and laws when advising or representing clients. As lawyers’ representative bodies, they should speak out more loudly and often on environmental issues, and should encourage members to do so whenever appropriate – privately and publicly. As well, they could lobby governments to introduce more effective environmental protection laws – and enforce them!

In terms of enforcement, lawyers (and the judiciary) could promote the virtues of the American system of citizens’ suits rights which are imbedded in U.S. environmental statutes. These rights give private litigants *locus standi* in the courts to enforce environmental laws when the responsible government agencies fail to do so – as in all too often the case, no matter which country you look at. Regrettably, very few nations have followed the U.S.A in providing for citizens’ enforcement of environmental laws, although a few welcome exceptions exist, such as the Philippines and India.

Lawyers can adopt domestic and work practices which are more environmentally friendly. Again, it is appropriate for the professional bodies to be more pro-active in this area, especially concerning work practices. One small example of this is using *Ecosia* [www.ecosia.com] as a search-engine, as use of this site directly assists protection of the world’s rapidly reducing rainforests. *Ecosia* donates 80% of revenue to rainforest conservation. Every “hit” on the site provides protection for approximately 2 m<sup>2</sup> of rainforest.

The government, courts, and our professional leaders could encourage and facilitate *pro-bono* work by lawyers in environmental matters; to quote from a recent publication by a well-known Japanese lawyer and academic, Takeji Fujiwara :

*“In time [following WW1 and Japan’s modern industrialisation] lawyers began taking action by seeing*

*environmental problems as those involving human rights. Finding redress for the victims of serious pollution, stopping pollution, and preserving the environment is the social mission imposed upon lawyers.”*

We agree entirely. Sadly, however, we doubt that this legal philosophy is even on the radar of the vast majority of Hong Kong’s judges and lawyers.

In all other common law jurisdictions you will find a strong core of lawyers who are concerned about environmental degradation and are professionally involved, not necessarily full-time, in using their legal skills to try to do something about it.

Probably, most people reading this article have never heard of Indian lawyer, M.C. Mehta. He is a wonderful example of the kind of dedicated environmental lawyers you will find in every other common law jurisdiction. For more than two decades, your editors have known of M.C. Mehta’s dedicated work to protect the environment. The cases he has litigated to prevent human destruction of the environment are varied and numerous. A short insight of his Mehta’s *pro bono* cases work was recently published in *Greenlaw* (Environmental Defenders Office, South Australia, 2010) :

*“MC Mehta is described as one of the world’s foremost environmental lawyers and is one of the founders of the Indian Council for Enviro-Legal Action (ICLEA), and director of the M.C. Mehta Environmental Foundation in New Delhi. Earlier this year, in a Festival of Ideas session entitled ‘Pushing the Limits : Environmental law and the role of the judiciary and citizens’ he outlined some of his extraordinary achievements as an attorney in the Supreme Court of India.*

*Mehta’s first encounter with environmental law came as the result of an informal conversation with a man concerned about the effects of acid rain on the Taj Mahal. Pollution from local industries was turning the world famous monument yellow. Mehta filed a petition in 1984 and in December 1996 the Supreme Court delivered a historic judgment, directing industry to cease using coal and coke and to switch over to compressed natural gas. According to Mehta, this case changed his life; just a thirty second conversation about the Taj Mahal started his journey in environmental law.*

*He was subsequently involved in a remarkable array of landmark cases resulting in orders against industries causing pollution in the Ganges River, orders for the relocation of industries causing air pollution in Delhi, orders for the removal of a river diversion and forest encroachment undertaken by the Minister of Environment and Forests to beautify a motel owned by his family, and orders for the environment to be a compulsory subject through to Year 12 level.*

*There are differences between the Australian and Indian legal systems in relation to how cases are brought and determined but it is still heartening to see that an environmental lawyer can have such a profound impact. Mehta takes the view that lawyers are like scientists; it is their job to discover new things and the court room is their laboratory. This analogy captures the mixture of method and creativity necessary in addressing the complexities of the environmental issues we are currently faced with.”*

Could Hong Kong’s profession ever produce an M.C. Mehta – leaving aside the difference in *locus standi* laws? Not if our past and present obsession with commercial issues continues.

Hong Kong’s backwardness, in the context of using our legal system to better protect the environment, is well illustrated by a prominent lawyers’ awards night. At this “Academy Awards” annual event, individuals and firms are awarded prizes for everything from “Best M&A firm” to having the cleanest office – or similar. But, a glaring omission has been – and remains – environmental and town planning law, with no award even offered. Some time ago, we wrote to the awards night promoter (a prominent legal publisher) to point this out, and to suggest they should at least recognise that area of the law by offering an annual award, even if it were not conferred every year. The promoter did not even reply. Sadly, this reflects the attitude to, and awareness of, environmental issues of the majority of Hong Kong’s lawyers.

## TOWN PLANNING

### Wing Lee Street escapes bulldozer

The Urban Renewal Authority (URA) has withdrawn its

support for an urban redevelopment plan that would have demolished most of Wing Lee Street, Central. The street has received public prominence due to the film *Echoes of the Rainbow*, an award-winning film about the family of a shoemaker living on Wing Lee Street in the 1960s.

The URA says that it is considering an alternative option that would preserve all 12 tong-lau structures (traditional tenement buildings unique to Hong Kong and southern China) in Wing Lee Street. According to its 2008 proposal to redevelop the cluster of old buildings along Staunton and Wing Lee streets, nine of the tong-laus built in the 1950s were to be demolished. New buildings taking their places, however, would have to resemble the remaining three in height, scale and architectural style.

The URA will suggest that the Town Planning Board designate Wing Lee Street as a special preservation zone, so that the street does not get partially destroyed when some individual owners decide to sell their properties to a developer.

However, conservationists are still not satisfied. The voice to preserve more of Wing Lee Street grew louder after *Echoes of the Rainbow* won the *Crystal Bear* for Best Feature Film in the Generation category of the 60th Berlinale, the international film festival held in Berlin in 2010.

[China Daily (Hong Kong Edition), 17/03/2010]

### URA members question decision on saving Wing Lee Street

Urban Renewal Authority board members said the Authority's new proposal to preserve Wing Lee Street in Sheung Wan was rushed and there had been no discussion of the rationale behind it.

URA board members said a meeting of its conservation committee on March 2 agreed to push forward with the original plan to redevelop the street. They said the Authority's management had then issued them a paper, and asked them to decide immediately whether or not to authorise the management to submit the alternative proposal to preserve all the blocks.

A board member said that at the meeting, everyone agreed the buildings did not have much character, and the site does not carry deep historic value. So the board members agreed some development and revitalisation would be enough.

The URA management announced today that it should submit a feasible and well-received alternative to the Town Planning Board after reviewing the situation early this month. The management asked the board for authorisation to handle the case flexibly because there was an urgent need for them to come up with an alternative, which would involve a lot of technical decisions, before the Town Planning Board consider the original plan.

[SCMP, 18/03/2010]

### Integrated Elderly Community Project brings new economic impetus to Tin Shui Wai

The Integrated Elderly Community Project (IECP) of the Hong Kong Housing Society (HKHS) will bring new economic impetus and create employment opportunities in Tin Shui Wai. IECP aims to provide quality retirement living for the elderly in their local community.

With a size of around 60,000 square metres in Tin Shui Wai Area 115, the proposed project will provide: about 1,000 residential units for the elderly; a wellness centre; residential care home for the elderly; and a hotel as well as various training and recreational facilities. It will enable the elderly to actively participate in the community and lead a fulfilling and quality life upon their retirement.

In addition, the HKHS plans to set up an elderly resources centre and a wellness centre on the remaining 30,000 square metres of land on Area 112. The proposal will also include a Vocational Training Council (VTC) training centre, which will offer 1,500 training opportunities annually, and some ancillary commercial facilities, such as retail shops.

The proposed VTC training centre will provide training programmes for hospitality services, catering and medical care

services. The centre will be equipped with: a training kitchen and dining facilities; a dormitory; classrooms; an adventure based training centre; and a greenhouse and an organic farm.

[IS Department, HKSAR, 29/03/2010]

### Landowner seeks to build house on illegal dump site

An owner in a New Territories village, where farmland was covered by unauthorised dumping of construction waste last year, now wants to use his part of the land to build a three-storey house.

The move by Hau Wai-nam at Ho Sheung Heung comes as the Planning Department is considering prosecuting owners who have defied orders to remove the metre-deep waste from the land. Hau wants to build his house on a 195-square-metre site zoned for agricultural use on the southern side of the dump site.

It is not the first time landowners in the New Territories have proposed building on rural sites with a history of destruction from activities such as illegal dumping, excavation and land-filling. Last year, the Town Planning Board gave the green light to a small house on a site with a history of illegal dumping. Earlier this year, a developer also sought in vain to legalise their illegal dumping in an ecologically important pond in Luk Keng.

[SCMP, 20/04/2010]

### Town Planning Board wants briefing on planning debate

The Town Planning Board has asked to be briefed on planning officials' discussions in 2004 about linking the record of activities at a particular piece of land to consideration of any planning application involving the land, a link described as the "clean record test".

The test was proposed as a way to address the common practice in rural areas of carrying out work before applying for planning permission, a practice commonly referred to as "destroy first and develop later", but planning officials concluded at the time that a bad record would not be sufficient grounds for rejecting a planning application.

The indigenous landowner whose application was approved yesterday, Hau Wai-nam, has also failed to fully comply with the order to remove all waste and grass at the site. At the Board meeting, a Board member queried whether members should ignore Hau's application until the enforcement issue was fully settled or proceed with discussion regardless.

Hui Wai-keung, district planning officer for North District, assured the Board that whilst he had no power to oversee enforcement, Hau would not be allowed to evade his obligation to restore the site. The application satisfied the criteria for assessing small house applications and there was no major concern on land use compatibility, as four small houses nearby had been approved in 2008.

[SCMP, 29/05/2010]

### Stricter rules proposed for tall office blocks in Tsim Sha Tsui

Developers planning tall commercial buildings in Tsim Sha Tsui will have to comply in future with a more stringent set of design conditions. Government proposals to be discussed by the Town Planning Board today aim to define Tsim Sha Tsui as a central business district and a high-rise node while improving the streetscape and pedestrian environment.

Building heights in Tsim Sha Tsui are limited to between 60 and 130 metres above sea level, depending on the location, but the limit can be exceeded on application to the Board.

The new proposals set out rules for developers wanting to exceed current height restrictions, including limiting the area of a building to 65 per cent of the site area. The proposals apply only to sites of at least 1,800 square metres, which are large enough to enable the design rules to be met while still providing offices of a reasonable size.

The proposed rules also require developers to provide a better pedestrian environment by, for example, putting carparks

underground to minimise a building's bulk, and orienting the building in a direction that will not block prevailing wind. A developer must also provide uncovered greenery of at least 20 per cent of the gross site area at street level on the lowest three floors, so as to offer visual relief and improve the micro-climate for pedestrians.

Floors close to the ground should be set back at least three metres from the site boundary facing open space, waterfront or principal streets to leave space for planting small to medium-sized trees. If the width of a building's facade facing principal streets or public open space exceeds 100 metres, gaps of not less than half of the building's total width should be reserved to let air through and to provide a view.

Applications for a taller commercial building must be supported with technical assessments of the building's impact on the surrounding environment.

[SCMP, 04/06/2010]

### Hong Kong to share its green transport experience

Hong Kong will share its experience in the planning and management of green transport at the "Green Transport in Hong Kong, Asia's World City" seminar to be held in Shanghai on June 18.

The seminar is part of Hong Kong's participation in World Expo 2010, held in Shanghai. Topics at the seminar will focus on how to further advance green transport internationally. The Secretary for Transport and Housing will outline Hong Kong's experience in green transport at the seminar. The seminar will discuss urban planning and financing of green transport.

The event is jointly organised by the HKSAR Government, the Centre of Urban Studies and Urban Planning and Institute of Transport Studies of the University of Hong Kong, the Chartered Institute of Logistics and Transport in Hong Kong, and the Hong Kong Institute of Planners.

[IS Department HKSAR, 07/06/2010]

### Draft Mid-levels West Outline Zoning Plan approved

The Chief Executive in Council has approved the draft Mid-levels West Outline Zoning Plan, which provides a statutory land use planning framework to guide development and redevelopment in the Mid-Levels West area.

The Planning Scheme Area, covering about 230 hectares, is bounded by Bonham Road, Caine Road and Kennedy Road to the north, Bowen Drive to the east, Pok Fu Lam Road to the west and the Pok Fu Lam Country Park to the south.

Residential developments, occupying the central part of the area, can be differentiated into two main groups: developments to the north of Robinson Road, which are relatively high density are zoned "Residential (Group A)", covering 8.69 hectares with shops or other non-domestic uses on the ground floor of the buildings. Developments to the south of Robinson Road are generally low-density residential in character. They are zoned "Residential (Group B)" and "Residential (Group C)" covering 45.54 and 13.88 hectares respectively.

A shopping centre at May Road and a commercial/office development near the junction of Garden Road and MacDonnell Road are zoned "Commercial", covering a total area of 0.45 hectares to serve local residents.

A total of 37.02 hectares of land is zoned "Government, Institution or Community" (G/IC) and a total of 9.44 hectares of land is zoned "Open Space" to serve the needs of the local as well as district populations. Existing major G/IC facilities in the area include the University of Hong Kong, the Canossa Hospital, the Office of the Commissioner of the Ministry of Foreign Affairs of the PRC in the HKSAR, the Young Women's Christian Association and the Caritas Community Centre.

Sites allocated for specified uses, such as petrol filling stations, the Ladies Recreation Club and the Peak Tramway, covering 3.62 hectares, are zoned "Other Specified Uses".

Building height restrictions are incorporated into the Plan to provide better planning control on future development/



redevelopment, to prevent excessively tall or out-of-context buildings, and to preserve existing views of the ridgeline and Victoria Harbour.

[Town Planning Board, 19/03/2010]

## WEST KOWLOON CULTURAL DISTRICT (WKCD)

### Arts hub chief vows to make global impact

A British artistic director, named as the first chief executive of the West Kowloon Cultural District, has promised to set up a multi-national team to create a cultural hub of "global impact."

After a world-wide search, Barbican Centre artistic director, Graham Sheffield, has been appointed to the post, which he will take up in August 2010. Sheffield has worked at the London-based multi-arts and conference venue for 15 years. He described Hong Kong's art scene as "good and vibrant" and said he aims to take it to a new level.

Sheffield, who was chosen from 52 world-wide applicants, admitted that he is not an expert on local arts and promised to help put together a well-balanced and multi-national team which includes experts of different art areas.

"We, West Kowloon Cultural District Authority, will work with the community, with the local art groups, building local pride and engagement but also creating something of global importance and impact," he said.

Sheffield will also work on attracting mainland audiences to attend performances in West Kowloon. The Chairman of the Authority's board said Sheffield is "the right man" for the post. He said the Authority did not intentionally look for a Chinese or non-Chinese; they just looked for the best person for the job.

He also commented that apart from his artistic and administrative achievements, Sheffield puts strong emphasis on developing artistic talent and has a remarkable track record in arts education and audience building.

[The Standard, 25/03/2010]

### Strategic directions for preparation of the development plan

After reviewing the recently released report on the analysis of responses from Stage 1 of the Public Engagement (PE), the West Kowloon Cultural District Authority Board discussed strategic directions for the Conceptual Plan Consultants to prepare the Conceptual Plan Options, which will be put forward for public comment in Stage 2.

The report on the analysis analysed responses from the general public and stakeholders, comprising more than 7,000 questionnaires and written submissions received.

For preparation of the Development Plan for the WKCD, the Board proposed the following strategic directions:

- In designing the Conceptual Plan Options, qualities such as "artistic/ cultural feel", "relaxing", "inspiring", "inviting"; "showcasing Hong Kong's unique local and traditional characteristics"; and "exhibiting a green setting" should be adopted as the major directions when planning the overall look and ambience of the district;
- The seven Planning Design Principles should continue to be used as the framework for the future development of the WKCD, with a particular emphasis on "sustainability";
- The Conceptual Plan Consultants should pay heed to the preferences and views expressed by the public and stakeholders on travelling to-and-from and within the WKCD and associated public open space in designing the layout of the WKCD;
- The Consultants should consider how to best incorporate ideas on "education-related facilities", "information and communication technology (ICT)" and "barrier-free access for persons with disabilities" in planning the WKCD;
- Further consideration will be given to what additional facilities should be undertaken in the WKCD, as no predominant opinion has emerged in the Stage 1 PE

exercise;

- An organic growth and clustering approach for the facilities should be adopted in planning the WKCD; and
- In preparing the technical design of the Core Arts and Cultural Facilities (CACF), the Chief Executive Officer, respective Executive Directors and the arts and culture stakeholders will all work closely together.

The responses received during the Stage 1 PE exercise will provide a useful reference for the Conceptual Plan Consultants in preparing their Conceptual Plan Options. They are required to produce a statement on how public views have been taken into account during the development of their Conceptual Plan Options. The three designs will then be unveiled to the public during the Stage 2 PE exercise, which is scheduled for summer 2010.

[West Kowloon Cultural District Authority Press Release, 23/04/2010]

### MTR re-submits design for West Kowloon towers

The MTR Corporation has re-submitted its design for the office towers above the future high-speed rail terminus in West Kowloon, with little change except for the height of the buildings.

The Town Planning Board had asked the MTR to revise the design because it considered the three office towers were too short and bulky and was concerned about air ventilation around the 58,800-square-metre site.

In the latest design, the three towers will form a stepped height profile ranging from 19 to 28 storeys. In the original plan, they were 21 to 23 storeys. Other parameters, including the site coverage, gross floor area and public open space, remain the same.

The original design had been described by the Planning Department as unnecessarily compressed to a rather uniform height, resulting in an almost flat roofline. It also said the three office towers appear as one single cubiform mass, which results in adverse visual impacts when viewed from the Star Ferry in Central.

The Department, advising the Board, says it has no objection to the revised design, adding that the new height profile will slightly improve air ventilation around the site.

But the MTR will still need to submit an air ventilation assessment as a condition for the Board's approval. The company must also consult the Secretary for Home Affairs on the design of the pedestrian deck connecting the West Kowloon Cultural District.

The government intends the buildings atop the future terminus site to form a high-grade office hub together with the International Commerce Centre above Kowloon station. Development density was slashed last year, with the plot ratio - the maximum potential gross floor area to land area - dropping to 5 from 8.89.

[SCMP, 07/05/2010]

### Hong Kong's twin 'peak'

In October 2010, visitors will have a new vantage point on the other side of the harbour to take in the dazzling night scene that encompasses Hong Kong and Victoria Harbour.

The observation deck on the 100th floor of the International Commerce Centre (ICC), Hong Kong's latest landmark, will offer a 360-degree mesmerising view from the centre of town, at 393 metres above sea level. The 484 metre, 118 story skyscraper will become Hong Kong's tallest and the world's fourth tallest, after Dubai's Burj Khalifa, Taipei 101 tower and the Shanghai World Financial Centre.

The ICC observation deck, like the Taipei 101 observatory and Sky Walk 100 of the Shanghai World Financial Centre, comes with top-notch facilities and service. It can be reached by a lift from the second floor of the ICC in just one minute.

Apart from taking in a view of one of the world's busiest harbours and row upon row of skyscrapers, visitors can also gain an insight into Hong Kong's history and culture through the deck's innovative multimedia exhibits.

A tourist information centre, offering advanced telescopes and audio-visual guided tours in four languages, will help first-time visitors zero in quickly on major sights of Hong Kong.

The observation deck will give visitors a unique experience of the energy of this vibrant city. The deck also has dining and entertainment facilities. A spacious, high-end shopping mall is located in ICC's basement to satiate the most enthusiastic shopper in the shopping haven of the world.

A renowned hotel chain will occupy the top 15 floors of the tower. With its lobby at 425 metres above the ground, the hotel is being billed as the highest in the world.

ICC is part of the Kowloon Station development, a key integrated project in Hong Kong's West Kowloon area, featuring commercial, residential, cultural and recreational facilities in one location. The tower forms a "gateway" to Victoria Harbour with Two International Finance Centre located on the other side of the harbour. The building is also well connected to public transport, including the MTR, Airport Express and crossborder and local buses.

[China Daily, 13/05/2010]

### Terminus hits trouble with malls claim

A man seeking to stop the building of the terminus of the high-speed cross-border rail link in West Kowloon told the Court of First Instance that the project will only benefit business.

In an attempt to get permission to apply for judicial review, the man, who lives near Kowloon MTR station, said the plan to build the terminus is intended to help two shopping malls - one at Kowloon station and the other at the soon-to-be-built West Kowloon terminus. The project is not truly in the public interest, he argued. Instead, the government should pay attention to people's needs and not use public money and land to benefit shopping enterprises.

He also claimed a terminus in West Kowloon could lead to traffic jams in the area and there may be a need for further reclamation should such a problem arise. He stressed that he is not against construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, but just the location of the terminus.

The West Kowloon terminus, north of the West Kowloon Cultural District and between Austin and Kowloon MTR stations, will have nine long-haul platforms and six shuttle platforms. On that, he said there is no terminus anywhere with so many platforms.

The judge said the court deals with legal problems and not policy; a decision was to be handed down at a later date.

[The Standard, 20/05/2010]

## HONG KONG BRIEFING

### Amendments to Air Pollution Control (Motor Vehicle Fuel) Regulation

The Air Pollution Control (Motor Vehicle Fuel) (Amendment) Regulation 2010 was gazetted on 7 May 2010. The aim of the amendment is to tighten the specifications of motor vehicle diesel and unleaded petrol to Euro V standards.

The major difference between Euro IV and Euro V motor vehicle fuels is the tightening of the allowable amount on their sulphur content from 0.005% to 0.001%.

Euro V motor vehicle fuels can reduce motor vehicles' emission of sulphur dioxide by approximate 80%. It also helps improve the removal efficiency of the emission control systems installed in motor vehicles and facilitates the introduction of more advanced emission control systems in the future in order to further reduce motor vehicle emissions.

In addition, if existing petrol vehicles use Euro V petrol, their emissions of carbon monoxide, nitrogen oxides and hydrocarbons will be reduced by approximately 10%. Compared to Euro IV diesel, Euro V diesel can also reduce the suspended particulates of existing diesel vehicles by approximately 5%.

Oil companies in Hong Kong have already confirmed that they have no technical problem supplying Euro V motor

vehicle fuels. Since December 2007, all petrol stations in Hong Kong have been offering exclusively Euro V diesel for diesel vehicles. As for petrol, the imported volume of Euro V petrol increased to about half of total petrol imports in 2009. This increase indicates that Euro V petrol has gradually become more widely used and available in Hong Kong.

Subject to approval by the Legislative Council, the amendments will take effect on 1 July 2010.

[*Environmental Protection Department, 07/05/2010*]

### Search for HK oil spill

The government is searching to locate a large oil spill near Hong Kong waters which was detected by Chinese University. The spill will be a threat to marine ecology if it spreads.

Radar and remote-sensing images from the university's satellite station show there was a 17-square-kilometre oil spill about five kilometres from Hong Kong waters, the university said. Professor Lin Hui, director of the university's Institute of Space and Earth Information Science, said one of the images showed the spill appeared to be of an elongated shape and was mainly spread around shipping routes.

Professor Lin said primary analysis showed the spill may have come from oil drainage or leakage from a large single vessel or from several smaller vessels. Leakage from underwater oil storage or transfer facilities were other possibilities.

Associate Professor Zhang Yuanzhi, also from the research institute, said the spill was about five kilometres south of Po Toi Island, and appeared to be 30 kilometres long and 500 metres to a kilometre wide. Professor Zhang said the institute had contacted authorities in Hong Kong and on the mainland, but their vessels did not find the spill near Po Toi.

[*news.gov.hk, 21/05/2010*]

### HK pavilion to get green roof

"Green" collaboration between Hong Kong and Shanghai will ensure a vibrant and verdant rooftop display for the Hong Kong Pavilion at the Shanghai Expo 2010 from May to October.

The pavilion rooftop's theme, *Connect to Nature*, illustrates Hong Kong's closeness to nature and highlights the fact that country parks and green belt areas make up 70% of Hong Kong's total land mass.

Nurseries in Shanghai and Guangdong will help supply plants for the rooftop displays which will comprise three main areas:

- a woodland area planted with 40 trees;
- wetland ecological habitats with an artificial water scene and wooden walkway; and,
- surrounding walls with pixel images depicting Hong Kong's interaction with its natural surroundings and its close proximity to natural areas.

Mainland nurseries will supply more than 1,000 plants and trees for the pavilion, including Chinese banyan and camphor trees, which are common in Hong Kong.

Showcasing Hong Kong's rich natural heritage and the co-existence of its urban and countryside areas, the "green" rooftop will help insulate the Hong Kong Pavilion and keep the interior cool in the summer heat.

In addition to the heat-absorbing vegetation, there will be a number of other "green" elements built into the pavilion to tie in with the expo's overriding theme of *Better City, Better Life*. These include solar panels to generate electricity, water cascades to cool the interior air, heat-reflecting glass, energy-efficient air-conditioning and recyclable building materials.

Besides highlighting the city's connectivity to nature through its rooftop display, the pavilion's huge transparent middle level illustrates Hong Kong's openness and connectivity to ideas, whilst the ground-floor level reflects the city's global connectivity. Each month during the expo period a different theme will promote Hong Kong's participation in this mega event, with May's focus being "Green City".

[*news.gov.hk, 21/05/2010*]

### PRD offers green business opportunities

The Greater Pearl River Delta region provides a market with huge potential for the energy, green transport and related consultancy industries, Secretary for the Environment, Edward Yau, says. Speaking at the *Green Technologies, Challenges & Opportunities* seminar in Shanghai, which is the first of a six-month series of events and activities to be staged by Hong Kong during the World Expo in Shanghai, he said there are more than 50 million residents in the delta region.

In pursuing a restructure of the economy, there remains an urgent need to increase protection of the environment and combat climate change. This aim, coupled with higher public expectations for a better lifestyle and quality of life, will make development of a green economy and green technology a global trend, and will provide business opportunities with the greatest potential, he added.

Mr Yau also shared details of Hong Kong's environmental policy that promotes the development and implementation of green technologies for industries in the region.

"To encourage enterprises to adopt clean production procedures and to reduce pollution in production processes, we have put in place a five-year *Cleaner Production Partnership Programme* since April 2008. The scheme aims at encouraging and assisting Hong Kong-owned enterprises in the Pearl River Delta region to adopt clean production techniques and operation modules," he said.

[*news.gov.hk, 06/05/2010*]

### Kai Tak roads may be moved to give public access to harbourfront

Roads surrounding the proposed Kai Tak re-development could be set back from the waterfront and made narrower to open the area for the public to enjoy, the government suggests.

The change in the layout was in response to last year's criticism by an NGO that the original road plans for the development of Kai Tak into a cruise terminal was a disaster, as roads dominated 80 per cent of the waterfront. The Development Bureau, reporting on the progress of the Kai Tak project in a Legislative Council paper, said it was fine-tuning the roads layout. An option is to move the roads along the former runway away from the waterfront, thereby allowing for the construction of promenades.

A government spokesman also said in a press briefing yesterday that landscaped decks on footbridges above the roads would be added, and the bureau would consult the public before finalising proposals.

As originally planned, the road network, together with works to convert a taxiway bridge into other uses, would cost approximately HK\$1 billion to construct. The design barred public access to 80 per cent of the waterfront area, *Designing Hong Kong*, claimed, as it urged the government to set back coastal roads – following the harbour design examples of Singapore, Sydney, Vancouver and Capetown – to provide more space for activities.

The remnants of Lun Tsun stone bridge, built in the 1870s to welcome Qing dynasty (1644-1911) officials when they arrived, will be preserved within the Kai Tak re-development due to their historical value. A public consultation has begun and land use zonings around the bridge will require refinement to accommodate preservation requirements.

The old Kai Tak Airport will be redeveloped into a cruise terminal, residential, commercial and community facilities complex covering more than 320 hectares, and is due to be completed in three phases, ending in 2013, 2016 and 2021.

The redevelopment's Kai Tak Office, which opened in March, will prepare a framework of urban design specifics, such as the green space ratio, the gaps between buildings and themed areas.

[*SCMP, 18/05/2010*]

### Country park order to be gazetted

The *Country Parks (Designation) (Consolidation) (Amendment) Order 2010* will be gazetted tomorrow to excise the area in Clear Water Bay Country Park which will be affected by the proposed landfill extension.

The Environmental Protection Department said that although positive results have been achieved in waste avoidance and reduction at source and through recovery and recycling, there is still a lot of waste which needs to be disposed of properly.

However, the three strategic landfills in southeast, northeast and western New Territories are approaching their capacity and will be full in the next decade. They therefore need to be extended. The government proposes to extend the lifespan of the southeast NT landfill by another six years, because it is expected to be full by 2013 to 2014. For the remaining two landfills, feasibility and environmental impact assessment studies on their extensions have been completed and the government will commission these two landfill extensions within the decade.

[*news.gov.hk, 03/06/2010*]

### Domestic waste recovery jumps to 35%

The recovery rate of domestic waste climbed from 14% in 2004 to 35% last year, while that of municipal solid waste rose to 49%, Secretary for the Environment Edward Yau says.

Noting Hong Kong's waste-recovery rate is rising steadily, Mr Yau told lawmakers the rate of commercial and industrial waste recovery is consistently high at 65%.

About 1,480 housing estates have joined the programme of source separation of domestic waste, representing 74% of the population. The programme has also been extended to commercial and industrial buildings so businesses can recover waste.

The government has placed 38,600 waste-separation bins in public areas, schools, housing estates and government buildings. The *Minimising Waste, Maximising the Future* programme was launched this month to raise public awareness of source separation and waste reduction. Mr Yau said the initiative is to liaise with property-management companies to encourage them to install additional recovery facilities in their shopping malls and commercial buildings. This will help the public get into the habit of separating waste before disposal.

[*news.gov.hk, 26/05/2010*]

### Government buildings to save water

The Water Supplies Department is installing 23,000 water-saving devices in government buildings and schools. The Secretary for Development told legislators that when completed in 2011, the initiative will bring annual savings of 2 million cubic metres of potable water, 800,000 cubic metres of flush-water, and 1.5 million kilowatt-hours in energy consumption.

The government issued an internal technical circular in April last year, requiring all new government buildings to install water-saving devices, such as low-flow water taps and dual-flush cisterns. There have also been trial schemes recycling grey water and harvesting rainwater for non-potable use in several government buildings. The department will review the standards adopted in the trials when compiling comprehensive standards and technical guidelines.

A consultancy study of the water consumption of major government departments will also be commissioned.

[*news.gov.hk, 19/05/2010*]

### Shark-free banquet menus

Twelve hotels and restaurants are offering shark-free banquet menus as part of a *World Wildlife Fund* initiative to help save shark stocks from being decimated. This is a step forward for conservation efforts in Hong Kong, which is responsible for about 80 per cent of the global shark fin trade. Last year, Hong Kong imported more than 9,300 tonnes of shark fins, WWF said.

WWF said it had approached between 30 and 40 restaurants and hotels to join the scheme and were expecting more to sign up soon. The 12 "founding" participants had all agreed immediately to join the scheme, which WWF said was heartening, given Hongkongers' love of shark fins and other exotic but often endangered seafood species.

The restaurants and hotels have also agreed to ensure the rest of the seafood on their menus comes from sustainable

sources. However, shark's fin soup will still be available on their existing menus.

The hotels which have joined the scheme are JW Marriott Hotel, The Excelsior and The Langham; the restaurants are five branches of Choi Fook Royal Banquet and two branches each of The Banquet House, and The China House.

The LH Group, which owns two of the participating restaurants said their new shark-free menu for 12 costs HK\$4,980, while the existing ones with shark's fin start at HK\$7,000.

WWF said alternative banquet menus was a significant step toward reducing Hong Kong's impact on many shark populations worldwide.

[SCMP, 06/05/2010]

### Cashing in on the dolphin slave trade

Not for the first time, young people in Hong Kong have shown more caring for the environment and more compassion for others, including other species, than we adults tend to display. I am referring to the recent threat by students of Kennedy School in Pok Fu Lam to boycott Ocean Park if it adds more wild dolphins to its collection.

In recent weeks Ocean Park has been criticised for its plans to study dolphins in the Solomon Islands and possibly to capture some of them if the population is found to be sustainable. Much of the controversy surrounded the company's plan to use its "conservation" foundation to conduct this study. Indeed, the controversy proved so intense that Ocean Park has since said that an outside group would conduct the study instead.

Yet, it has not mentioned the physical and mental pain felt by dolphins taken from the wild and placed in permanent captivity. It does not address the question of whether the entertainment and supposed education that people might enjoy at the park is worth the suffering and lifelong imprisonment of these wild animals.

It defies comprehension to deny that these animals, among the most intelligent non-primate species, suffer greatly when taken from their family groups and natural habitats to be "imprisoned" by Ocean Park. I use the term decidedly, because dolphins do not choose to live there.

As an educator, I am offended by Ocean Park's use of education as justification for capturing dolphins. Having dolphins play games with their handlers in a pool is neither "education" nor – to quote a company official – "connecting Ocean Park's guests with nature". It is instead entertainment that inures people, including impressionable children, to the cruelty that pervades the imprisonment of intelligent wild animals. Perhaps children are the last people who should be witnessing the dolphin shows.

Ocean Park's justifications for keeping dolphins remind one of the slave trade. The self-righteous argument by the company's management – that making dolphins its captives is somehow a worthy endeavour, and that the animals are treated with great care – is analogous to slave traders' justifications of their crimes by pointing to the economic value of slavery and by arguing that their slaves were well looked after. Such thinking has, thankfully, been consigned to history.

If Ocean Park truly cares about educating children about nature, it could join activists in visibly pushing for stronger legal protection for animals and their habitats. It could use its profits to send young people to visit dolphins in the wild. The stories they would tell their classmates would be vastly more effective in raising awareness about animals and nature than watching imprisoned dolphins perform tricks.

If Ocean Park's concern is with the genetic diversity of captive dolphins, the solution is to halt captive breeding altogether. Recently captured dolphins may be suitable for return to their homes.

Most people would not question whether Ocean Park does most of what it can to care for the animals it exhibits. But many people, including the students at Kennedy School, do question whether it is right to assume that such care is better for dolphins than leaving them in the wild. The school's students demonstrate a greater awareness of what is best for wild dolphins than do the officials at Ocean Park.

Let's be clear: Ocean Park is a business. If capturing dolphins becomes bad for business, the practice will end. Good people should encourage this outcome by staying away from parks and zoos that imprison dolphins and whales. We should follow the lead of the thoughtful students at Kennedy School.

Letter to Editor from Paul G. Harris,  
Chair Professor of Global and Environmental Studies,  
Hong Kong Institute of Education

[SCMP, 20/05/2010]

## CLIMATE CHANGE NETHERLANDS

### Dutch government plans subsidy for CO<sub>2</sub> storage at sea

The Dutch government will provide subsidies of up to 150 million euros (\$190.5 million) in the next 10 years for a carbon dioxide (CO<sub>2</sub>) capture and storage project (CCS) at sea. The project, involving German utility E.ON and Belgian energy company Electrabel, aims to capture CO<sub>2</sub> from an E.ON coal plant in Rotterdam and transport it 20 km by pipeline for storage in depleted gas fields under the North Sea.

The Dutch government subsidy will be in addition to a contribution of up to 180 million euros to the pilot project from the European Economic Recovery Plan, the Dutch Economy Ministry said in a statement. It added that speeding up CCS development in the Netherlands would give Dutch technology suppliers a head-start in developing CCS know-how and experience.

CCS, which works by burying CO<sub>2</sub> deep underground, is seen by industry and some lawmakers as the most vital technology in the climate-change fight because it could potentially curb emissions from coal and other fossil fuel plants.

It is opposed by some environmentalists who argue it is unsafe, will not be ready in time and could divert investment away from truly green sources of power.

Home to Europe's biggest port, a major hub for oil, coal and biofuels, the Rotterdam area produces about 16 percent of the Netherlands' total CO<sub>2</sub> emissions, and is counting on carbon-capture to help it halve emissions in the area by 2025 compared to 1990 levels.

[Reuters, 12/05/2010]

## U.S.A.

### Climate bill cuts carbon, expands oil drilling

Two U.S. senators introduced climate-change legislation that gives coastal states a share of revenue from expanded offshore oil and natural-gas drilling, in a bid to win support for greenhouse gas limits.

The proposal gives states a 37.5 percent share of drilling revenue and the authority to block oil and gas production from occurring within 75 miles of shore.

The Senate Bill aims to cut U.S. emissions of carbon dioxide and other greenhouse gases that scientists have linked to climate-change to 17 percent below their 2005 level by 2020, which is the same pollution reduction target in climate-change legislation that narrowly passed the U.S. House last year.

The Senate bill, called the *American Power Act*, will "transform our economy, set us on the path toward energy independence and improve the quality of the air we breathe," according to a summary of the Bill.

The Senate Bill would set up a cap-and-trade program for utility companies, beginning in 2013. Under cap-and-trade, the government issues a declining number of pollution allowances, each representing one tonne of carbon dioxide, which companies can buy and sell.

Factories and other "industrial sources" would be brought into the carbon market created by the cap-and-trade programme in 2016. The Bill would enforce maximum and minimum prices for pollution allowances. In 2013, the floor price would be \$12 per allowance and the ceiling price would be \$25.

Oil refineries will not be required to buy pollution allowances in the carbon market. Instead, they would "purchase allowances at a fixed price" from the U.S. government.

The legislation will authorise \$54 billion in federal loan guarantees for new nuclear plant construction, which should be enough to support 12 new reactor projects. The climate-change Bill also offers \$2 billion a year for the commercial-scale deployment of technology that captures and stores carbon dioxide emissions from coal-fired power plants.

The coastal states' veto over new oil and gas drilling within 75 miles of shore was a response to the April 2010 oil rig explosion and spill in the Gulf of Mexico, according to the summary of the Bill. States "can veto drilling plans if they stand to suffer significant adverse impacts in the event of an accident," according to the summary.

[Bloomberg, 04/05/2010]

## Climate-change legislation

On 12 May 2010, the US government unveiled the climate and energy bill, known as *The American Power Act*, which would reduce the emissions of the greenhouse gas and boost renewable energy.

The bill involved months of negotiations with environmentalists and the energy industry. The bill would maintain a carbon cap, aiming to reduce greenhouse gas emissions to 17% below 2005 levels by 2010, and to over 80% of 2005 levels by 2050. The legislation also devotes billions of dollars to transportation and infrastructure improvements and expands tax credits for the development and use of clean energy.

To obtain the support of the green groups, the government included a raft of giveaways. For example, funding will be allocated to research carbon sequestration for coal and on more aid for the nuclear industry. The bill also includes room for corporate offsets and allows new offshore oil drilling with certain restrictions and limitations.

Some of the major green groups see the legislation as the best and only way to put the US economy on a permanent path to lowering carbon emissions. However, other environmental pressure groups see the bill as too weak to bring about major carbon reductions.

[Time Magazine, 24/05/2010]

## WORLD

### 2009: second warmest year on record and end of warmest decade

2009 was tied for the second warmest year in the modern record, a new NASA analysis of global surface temperature shows. The analysis, conducted by NASA's Goddard Institute for Space Studies (GISS) in New York City, also shows that in the Southern Hemisphere, 2009 was the warmest year since modern records began in 1880.

January 2000 to December 2009 was the warmest decade on record. Throughout the last three decades, the GISS surface temperature record shows an upward trend of about 0.2°C (0.4°F) per decade. Since 1880 – the year that modern scientific instrumentation became available to monitor temperatures precisely – a clear warming trend is present, though there was a leveling off between the 1940s and 1970s.

The near-record temperatures of 2009 occurred despite an unseasonably cool December in much of North America. High air pressures in the Arctic decreased the east-west flow of the jet stream (a fast flowing air current in the troposphere), while also increasing its tendency to blow from north to south and drag cold air southward from the Arctic. This resulted in an unusual effect that caused frigid air from the Arctic to rush into North America and warmer mid-latitude air to shift toward the north.

Climate scientists agree that rising levels of carbon dioxide and other greenhouse gases trap incoming heat near the surface of the Earth and are the key factors causing the rise in temperatures since 1880. But these gases are not the only factors that can impact global temperatures.



Three other key factors — changes in the sun’s irradiance (energy), changes in sea surface temperature in the tropics, and variations in aerosol levels in the atmosphere — can also cause slight increases or decreases in the planet’s temperature. Overall, the evidence suggests that these factors are not enough to account for the global warming observed since 1880.

Warmer surface temperatures also tend to occur during particularly active parts of the solar cycle, known as “solar maximums”, while slightly cooler temperatures occur during lulls in activity, called “solar minimums”.

A deep solar minimum has made sunspots a rarity in the last few years. Such lulls in solar activity, which can cause the total amount of energy given off by the sun to decrease by approximately 0.01%, typically spur surface temperatures to dip slightly. Overall, solar minimums and maximums are thought to produce no more than 0.1°C (0.2°F) of cooling or warming. As the NASA report explained, “In 2009, it was clear that even the deepest solar minimum in the period of satellite data hasn’t stopped global warming from continuing.”

Small particles in the atmosphere called “aerosols” can also affect the climate. Volcanoes are powerful sources of sulfate aerosols that counteract global warming by reflecting incoming solar radiation back into space. In the past, large eruptions at Mount Pinatubo in the Philippines and El Chichón in Mexico have caused global dips in surface temperature of as much as 0.3°C (0.5°F). But volcanic eruptions in 2009 have not had a significant impact.

Meanwhile, other types of aerosols, often produced by burning fossil fuels, can change surface temperatures by either reflecting or absorbing incoming sunlight. The authors of the report estimate that aerosols probably counteract about half of the warming produced by man-made greenhouse gases, but caution that better measurements of these elusive particles are needed.

[NASA, 2010]

**Temperature trackers watch waxings and wanings of our watery world**

Climatologists have long known that human-produced greenhouse gases have been the dominant drivers of the warming observed on Earth since the start of the Industrial Revolution. But other factors also affect our planet’s temperature. Of these, the world’s ocean plays a dominant role. Its effects helped nudge global temperatures slightly higher in 2009 and, according to NASA scientists, could well contribute to making 2010 the warmest year on record.

Covering 71 percent of our planet’s surface, the ocean acts as a global thermostat, storing energy from the sun and keeping Earth’s temperature changes moderate and climate change gradual. In fact, the ocean can store as much heat in its top three meters (10 feet) as the entire atmosphere does.

*“The vast amount of heat stored in the ocean regulates Earth’s temperature, much like a flywheel regulates the speed of an engine,”* said Bill Patzert, an oceanographer and climatologist at NASA’s Jet Propulsion Laboratory (JPL), Pasadena, Calif. *“The ocean has a long history of capturing and giving up heat generated by both human activities and natural cycles; it is the thermal memory of the climate system.”*

Heat and moisture from the ocean are constantly exchanged with Earth’s atmosphere in a process that drives our weather and climate. Scientists at NASA and elsewhere use a variety of direct and satellite-based measurements to study the interactions between the ocean and atmosphere.

These interactions result in large-scale global climate effects, the largest of which is the El Niño-Southern Oscillation (ENSO). This climate pattern appears in the tropical Pacific Ocean roughly every four to 12 years and has a powerful impact on the ocean and the atmosphere. It can disrupt global weather and influence the hurricane season, droughts and floods. It can also raise or lower global temperatures by up to 0.2 degrees Celsius (0.4 degrees Fahrenheit).

The oscillation pattern is made up of linked atmospheric and oceanic components. The atmospheric component is called the Southern Oscillation, a pattern of reversing surface air pressure that see-saws between the eastern and western tropical Pacific. The ocean’s response to this atmospheric shift is known as either “El Niño” or “La Niña” (Spanish for

“little boy” and “little girl,” respectively).

During an El Niño, the normally strong easterly trade winds in the tropical eastern Pacific weaken, allowing warm water to shift towards the Americas and occupy the entire tropical Pacific. Heavy rains generated by this warm water move into the central and eastern Pacific. El Niño can cause drought in Indonesia and Australia and disrupt the path of the atmospheric jet streams over North and South America, changing winter climate.

El Niño’s cold counterpart is La Niña. During La Niña, trade winds are stronger than normal, and cold water that usually sits along the coast of South America gets pushed to the mid-equatorial region of the Pacific. La Niñas are typically associated with less moisture in the air and less rain along the coasts of the Americas, and they tend to cause average global surface temperatures to drop.

Both El Niño and La Niña play out on a larger stage that operates on decade-long timescales. The “Pacific Decadal Oscillation,” or PDO for short, describes a long-term pattern of change in the Pacific Ocean that alternates between cool and warm periods about every five to 20 years. The PDO can intensify the impacts of La Niña or diminish the impacts of El Niño. In its cool, negative phase, warm water, which causes higher-than-normal sea-surface heights (because warmer water expands and takes up more space), forms a horseshoe pattern that connects the north, west and south Pacific, with cool water in the middle. In its warm, positive phase, these warm and cool regions are reversed and warm water forms in the middle of the horseshoe.

These phase shifts of the PDO result in widespread changes in Pacific Ocean temperatures and have significant global climate implications. During the 1950s and 1960s, the PDO was strongly negative, or cool, and global temperatures seemed to level off. During most of the 1980s, 1990s and 2000s, the Pacific was locked in a strong positive, or warm, PDO phase and there were many El Niños. We are currently in the early stages of a cool PDO phase that began around 2006. Cool, negative PDO phases tend to dampen the effects of El Niños.

These natural signals — El Niños, La Niñas and PDOs — can modulate the global record for a decade or two, giving us a wild ride with major climate and societal impacts. They can have a powerful short-term influence on global temperatures in any particular year or decade. This can make it appear as if global warming has leveled off or become global cooling. But when you look at the long-term trend over the past 130 years, our world is definitely getting warmer. And that’s the human-produced greenhouse gas signal.

[NASA, 23/02/2010]

**ADVISORY COUNCIL ON THE ENVIRONMENT (ACE)**

**112<sup>th</sup> ACE Environmental Impact Assessment (“EIA”) Subcommittee Meeting**

**Environmental Impact Assessment Report for the Development of a 100MV Offshore Wind Farm in Hong Kong submitted under section 6(2) of the Environmental Impact Assessment Ordinance, Cap. 499**

The Hong Kong government aims to generate 1% to 2% of its total electricity supply by renewable energy by 2012. Due to constraint of land supply in the territory, the potential for large-scale land-based wind farm development is limited.

The proposal for a 100MW offshore wind farm southwest of Lamma Island includes: (1) approximately 28-35 turbines each of 2.3 to 3.6MW; (2) an offshore substation; (3) interconnecting submarine electricity cables; (4) an offshore wind monitoring mast; and (5) an onshore lay-down area and quayside for material storage and pre-assembly works at the Lamma Power Station.

The projects avoids environmentally sensitive areas, such as important coral sites. The site in southern waters, a short distance from the Lamma Power Station, will reduce the associated environmental impacts during construction and operation of the wind farm. Further, percussive piling for turbine foundations, compared with bored piling, will avoid

dredging and result in a shorter construction duration and hence have less impact on water quality.

Water quality

The turbine foundations construction and submarine cables installation lead to sediment dispersion which causes adverse water quality impact. During percussive piling, suspended solids and sediments deposition rate will meet water quality objectives at all nearby sensitive receivers.

As to the cable installation works, with the implementation of mitigation measures, such as provision of silt curtains during dredging for cable installation and the restriction of degrading rate for near shore section, the potential suspended solids at nearby sensitive receivers should meet the water quality objectives.

Marine Ecology

To avoid potential impacts on finless porpoises which from December to May each year inhabit the waters where the proposed wind farm will be established, no percussive piling work will be undertaken during this period. Further, other mitigation measures are also proposed, such as adoption of ramp-up and daytime piling procedures, setting up of an exclusion zone, engagement of qualified observers to scan for the presence of marine mammals, and specific monitoring of abundance of finless porpoises.

Apart from these mitigation measures as a precautionary measures, the nesting site of green turtle, which is about 5 kilometres from the project site, will be protected from construction side effects. Based on the satellite tracking studies, sea turtles stay relatively close to inshore coastal areas during mitigation and thus the offshore wind farm is not expected to cause adverse impacts for nesting green turtles or migrating sea turtles.

There are a few corals of low ecological importance at the artificial seawall of Lamma Power Station and near the proposed callable route, according to survey findings. However, a pre-construction survey will be conducted concerning their existence and, if affirmative, mitigation measures will be implemented.

Fisheries

With the implementation of recommended mitigation measures, native fisheries will not be affected as all fish culture zones are quite distant from the site. However, the Project will have potential impacts on fish farms.

During the wind farm’s operation, apart from the loss of fishing ground of about 0.16 hectare to accommodate the wind turbines, potential loss of about 700 hectares fishing ground will result if fishing activities are prohibited within and close to the wind farm area in accordance with typical international safety practices. Also, overseas experience shows that the turbine foundations and control of activities within the wind farm area may increase the overall abundance and diversity of fisheries resources in the area in the long term. To address these issues, the developer will consult the fishery sector and develop a fisheries enhancement plan accordingly.

Avifauna

The project site is neither an important foraging ground for birds nor an important flight path of migratory birds. Most birds fly below or outside the rotor area. Thus, low risk of bird collision is anticipated. Nevertheless, a bird collision monitoring programme will be carried out during construction and operation of the project.

Landscape, visual and other impacts

With the implementation of a proposed re-arrangement of the wind farm layout, and use of non-reflective and pale wind turbines, the predicated landscape and visual impacts will be limited. Waste management and cultural heritage issues will also be addressed by the developer.

ACE EIA Subcommittee Circulation Paper, ACE-EIA Paper 2/2010

**Environmental Impact Assessment Report for the Black Point Gas Supply Project submitted**

### under section 6(2) of the *Environmental Impact Assessment Ordinance, Cap. 499*

The Black Point Gas Supply Project is intended to provide a replacement source of natural gas, which currently is supplied by Castle Peak Power Company Limited, which sources from the Hainan Island's Yacheng 13-1 gas field which is expected to deplete rapidly from 2012.

Natural gas will be imported from western Shenzhen and eastern Zhuhai gas fields, through two new submarine natural gas pipelines across the Tonggu Waterway and the Urmston Road shipping channel to the Black Point Power Station (the "BPPS").

Two gas receiving stations (the "GRS") will be located at the BPPS, and will be constructed in two phases. The first GRS will be built and operated within the BPPS site, whilst the second GRS will be established on land to be reclaimed, which will also include an approximately 200 metres long vertical seawall.

#### Marine ecological and fisheries impacts

The alignment of the submarine pipelines and the location of the GRS reclamation will avoid adverse impacts to habitats and species of high ecological value, such as the Chinese white dolphin. During the construction stage, potential disturbance to the dolphin will be reduced through the use of regular routes and imposition of a speed limit on marine-work vessels. If any dolphin is observed within the exclusion zone near a work vessel, dredging and jetting works will be immediately suspended. Pipelines will be buried under the seabed to reduce their ongoing environmental and fishing impacts.

#### Water quality impact

During the construction stage, potential impacts relate to disturbance to the seabed and consequential suspended sediment dispersion from grab dredging and jetting activities for the two submarine pipelines installation, and reclamation for the second GRS. As precautionary measures, silt curtains, intensive water quality monitoring and auditing will also be implemented.

#### Waste management and other environmental impacts

During marine dredging works for the construction of the submarine pipelines in Phase 1, different category sediments will be disposed of at various landfill sites; and for Phase 2, the applicant will arrange for marine sediment disposal in accordance with the requirements of the *Dumping at Sea Ordinance* and the *Practice Note for Authorised Persons and Registered Structural Engineers*.

During the operation phase, there will be air emissions from the gas heaters of the GRSs. With the proposed controls of emissions and emission rates, it is expected that air impact will not exceed the requirements of the Environmental Impact Assessment (the "EIA") Study Brief and the Technical Memorandum on EIA Process. It is considered that other potential environmental impacts, such as noise, cultural heritage, landscape and visual impacts will be insignificant.

### 27<sup>th</sup> ACE Waste Management Subcommittee Meeting, Paper WSMC 02/2010

### The Environmental Levy Scheme for Plastic Shopping Bags – Latest Levy Income

The environmental levy scheme for plastic shopping bags was introduced under the *Product Eco-responsibility Ordinance, Cap. 603*. Under the scheme, registered retailers have to submit to the government returns listing out the number of plastic bags distributed to customers and the amount of levy collected for these bags.

The government so far has received three rounds of quarterly returns, a summary of which is as follows:

Period	Levy Income	Equivalent PSBs Distribution
1 <sup>st</sup> Quarterly Return: 7 July to 30 September 2009	\$6.7 million	13.46 million
2 <sup>nd</sup> Quarterly Return: 1 October to 31 December 2009	\$6.4 million	12.76 million
3 <sup>rd</sup> Quarterly Return: 1 January to 31 March 2010	\$6.7 million	13.41 million

The total levy recovered thus far is far less than estimated. It is said that the lower levy income reflects the greater positive impacts of the scheme. As well, it demonstrates that more members of the general public have adopted BYOB as their everyday habit.

## REGIONAL & INTERNATIONAL

### CHINA

#### Switch off for Earth Hour

Beijing, Shanghai, Chengdu, Nanjing and Hangzhou are some of the cities across China which turned off their lights on 27 March 2010 between 8:30 p.m. to 9:30 p.m. to mark WWF's *Earth Hour*. Government officials from more than 34 cities throughout the country supported the global movement to raise awareness of, and stimulate action to curb, climate change.

WWF (China) said that this is China's second year recognising *Earth Hour* and these has been a huge jump in participation and support from cities, companies and individuals in China compared to the first year of *Earth Hour*. This is a very positive sign that people in China are a lot more aware of climate change and environmental issues and eager to make energy-saving changes.

In Beijing, the historic Forbidden City went dark along with modern structures, such as the Bird's Nest, Water Cube, National Center for the Performing Arts and the Yintai Center. In Shanghai's Pudong and Puxi areas, the Oriental Pearl Tower, the World Financial Center, Jin Mao Tower and the trendy Xintiandi district also turned off its lights. In Nanjing, the country's first *Earth Hour* branded subway train helped to promote low-carbon lifestyle tips to passengers. The city's famous Sun Yat-sen Mausoleum and 400 other buildings also turned off lights.

This year, more than 3700 cities in 125 countries and regions celebrated *Earth Hour's* message of hope and action.

[WWF China, 27/03/2010]

#### China embraces solar farms

The focus of solar farm developments is shifting. North America and the Asia-Pacific are set to surpass Europe – the traditional front runner of clean energy adoption – as the areas of fastest-growing solar power installations.

China, India, Japan and South Korea are together projected to have 6,300 megawatts (MW) of solar panel installations by 2012, up almost ten-fold from 650 MW last year.

China alone is forecast to show a 20-fold increase in installations to 4,000 MW. The US and Canada are projected to see their combined solar panel installations surge eight-fold to 4,400 MW from 550 MW. By contrast, installations in the main European market of Germany, Spain, Italy, Greece, Belgium and the Czech Republic are forecast to rise only 27.4 per cent to 5,350 MW from 4,200 MW.

Europe, led by Germany, has been the world's most progressive region in launching incentives to drive clean energy consumption, but other regions are catching up fast.

In the US, the Department of Energy has set a goal for the nation to generate 10-15 per cent of its energy from solar sources by 2030. The federal government funds prototype solar energy systems to help the industry reach the goal of making solar power as cost-competitive as power from the main grid by 2015, and state governments provide financial incentives to home-owners and businesses to erect solar panels.

Australia, South Korea, Japan and Taiwan have implemented so-called "feed-in" tariffs for solar power generation – guaranteed power prices grid companies pay to power producers that give the latter reasonable returns despite the higher operating costs of solar power generation compared to fossil fuel-generated power.

China and India, both with ambitious solar farm expansions plans, are in advanced stages of formulating nationwide feed-in tariffs to encourage use of the clean energy. But the expected time-frame for the launch of domestic nationwide solar feed-in tariffs in China was delayed from last year's second half to this year's first half, and is now looking increasingly likely to be further delayed.

[SCMP, 19/04/2010]

#### Volunteers build barrier for desert

Thousands of Chinese and Japanese volunteers are building a long barrier on the edge of Tengger Desert in Inner Mongolia with eco-friendly sand bags in an attempt to prevent the desert from expanding. The bags are made of corn hull and will degrade naturally in six years without harming the environment. More than 5,000 Chinese and 1,500 Japanese volunteers are involved in the project.

The sand-bag barrier will serve as a "dam" to protect a 50-kilometre green belt, created seven years ago, to give it enough time to take hold. The area has become one of the three major sources of sandstorms in China.

[SCMP, 21/04/2010]

### CANADA

#### Community environmental Projects in Metro Vancouver and Whistler

The federal government announced funding from the EcoAction Community Funding Programme on 22 May 2010 for two new environmental projects in Metro Vancouver and Whistler, Canada. The programme supports projects that rehabilitate, protect or enhance the natural environment and builds the capacity of communities and individuals.

The two environmental projects will assist locally-based and non-profit organisations in initiating actions that will result in cleaner air, reductions in greenhouse gas emissions and cleaner water at the local community level. In total, \$117,943 in federal funding will be spent on these two environmental projects.

The Stanley Park Ecology Society, being one of the organisations which will be supported by the programme, will receive funding for water quality testing, wildlife surveys and restoring the biodiversity of Stanley Park's ecosystems, including its aquatic ecosystems and riparian zones.

[Environmental Canada, 22/05/2010]

### NIGERIA

#### Nigeria embarks on land degradation mapping

Nigeria has embarked on land degradation mapping and assessment study aimed at preventing potential erosion hazards in Nigeria.

There is a need for land degradation mapping because land degradation in Nigeria is probably the most complex and devastating of all ecological problems that threaten the productivity of the country.

The project is designed to characterise and map the types, locations, magnitude and extent of land degradation in the country. The study will make recommendations for appropriate methods to control the problems.

The study will further provide clear direction for the management of land degradation in Nigeria and will identify areas which are most prone to erosion. This study is very important to land use practices, as the government can identify the land use techniques needed to deal effectively with high erosion areas.

[allAfrica.com, 25/05/2010]



## TAIWAN

## Government to spend nearly US\$2b on clearing dams

Taiwan will spend nearly US\$2 billion to remove sediment that has clogged three major dams in the island's parched south after Typhoon Morakot hit last year, officials said yesterday. A total of NT\$54 billion (HK\$13.31 billion) will be budgeted over the next six years to remove rocks, sand and driftwood from the reservoirs, according to proposed legislation.

Sediment now takes up between one-fifth and one-third of the volume of the three dams, according to data from the island's Water Resources Agency. The clogged-up dams, combined with a serious drought this year, have forced the authorities to lay idle all rice paddies in two southern counties.

[SCMP, 21/04/2010]

## THAILAND

## Thailand wins J. Paul Getty Award

The Minister of Natural Resources and Environment in Thailand has been named as the winner of the J. Paul Getty Award for Conservation Leadership 2009. He has been honored for his efforts to eliminate illegal wildlife trade in Thailand. His efforts have saved tigers, elephants, sea turtles and other endangered species, and created wildlife corridors and sanctuaries in Thailand.

The annual J. Paul Getty Award for Conservation Leadership is one of the world's most prestigious international environmental awards. Each year, a \$200,000 prize is awarded to the winner.

In past years, the Minister strengthened the enforcement of laws against illegal wildlife trade in Thailand and his efforts demonstrated to the world what is possible with commitment and leadership. The Minister also successfully proposed Thailand as the host country for CITES COP 13, the 2004 meeting of the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

CITES is an international agreement between different governments which aims to ensure that international trade in wild animals and plants does not threaten their survival. The Minister's work also includes a completed national action plan for tiger conservation in Thailand and he also revised Thailand's elephant law and pushed reforms to require sea turtle excluders to be fitted on fishing trawlers. Additionally, his work has resulted in the creation of habitat corridors by linking national parks and wildlife sanctuaries in Thailand.

[WWF Thailand, 29/03/2010]

## AUSTRALIA

## Environmental crisis demands actions

WWF-Australia is warning politicians on all sides that Australia is facing an environmental crisis that needs urgent action and not just words.

Australia remains one of the biggest carbon polluters per capita in the world and has the fastest rate of mammal extinction globally. Yet despite the disastrous impact of environmental mismanagement on the native species, livelihoods and the economy, action to protect the environment in Australia has too often been an afterthought.

WWF (Aus) has released proposals for the [HYPERLINK "http://www.wwf.org.au/wwf-environment-election-asks"](http://www.wwf.org.au/wwf-environment-election-asks) priorities for the next Australian government and has urged the major political parties to do the following:-

1. prevent dangerous climate change and create new clean jobs by passing an emissions trading scheme by 2011;
2. restore Australia's natural resilience to climate change by strengthening local laws to protect wildlife habitat, boosting funding for more protected areas on land and sea, employing more indigenous rangers and banning dangerous pesticides that may harm the Great Barrier Reef.

The government hired economic experts to conduct research of ways of dealing with climate change. These experts concluded that an emissions trading scheme is the cheapest

and most environmentally effective way to reduce Australia's carbon pollution.

Early action to reduce carbon pollution will also provide economic benefits. For example, this will allow Australia to position itself as a leader in the clean energy industry.

In the meantime, Australia's pollution continues to rise and the temperatures go up. In addition, the government's effort to protect habitats to help animals and plants to adapt climate change slip off the agenda.

The ongoing slide to extinction for thousands of native wildlife and plant species in Australia could be a national outrage. Even though the green groups have the solutions, we need the political parties' will to support the proposals.

[WWF Australia, 04/06/2010]

## INDIA

## Recycling India's e-waste brings jobs to poor

India's growing economy generates more than 500,000 tonnes of electronic waste every year and will be expected to reach 1 million tonnes of electronic waste by 2012. The old-fashioned computer and mobile phone parts are dismantled, refurbished and recycled manually by thousands of unorganised villagers across the country.

It is widely believe that this kind of work poses risks to the villagers and the environment. As a result, lawmakers are considering a law that would set up large recycling plants and establish environmentally safe practices for disposing of toxic electronic waste. The law would also ban importing computers for "charity purposes" and "reuse purposes" from developed countries, such as the United States, a practice that began in the 1990s because computers were so expensive in India. The government expressed the view that the "donations" have become a cover for electronic waste dumping in the country. However, backyard and storefront recyclers fear that the new law will leave them jobless.

Some villagers' work involves recovering copper by burning circuit boards. This method of recycling is one of the most hazardous. Carcinogenic gases released during the recovery process can cause damage to the kidney and neurological and reproductive systems. After the copper strips are removed, the mercury and lead-laden residue is dumped into rivers and on farms which increases the risk of cancer if the waste enters the food chain.

As well, this indiscriminate dumping of toxic waste causes serious damage to the environment.

The new law would prohibit the manual recovery of copper and gold and reduce the volume of hazardous substances used to make new equipment. Producers would also need to pay for collecting electronic waste.

The government also revealed that recycling would take place only in licensed plants under the new law.

At first, the government resisted drafting new electronic waste legislation as they were of the view that the existing laws on hazardous substances were adequate and they were reluctant to burden the information technology industry.

Meanwhile, in eastern New Delhi, streets are stacked up with hundreds of old computers, ready to be dismantled and separated as the recyclers believe that every part of the computer has its own value.

[The Washington Post, 12/06/2010]

## U.S.A.

## Rooftop farming booms in New York

Urban farming is a growth industry in New York city's concrete jungle, and with little open land available, agriculturalists and beekeepers have taken to the rooftops to pursue their passion.

Professor A. Cote, a professor of Japanese literature, is president of the New York City Beekeepers Association, and is happy the city authorised beekeeping in mid-March after an 11-year ban.

*"The city wants to plant one million trees, and the trees need*

*to be pollinated," Cote said. He believes the bees are vital to helping keep the city green. "Our bees pollinate, and they clean the air. It is a way to connect with nature," he said.*

Cote's bees also produce approximately 100 pounds of honey per hive per year, which he sells at the city's various farmers' markets. Cote said he has received several requests to install rooftop beehives, and the demand is such that he is scheduled to offer a course for aspiring apiculturalists.

On the other side of Manhattan, in the posh Upper East Side, Eli Zabar, owner of the upscale Vinegar Factory delicatessen, inspects the crops he is growing on the roof of the old factory bought in 1991.

*"I began the green houses 15 years ago," Zabar said. "I grow heirloom tomatoes, lots of different kinds of lettuce, herbs, basil, rosemary, thyme, raspberries, figs, beets. We use the heat of the bakeries and pastries, we recycle the heat. With the use of the heat we have eliminated our (carbon) footprint. You harvest in the morning, you sell in the afternoon, you don't refrigerate, it tastes better. We pick everything ripe and ready to eat. All our products here are organic."*

From Manhattan to Brooklyn, whether on rooftops, backyards or in any of the city's 600 community gardens, urban farming is a growing phenomenon.

The movement is helped along by Mayor Michael Bloomberg, who seeks to turn the city into a sustainable development champion. Through "PlaNYC 2030," a programme he launched on Earth Day 2007, people who install "green roofs" can get a tax break.

At Randall's Island, in New York's East River, the city's Parks and Recreation Department is currently testing 16 different types of vegetation that could be placed on the roofs of schools, hospitals or other public buildings. *"These are patches of succulent vegetation, like sedum, which protect the roofs, (and) isolate the buildings from the heat because the UV (ultra-violet) sun is not hitting the roof,"* said the senior project manager.

The rooftop vegetation also helps maintain a steady temperature inside and captures storm water, which would otherwise run off into the street. The water that does come out is filtered and kept in tanks, and used to water when there is no rain.

Roof gardens absorb carbon and create oxygen and so remove carbon from the carbon cycle. They also attract birds, butterflies, bees.

[The Age, 26/04/2010]

## First offshore wind farm for USA

After nine years of regulatory review, the US government has given the green light to the nation's first offshore wind farm, a fiercely contested project off the coast of Cape Cod whose opponents included members of the Kennedy clan. Critics said they would continue to fight construction of the farm, known as Cape Wind, which would sprawl across 65 sq km of Nantucket Sound.

The decision is expected to give a significant boost to the nascent offshore wind industry in the United States, which has lagged far behind Europe and China in harnessing the power of ocean breezes to electrify homes and businesses.

The developer is required to take several steps to mitigate effects on the environment – including views from the Kennedy compound, a national historic landmark, which overlooks Nantucket Sound. Those steps include adjusting the turbines' colour and configuration.

The Cape Wind farm would lie 8.4 kilometres from the nearest shore on the mainland, and about 22.2 kilometres from Nantucket Island. The tip of the highest blade of each turbine would reach about 135 metres above the water.

Opponents argued that Cape Wind would create an industrial eyesore in a pristine area; supporters countered that it was worth sacrificing aesthetics for the longer-term goal of producing clean, renewable energy.

Developers say that Cape Wind will provide 75 per cent of the electricity for Cape Cod, Nantucket and Martha's Vineyard – the equivalent of that produced by a medium-size coal-fired

plant. It would also reduce carbon dioxide emissions by the equivalent of taking 175,000 cars off the road.

The project has also made for some strange bedfellows. Cape Wind is backed by both Greenpeace and the United States Chamber of Commerce.

[SCMP, 30/04/2010]

## EUROPE

### Rainforests can be converted to palm oil plantations

The European Union may be planning to classify oil palm plantations as forests, raising fears among environmental groups of expanded conversion of tropical rainforests for biofuel production, reports the *EUobserver*, which cites a leaked document from the European Commission.

The draft document shows that policymakers are considering language that would specifically allow use of biofuels produced via conversion of rainforests to oil palm plantations.

Continuously forested areas are defined as areas where trees have reached, or can reach, at least heights of 5 metres, making up a crown cover of more than 30%, states the document in laying out its definition of forest. They would normally include forest, forest plantations and other tree plantations, such as palm oil. Short rotation coppice may qualify if it fulfils the height and canopy cover criteria.

This means, for example, that a change from forest to oil palm plantation would not per se constitute a breach of the sustainability criterion. The regulations would allow the conversion of rainforest to oil palm plantations, but not for annual crops like corn, or rapeseed. The proposed change appears to open a gaping loophole in its sustainability criteria.

Environmental groups quickly condemned the plan. "This leaked document shows the disgraceful attempts to push palm oil through European laws designed to prevent destruction of the world's forests," said Adrian Bebb, agrofuels campaign coordinator for Friends of the Earth Europe, in a statement. "Allowing the expansion of palm plantations to fuel cars and lorries in Europe will have a devastating impact on the climate, biodiversity and the people who depend on forests. If the incoming Commission is serious about tackling climate change and halting biodiversity loss, it needs to clean up the biofuels legacy and urgently ensure that forests are not sacrificed to fuel cars."

The text contains language about protecting biodiversity and avoiding conversion of land with high carbon stock, but these safeguards are subsequently undermined by the palm oil exception.

The leaked document suggests that lobbying efforts by the palm oil industry are paying off. The Malaysian Palm Oil Council (MPOC), the state-backed marketing arm of Malaysia's palm oil industry, and the Indonesian equivalent, the Indonesian Palm Oil Association (GAPKI), have sent several delegations to Europe over the past two years.

MPOC has an aggressive PR campaign through advertisements, editorials, blogs, web sites, and new pro-palm oil NGOs. The campaign, which downplays environmental concerns of palm oil expansion and touts the crop's high yield and profitability, has proven controversial. Last year Britain's Advertising Standards Authority (ASA), a group that regulates advertisements, banned an MPOC advertisement for making false claims about the sustainability of palm oil production.

Environmental groups and scientists say that palm oil production has driven large-scale destruction of rainforests across southeast Asia over the past two decades, triggering the release of billions of tonnes of carbon dioxide emissions and imperiling rare species, including the Sumatran tiger and the orangutan. The palm oil industry maintains that its crop is highly productive, requiring less land and costing less than other oilseeds like soy and canola, and has improved living standards for millions. Industry representatives have tended to dismiss environmental concerns as "colonialism" or masked trade barriers.

Should it be approved, the Commission document would lend support to Indonesia's recently announced plan to establish millions of hectares of oil palm plantations as

part of its national climate change action plan. Although details of the initiative remain scarce, environmentalists fear that plantation expansion would come at the expense of Indonesia's increasingly endangered native forests. Indonesia is seeking outside funding – including carbon finance – to underwrite the scheme.

[Mongabay.com, 02/2010]

## INDONESIA

### New fauna species found

Previously unknown species of wildlife were discovered in 2008 in the Foja Mountains, Indonesia. They included several new mammals, such as the world's smallest wallaby, a blossom bat that feeds on rainforest nectar, and a giant woolly rat, as well as a host of insects and other animals. The discoveries – which also included a gargoyle-like gecko with yellow eyes – were made during a survey of the area by *Conservation International*.

The Foja Mountains, classified as a national wildlife sanctuary, are in the Indonesian province of Papua on the island of New Guinea, and encompass more than 300,000 hectares of undisturbed rainforest. The team of 17 scientists and 30 local naturalists found an array of species, including a number believed to be new to science – such as a frog, with a long protuberance that points up when the male is calling, but deflates when he is less active.

The new forest wallaby is now the smallest known member of the kangaroo family. A black-and-white butterfly related to the common monarch was also discovered, along with a tree mouse and imperial pigeons – with feathers coloured rusty, white and grey.

The expedition, in November 2008, is featured in the June edition of *National Geographic* magazine. The discoveries were announced a week after the United Nations revealed that governments had failed to meet a 2010 target to halt the rate at which species were disappearing.

A senior research scientist at *Conservation International* and a member of the expedition team, said that while animals and plants are being wiped out across the globe at a pace never seen in millions of years, the discovery of these absolutely incredible forms of life is much-needed positive news. He added that places like these represent a healthy future for all of us, and show that it is not too late to stop the current species extinction crisis.

*Conservation International* hopes that its documentation of the unique wildlife of the Foja Mountains will encourage the Indonesian government to increase long-term protection of the area. This mountainous region has been called the "Lost World" because the complete absence of roads has protected it from development and, together with its tropical environment and elevation, made it a perfect incubator for diverse species.

As well as the dwarf wallaby, scientists obtained the first photographs of the extremely rare golden-mantled tree kangaroo, which is critically threatened by hunting in other parts of New Guinea.

Indonesia has one of the fastest rates of forest destruction in the world. Since 1950, more than 74 million hectares have been destroyed. Deforestation and cultivation of peatlands have also made it the world's third-largest greenhouse gas emitter, after China and the US.

[The Australian, 18/05/2010]

## WORLD

### Shark fin soup facts

As of late 2009, the world's population of sharks had already diminished by 50%-75%. A North Atlantic population survey reports as much as an 89% decrease. Also, statistics from the *International Union for the Conservation of Nature and Natural Resources* "IUCN" Red List of Threatened Species show that for the 181 species of sharks for which they have adequate data, over 64% of those populations are noted as "threatened" or "vulnerable". Of those, over 21% are categorised as "endangered" or worse. At least one species is already listed as "extinct in the wild."

Millions of sharks are unintended catch (or "bycatch") every year, but sadly, far more are killed merely for their fins. A large percentage of these animals are still alive when the fin is savagely sliced off and the shark is thrown back into the sea, where they suffocate. Even though less than 5% of the shark is fin, the rest is usually thrown away because it is uneconomical to retain and make use of it. Shark meat must be properly refrigerated and takes up a lot of space on a boat. Fins, however, can be cut off, bundled, and hung to dry in large nets. It is the fin that produces the largest profit by far and can be sold for hundreds of dollars per kilogram.

Most sharks are harvested to make shark fin soup, or what is known as "celebration soup," and the fin is little more than an additive or garnish. This once rare delicacy is now available at a vast number of restaurants even though the fin is primarily tasteless, has little nutritional value, and is added to a mainly chicken or other meat-based soup.

Sharks are the ocean's apex predator and are at top of the food chain; they have few enemies. But this high rank does not come without duties; they are in charge of helping to keep the ocean's delicate balance of other fish and some marine mammals. As they seem to eat whatever species is most plentiful, they help to control the overpopulation of any one species. This in turn keeps that species from depleting its food source, and so on, right to the last link in the food chain, on the bottom rung of which is the plant plankton or "phytoplankton." This little gem is what produces our oxygen. However, this oxygen producer is already in decline due to climate-change and widespread pollution.

The removal of sharks impacts the entire ocean ecosystem, causing a disruption of the ocean's balance. A diminished shark population leaves more of the middle prey, which in turn decreases their prey, including "bivalves", such as oysters, scallops and clams. Significant ocean imbalances can produce decreased ocean oxygen resulting in dead zones that are uninhabitable by marine species. Ocean imbalance is an environmental disaster.

When the shark population is depleted, no amount of money will be able to reverse the damage to our oxygen supply, ecosystems, fishing industries, and possibly a great deal of our own food supply. Of course, even the top experts are still learning about the intricacies of our ocean ecosystems and there is likely more than one opinion on what the biggest environmental problem is; but the basic law of nature is: do not disrupt the food chain.

Most countries now have laws against endangering the health and existence of their wild animals. Unfortunately, although some countries have laws against local shark-fining, even Canada still allows the unlimited importation of shark fin, with the exception of "CITES" (*Convention of International Trade in Endangered Species*) listed endangered species. However, identification of species by the fin is extremely difficult, as most are pre-skinned and dried prior to inspection sampling. The only way to be sure that the fin is not from an endangered species is DNA testing. Therefore, only a real change in the importing and fisheries regulations of all shark products worldwide will allow their populations to recover. Tough new measures would have to include a complete ban on importing or exporting fins.

[The Economist, 13/01/2010]

This Quarterly Report does not constitute legal advice given on any particular matter. Whilst all effort has been made to ensure completeness and accuracy at the time of publication, no responsibility is accepted for errors and omissions. Further information and enquiries in respect of this quarterly should be directed to Fred Kan & Co.

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## Convictions under environmental legislation: March to May 2010

[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:

### March 2010

Thirty convictions were recorded in March for breaches of anti-pollution legislation enforced by the Environmental Protection Department.

Seven of the convictions were under the Air Pollution Control Ordinance, 9 under the Noise Control Ordinance and 11 under the Waste Disposal Ordinance. Among other cases, two were under the Water Pollution Control Ordinance and 1 under the Hazardous Chemicals Control Ordinance.

The heaviest fine in March was \$30,000, assessed against a company that failed to comply with the requirements of a noise abatement notice.

### April 2010

Thirty-one convictions were recorded in April for breaches of anti-pollution legislation enforced by the Environmental Protection Department.

Eleven of the convictions were under the Air Pollution Control Ordinance, 4 under the Noise Control Ordinance and 13 under the Waste Disposal Ordinance. Among other cases, two were under the Water Pollution Control Ordinance and 1 under the Ozone Layer Protection Ordinance.

The heaviest fine in April was \$20,000, assessed against a company that contravened the provisions of a licence.

### May 2010

Thirty-four convictions were recorded in May for breaches of anti-pollution legislation enforced by the Environmental Protection Department.

Eight of the convictions were under the Air Pollution Control Ordinance, 12 under the Noise Control Ordinance, 13 under the Waste Disposal Ordinance and 1 under the Water Pollution Control Ordinance.

The heaviest fine in May was \$26,000, assessed against a company that carried out prescribed construction work in designated area without valid construction noise permit.

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