

NELR recent developments

INTERNATIONAL

by Kathryn Walker

African land grab

Concerns are growing over claims that farmers in Africa are losing their traditional farming lands to large scale industrial farming projects backed by European hedge funds. Food security has become a primary focus for all countries, and because of this, new methods to secure food supplies are emerging, including the purchase of land in poorer countries to grow crops for wealthier countries. Recent claims sparking intense criticism include that nearly 60m ha of land has been purchased by European hedge funds in Africa alone since 2009. Some critics say that the hedge funds that gambled and lost with real estate through highly risky financial manoeuvres are now trying to do the same with food supplies.

Reports from the Oakland Institute's *Understanding Land Investment Deals in Africa* project have put the growing concerns over these practices in the public forum. One of the many problems arising from this trend is that not only is the purchase of land involved, but also the control over production methods. It is likely that in these circumstances there will be a 'single entity controlling labour, land, water, what is grown and how it is grown'. Claims that this practice amounts to a vertical integration of a food system do not seem too farfetched.¹

Environmental crimes in the EU

Legislation implementing European Commission Directive 2008/99/EC on criminal law measures to protect the environment was to have been introduced into each EU member country by 26 December 2010. The Directive aims to lay down criminal penalties for sea pollution and other environmental offences.² Despite the deadline, 13 member countries including Germany, Greece, Portugal and Malta have failed to implement the Directive. On 16 June 2011, the European Commission gave the non-complying member countries two months to comply.

The breach comes on the back of 8 member countries also failing to comply with Directive 2009/123/EC in

relation to pollution from ships.³

Both Directives aim to provide criminal law remedies to member countries for serious breaches of EU environmental protection rules. It is disappointing to see large countries such as Germany, Greece and Italy not taking their obligations seriously in relation to common minimal criminal law rules for environmental protection which benefit everyone.

Ireland's breach of EU environmental laws

Cork Harbour Alliance for a Safe Environment, and others took action against Ireland in 2003 over concerns about two waste incinerators to be constructed near Ringaskiddy in County Cork. In particular, a challenge was made to the environmental impact assessment (EIA) process used to assess the Indaver owned project. In March this year the European Court of Justice ruled that Ireland had breached an EIA Directive. The Court found that no one agency had overall responsibility for overseeing the EIA as the Directive instructed. The ruling made it clear that where more than one agency had a role to play in assessing the project that joint role could not be ignored in favour of a single assessment.⁴

Global Environment Facility

The 40th meeting of the Global Environment Facility (GEF) was held in Washington DC on 24-26 May 2011. It was attended by more than 230 representatives and resulted in the broadening of the GEF partnership to allow regional and national entities and non-governmental organizations (NGOs) to become partner entities with the GEF. A proposal for criteria for the establishment of trust funds within the GEF was also discussed. The meeting adopted GEF corporate and evaluation office budgets and a work program that comprised project concepts and a \$119m Great Green Wall initiative for the Sahara and the Sahel. The latter involves tackling the combined effects of drought and natural resources degradation in rural environments through intensive reforestation.

³ <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/739&format=HTML&aged=0&language=EN&guiLanguage=en>

⁴ <http://www.chaseireland.org/releases/04-03-11.htm>; <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62009J0050:EN:NOT>

¹ <http://media.oaklandinstitute.org/land-deals-africa>

² <http://ec.europa.eu/environment/legal/crime/index.htm>

NELR recent developments

Deepwater Horizon update

On 16 June 2011 the US District Court dismissed environmental claims by third party organisations following the 20 April 2010 explosion on the Deepwater Horizon drilling rig in the Gulf of Mexico, and subsequent oil leaks. The claims had been made under the Clean Air Act, the Comprehensive Environmental Response Compensation and Liability Act, the Emergency Planning and Community Right-To-Know Act and the Endangered Species Act. The applicants sought declarations that the Deepwater Horizon owners and lessee, BP, had violated these environmental Acts, and also sought wide ranging declarations and injunctions that the companies be banned from operating the offshore facility in a manner that would result in further violations. The Court ruled that the applicants failed to establish that there would be a benefit or reduction in pollution if the orders sought were granted because the oil had stopped flowing. In addition, no future orientated injunction could have any bearing on a problem that had been resolved.⁵

IUCN's rights-based approach

In May 2011 the International Union for the Conservation of Nature (IUCN) presented its report on indigenous peoples' rights and conservation issues to the 10th session of the United Nations Permanent Forum held in New York. The aim of the report is to raise awareness of the importance of respect for and actively promoting indigenous peoples' rights and livelihoods as fundamental components in developing successful conservation strategies during times of climate change.⁶

The IUCN has more than 1 000 NGO and government members and almost 11 000 volunteer scientists in more than 160 countries.

IUCN Program 2013-16

In May the draft IUCN Program 2013-16 was released for global consultation with IUCN members, commissions and the secretariat. A six month consultation process will follow which will result in the presentation of the final draft for consideration at the 2012 World Conservation Congress.

5 <http://www.laed.uscourts.gov/OilSpill/Orders/>

6 http://www.iucn.org/about/work/programmes/social_policy/sp_themes/sp_themes_ip/

Forest Europe Ministerial Conference

The Forest Europe Ministerial Conference took place in Oslo, Norway, on 14-16 June 2011. Conference delegates adopted the Oslo Ministerial Mandate for Negotiating a Legally Binding Agreement on Forests in Europe as well as the Oslo Ministerial Decision: European Forests 2020. Both documents outlined the vision, goals, targets and actions jointly agreed for Europe's forests. It is expected that these documents will help shape forest policy over the next decade. Ministers and representatives from 43 European countries attended the conference.⁷

International chemicals

The third Latin American and Caribbean Regional Meeting on a strategic approach to international chemicals management (SAICM) took place in Panama City, Panama on 2-3 May 2011. The conference, attended by 46 participants from 21 countries, aimed to prepare for the first meeting of the SAICM open ended working group scheduled for late August this year. Participants discussed proposed additions to the global plan of action, health issues, emerging policy issues and financial and technical resources for implementation. Five resolutions were adopted including financing SAICM implementation, nanotechnology and manufactured nanomaterials and hazardous substances within the lifecycle of electrical and electronic products.⁸

Nobel Laureate Symposium

In mid May 2011, the third Nobel Laureate Symposium on Global Sustainability was held in Stockholm, Sweden. The symposium produced the Stockholm Memorandum which has been handed to the UN High Level Panel on Global Sustainability. The memorandum noted that the planet had entered into a new geological age, the Anthropocene, and called for a suite of urgent and far reaching actions to protect the planet for current and future generations.⁹

Manual of European Environmental Policy wins award

Earthscan's *Manual of European Environmental Policy* was the recipient of the European Information Association's 2011 Award for European Information

7 <http://foresteurope2011.com/>

8 <http://www.iisd.ca/larc/vol03/larc0301e.html>

9 <http://globalsymposium2011.org/>

NELR recent developments

Sources. The manual, written by an interdisciplinary team of experts from the Institute for European Environmental Policy, was said to be the 'most systematic, comprehensive and reliable source of

information on EU Environmental policy available'.¹⁰

¹⁰ <http://www.earthscan.co.uk/default.aspx?tabid=36952>

FEDERAL

Dr Nicola Durrant and Shol Blustein

Key initiatives of the 2011-12 Federal Budget

On 10 May 2011, Federal Treasurer the Hon Wayne Swan MP delivered the Federal Budget for the 2011–2012 financial year and forward estimates. The Budget contains a number of new initiatives, financial redistributions and reductions that relate to Australia's current regulatory framework governing the environment, climate change and renewable energy. These are set out below.

Environment

- *Protecting Australia's unique marine life:* The Government will invest \$9.7m for the management of proposed marine reserves and bioregional plans being developed to protect Australia's marine life. The Government has previously committed to the establishment of new marine reserves that will form part of a *National Representative System of Marine Protected Areas*. Draft marine bioregional plans are being developed for each of four identified marine regions in the south-west, north-west, north and east. These will be followed by a three month community consultation period before finalisation and implementation of each plan.¹
- *A Sustainable Australia:* Sustainability, Population and Communities Minister, the Hon Tony Burke MP said the Government would invest \$100m for a *Suburban Jobs* initiative. The initiative will support local and state governments to plan and deliver employment precincts, manufacturing hubs and multifunction developments close to residential areas in growing outer suburbs. The Government will also invest \$29.2m in a new *Sustainable Regional Development* initiative to support better sustainability planning in regions that are experiencing high growth. The Government will develop a set of *Sustainability Indicators*

to measure Australia's progress towards more sustainable communities with \$10.1m allocated in the budget for a new *Measuring Sustainability Program*. This will involve the development of a set of sustainability indicators to inform decision making at a regional level.²

- *Funds for environment and heritage:* The Government will invest \$84.2m over four years in a new round of its successful Environmental Stewardship Program, through *Caring for our Country*. The *Environmental Stewardship Program* gives landholders access to 15-year grants so they can take long-term action on their land to reduce grazing intensity, control weeds and feral animals and protect key species and ecological communities. The Budget also set aside \$10m over three years to deliver on a 2010 Election commitment to develop a *National Wildlife Corridors Plan* to link national parks and reserves with private land. A further \$4m over four years will be invested to control the 'crazy ants' which threaten the red crab and rainforest habitat ecosystems of Christmas Island. These initiatives are part of the *Caring for our Country program* which has committed \$2b over five years to 2012–13 in helping communities, farmers and other natural resource managers protect Australia's environment. The Government will also invest an additional \$8m over two years to help communities manage and conserve important heritage places, including those affected by natural disasters.³
- *Research into Antarctica:* The Government announced it would invest \$28.3m for research in the Antarctic to address critical issues such as climate change, the human footprint on Antarctica and increasing demands for food, energy and security caused by human population growth.

² <http://www.environment.gov.au/minister/burke/2011/mr20110510a.html>

³ <http://www.environment.gov.au/minister/burke/2011/mr20110510c.html>

¹ <http://www.environment.gov.au/minister/burke/2011/mr20110510b.html>