

recent developments

INTERNATIONAL

Penny Cresswell

Global Nuclear Energy Partnership

In September 2007, 16 nations signed up to a US-initiated pact aimed at developing nuclear technology that is less able to be utilised for weapon proliferation – others have signed up since. Five nuclear fuel producing nations (US, Russia, China, France and Japan) were joined by 11 other nations to form the Global Nuclear Energy Partnership (GNEP) and agreed a statement of principles, premised on the belief that increased nuclear energy is necessary to meet growing energy demands. The development of commercially viable nuclear reactors with fuel recycling and waste disposal to minimise the risk of producing plutonium for bombs is likely to be many years away. For more information see: <http://www.gnep.energy.gov/>

4th IPCC report released

On 17 November 2007 the Intergovernmental Panel on Climate Change released its fourth report – the synthesis of the earlier three Working Group reports, ahead of the UN climate convention to be held in Bali, December 2007. The Summary for Policy Makers underlines the urgency to act to reduce greenhouse gas emissions and the costs of transition to a low carbon society. It also highlights that, as a result of scientific conclusions that certain impacts may occur at lower temperatures than previously supposed, there are at least five areas of increased concern including more rapid rates of extinction of plant and animal species in polar and high mountain ecosystems, more extreme weather events and decreases in water resources in semi-arid areas. See the IPCC site for the report and the summary which, according to Achim Steiner, UN Environment Programme's executive director is essential reading for every person on the planet who cares about the future: <http://www.ipcc.ch/>

US Courts avoid determining standards for GHG-emitting industries

As reported in the Autumn 2007 edition of NELR, in April 2007 the US Supreme Court held, in *Massachusetts v Environment Protection Agency* 127 S Ct 1438, that the EPA had authority to regulate greenhouse gases (GHGs) and could only avoid doing so if it determined that GHGs did not contribute to climate change or could reasonably explain why it would not use its discretion to determine whether they do. The EPA's reasons for not making such a determination, including not wanting to interfere with the administration's efforts to address climate change, did not amount to reasonable justification in the Court's view.

This decision was considered in two recent US District Court cases. *Comer v Murphy Oil, USA et al* (30 August 2007, US District Court, Southern District of Mississippi) was a suit brought by individuals who suffered property damage after hurricane Katrina against various companies. The plaintiffs alleged that the companies' GHG emissions contributed to the devastating nature of the hurricane. *California v General Motors Corporation et al* (17 September 2007 US District Court Northern District of California) was a public nuisance case by the State against car manufacturers. Whilst *Massachusetts v EPA* might have been seen as potentially adverse for industries with significant GHG emissions, as it required the EPA to regulate emissions, the two actions before the District Courts were rejected on various grounds including the 'political question doctrine' – that is that federal courts do not have jurisdiction to decide a 'political question'. In both cases the Court found the complex issues of setting standards to which GHG emitting industries should be held and contribution to the cost of addressing global warming were for policy determination to be made by political branches, not the Court.

International Tropical Timber Council – 2006 Agreement still not ratified

The 43rd session of the International Tropical Timber Council (ITTC), governing body of the ITT Organisation (ITTO) was held in Japan in November 2007. The International Tropical Timber Agreement (ITTA) was adopted back in 1983, having been negotiated under the auspices of the UN Conference on Trade and Development. The ITTA objectives include providing a framework for cooperation and consultation between producers and consumers of tropical timber, with a focus on the world tropical timber economy and sustainable management of the resource base. The most recent version of the ITTA was agreed in 2006 but has only been ratified by four countries. For the ITTA to come into force it needs to be ratified by 10 consumer and 12 producer countries. The ITTO remains in transition and a number of important decisions remain on hold pending ratification. One issue discussed at the November meeting was the need to work towards having sustainable forest management and forest restoration as mitigation tools in UN Framework Convention on Climate Change (UNFCCC) activities. The need for cooperation between the ITTO and UNFCCC was highlighted and side events at the UNFCCC conference in Bali in December 2007 are planned. For a detailed summary of the session see <http://www.iisd.ca/vol24/enb2479e.html>.

Voluntary Carbon Standard 2007 released

The Voluntary Carbon Standard (VCS) 2007 was developed over the last two years by the Climate Group, the International Emissions Trading Association, and the World Business Council for Sustainable Development, in consultation with industry, NGOs and market specialists

The VCS was released on 19 November 2007 and provides a global standard for voluntary greenhouse gas emission reduction or removal projects and their validation and verification. It is likely to become the voluntary carbon market's most popular standard for the regulation of offsets.

The VCS includes a range of Agriculture, Forestry and Other Land Uses in its eligible project activities. These are divided into four categories:

- Afforestation, Reforestation and Revegetation – establishing, increasing or restoring tree species in forests.
- Agricultural Land Management – increasing carbon stocks in soils and trees; decreasing CO₂, N₂O and/or CH₄ emissions from soils through improved cropland and grassland management or land-use change.
- Improved Forest Management – such as conversion from conventional logging to reduced impact logging (RIL), conversion of logged forests to protected forests, and improving the capacity of poorly stocked forests.
- Reducing Emissions from Deforestation – activities that reduce the conversion of forests to cropland, grassland, wetland, peat land, settled areas and/or other

For further details see the VCS website at <http://www.v-c-s.org/>

COMMONWEALTH AND NATIONAL*Simon Batten***Greenhouse reporting regulations discussion paper released**

The *National Greenhouse and Energy Reporting Act 2007* came into operation on 28 September 2007. This Act provides the legislative framework for the National Greenhouse and Energy Reporting System, which will be a key element of any Australian emissions trading scheme. A discussion paper on the proposed regulations that will fill out the details of the reporting system was released in October 2007. Stakeholder comment is invited on all these matters by 16 November 2007.

The National Greenhouse and Energy Reporting System Regulations Discussion Paper (October 2007) outlines some of the approaches that will be adopted in relation to the interpretation of key parts of the Act that were not detailed in the regulations. See the feature article in this issue for further details.