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**A Word from the Editors**

This issue of the eJournal sees some further changes to the team responsible for its production. We welcomed Professor Louis Kotzé (North-West University, South Africa) to the Editorial Board, and Clarissa Ferriera (University of Cape Town, South Africa) to our group of Assistant Editors. Both Louis and Clarissa are fantastic additions to the eJournal team, and we trust their expertise and assistance will continue to broaden and strengthen the content of the eJournal.

In this issue, we present a range of insightful contributions from around the globe on a wide array of environmental law matters.

This issue begins with two articles that highlight similar issues with strategic planning in the USA and EU looking at climate change adaptation and renewable energy regulation.

In the first article, Perez discusses EU actions to promote adaptation to climate change. As Perez indicates, although the EU does not appear to have taken terribly effective steps in relation to multi-level governance of adaptation, there is hope for more positive action in this direction. The EU has taken adaptation measures in other areas of competence and some individual cities within the EU have been more pro-active in taking measures. In addition, the EU has supported adaptation measures in developing States. These activities point to the possibility of effective EU legislation on adaptation in the future. Powers' article on renewable energy production in the USA highlights similar tensions between action and inaction. While on the one hand the *ad hoc* regulatory approach to renewables has up until this point created sufficient space for a significant growth in the production of renewable energy it may, if it continues, hinder future growth. In her detailed analysis, Powers illustrates both the ways in which individual regulatory tools operate and the gaps that are left when regulation lacks strategic planning. Having begun her article by demonstrating the potential for renewable generation in the USA, Powers concludes by presenting suggestions for a more strategic regulatory approach to harnessing this power.

In the third article, “Re-Imagining Mining: The *Earth Charter* as a Guide for Ecological Mining Reform”, Sbert conducts a thought experiment as to how we might regulate the mining of minerals. In this she tackles the difficult questions of how we make choices about where, when and how much to mine. Sbert then explores the possibilities of moving from treating minerals as commodities to leasing minerals as a potential solution to the challenge of how we minimise the impact of mining on the earth.

The substantive articles are followed by three insights papers beginning with the thought-provoking piece by Richardson and Butterly on how we treat, or rather fail to treat (or take account of) time in environmental regulation. As Richardson and Butterly argue, the focus of environmental law has tended to be on the present or ‘future present’ with little account taken of, for example, the historical condition of an area, or the damage to an area caused prior to regulation. Their arguments are illustrated by reference to Australian marine planning.

Butti’s piece on contaminated land takes us back to Europe and examines the interplay between requirements under the Industrial Emissions Directive and the Contaminated Land Regimes of member States. This is followed by Dominte’s paper on the use of protected designations of origin as environmental protection tools. As Dominte argues, these designations, applying to products such as Bordeaux wine and Jaffa oranges are associated with environmental management practices, which, in giving rise to the particular characteristics of the growing environment, necessarily imply protection of particular environmental characteristics. There is, therefore, a possibility that these designations could be more consciously used as tools to protect the environment than they currently are.

These contributions are followed by 38 Country Reports from some 33 countries – the largest number of Country Reports included in the eJournal to date. This includes first time reports from Japan, Costa Rica, Ivory Coast, Poland, and Taiwan. From these reports, a number of broad issues are common to several jurisdictions. Briefly, we summarise these below.

As with the previous issue of this eJournal, issues concerning energy generation remain firmly on the environmental law agenda for many countries. This includes in some cases the management of conflict over land use. The reports from Costa Rica, the Democratic Republic of Congo, France, Japan, Kenya, Poland, Ukraine and the United States each highlight ongoing challenges with respect to the governance of energy development,

particularly new sources of energy (such as unconventional gas extraction), and alternative energy. Several of these reports point to the tensions between economic and environmental interests in energy development.

Some Country Reports document the passage of regressive environmental laws in certain jurisdictions. In Australia, Riley reports of a continued 'winding back' of environmental legislation, especially regarding climate change. In India, recent elections saw discussions regarding the relaxation of environmental regulations to promote economic growth, though ultimately this did not materialise. Cloutier de Repentigny reports on the implementation of a new environmental assessment regime in Canada which has witnessed a number of regressive changes. As he notes, it is incumbent upon us to be aware of how quickly progress in environmental law can be displaced by the changing whims of government, particularly in times of economic downturn. This recalls Michel Prieur's important work on non-regression in environmental law, where he ponders whether we have entered an 'era of law that refuses established rights in the name of sovereignty of laws and Parliaments — "what a law can do can be undone by another law"?'<sup>1</sup>

The need to improve access to public participation is also covered in several other reports, including Armenia, Columbia, Costa Rica, Czech Republic, the Democratic Republic of Congo, Ivory Coast, Papua New Guinea, and Thailand. Countries continue to grapple with the incorporation of meaningful public participation in environmental decision making. The report from the Bahamas discusses two cases which concerned a lack of public participation in EIA procedures, highlighting the need to improved consultation at a minimum. Cliquet and Schoukens' report on Belgium considers the gap between the law and practice of public participation through a discussion of a current case study, finding that there was indeed disparity between legislative aspiration and reality.

As in the substantive articles, so too in the country reports, the news is not all dire. Elsewhere, contributors report on new regulatory protections for the environment. In France,

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<sup>1</sup> Michel Prieur, 'Non-regression in environmental law', *S.A.P.I.EN.S* [Online], 5.2 | 2012, Online since 12 August 2012, accessed 2 April 2015. URL : <http://sapiens.revues.org/1405>. See also Michel Prieur, 'De L'urgente Nécessité De Reconnaître Le Principe De "Non Régression" En Droit De L'Environnement' ('Urgently Acknowledging the Principle of "Non-Regression" in Environmental Rights [summary in English]), 2011 (1) IUCN Academy of Environmental Law eJournal, online at: <http://www.iucnael.org/en/e-journal/previous-issues/86-journal/issue/157-issue-20111#sthash.d0cHaRO1.dpuf>.

for example, innovative new legislation was tabled concerning biodiversity protection, whilst in Kenya and Malta more serious attention turned to developing law and policy approaches to climate change. In Singapore, an ambitious regulatory regime to combat transboundary haze pollution was also implemented. Case law developments and the issue of new sentencing guidelines in the United Kingdom have seen environmental crime treated more seriously, particularly in cases involving corporate offenders. Finally, three separate contributions report on various aspects of China's new Environmental Protection Law, including the broader scope for citizen participation and public interest environmental litigation. Whilst the various authors of these reports acknowledge that challenges remain, the new legislation offers hope for improved access to environmental justice in these jurisdictions.

Proposals for new environmental regulatory regimes were also released in Scotland and the Netherlands. As Hendry notes in the Scotland report, these are "challenging times for environmental regulation in many countries, with multiple pressures to reduce the 'red tape' burden, cut costs and achieve multiple policy outcomes, not all consistent". The end-result for these regimes remains to be seen, and we look forward to updates in future Country Reports.

Finally this issue concludes with a series of book reviews, ranging from Paloniitty's review of the Academy's own "Global Environmental Law at a Crossroads", to Brown Weiss's review of "Common Heritage of Mankind: A Bibliography of Legal Writing" and Kibugi's review of "The Canadian Law of Toxic Torts".

Overall, we trust that you find the contributions in this issue as thought-provoking as we did, and we look forward to your contributions to the next issue.

Amanda Kennedy and Elizabeth Kirk

<b>Articles</b>	<b>Adaptation to Climate Change in the European Union: Between Supranational Action and State Reluctance</b> <i>Beatriz Pérez de las Heras</i>
	<b>Facilitating the US Renewable Transition: From Ad Hoc Integration to Comprehensive Reform</b> <i>Melissa Powers</i>
	<b>Re-Imagining Mining: The <i>Earth Charter</i> as a Guide for Ecological Mining Reform</b> <i>Carla Sbert</i>
<b>Insights Articles</b>	<b>Temporalities of Environmental Governance: Insights from Australia's Marine Reserves Review</b> <i>Benjamin J. Richardson</i>
	<b>The national Contaminated Land Regimes in the EU and the Baseline Report provided for by the IED Directive European or National Rules for the Remediation of Soil and Groundwater?</b> <i>Luciano Butti</i>
	<b>Can Geographical Indications Bring Value To Environmental Protection?</b> <i>Nicoleta Rodica Dominte</i>
<b>Country Reports</b>	<b>Armenia</b> Aida Iskoyan, Heghine Hakhverdyan & Laura Petrossiantz
	<b>Australia</b> <i>Sophie Riley</i>

	<b>Bahamas</b> <i>Lisa Benjamin</i>
	<b>Belgium:</b> <b>1. Public Participation and Access to Justice in Large Scale Infrastructure Projects: How Deep is the Gap between Law and Reality?</b> <i>An Cliquet &amp; Hendrik Schoukens</i>
	<b>2. Marine Spatial Planning and the Protection of the Marine Environment in the Belgian Part of the North Sea.</b> <i>Thary Derudder and Frank Maes</i>
	<b>Canada:</b> <b>Canada Environmental Assessments Reform: A Glimpse at Regressive Reforms in Canadian Environmental Law</b> <i>Pierre Cloutier de Repentigny</i>
	<b>China:</b> <b>Access to Justice under the Newly Revised Environmental Protection Law in China: When Theory Meets Practice</b> <i>Miao He</i>
	<b>China:</b> <b>China's New Environmental Protection Law</b> <i>Nengye Liu</i>
<b>China:</b> <b>Public Interest Environmental Litigation and the Revised Environmental Protection Law of People's Republic of China</b>	

	<i>Jingjing Zhao</i>
	<b>Colombia</b> <i>Gilberto Rincón &amp; Catalina Vallejo</i>
	<b>Congo</b> <i>Dignité Bwiza</i> <i>Kihangi Bindu</i>
	<b>Costa Rica</b> <i>Rafael González Ballar</i>
	<b>Czech</b> <i>Milan Damohorsky and Petra Humlickova</i>
	<b>France</b> <i>Nathalie Hervé-Fournereau &amp; Véronique Inserguet-Brisset</i>
	<b>India</b> <i>Kavitha Chalakkal</i>
	<b>Italy:</b> <b>Italian Environmental Law in 2013</b> <i>Carmine Petteruti</i>
	<b>Ivory Coast</b> <i>Cisse Yacouba</i>
	<b>Japan</b> <i>Kazuki Hagiwara</i>
	<b>Kenya</b> <b>1. An Anatomy of Evolving Constitutionally Mandated Environmental Law Changes in Kenya during 2014</b> <i>Robert Kibugi</i> <b>2. Reforming the Legal Framework for Sustainable Governance of the Extractive Industry in Kenya</b> <i>Collins Odote</i>

	<b>Malta</b>
	<b>Netherlands:</b> <b>The Future Environment and Planning Act and the impact of the Crisis and Recovery Act</b> <i>Kars De Graaf &amp; Hanna Tolsma</i>
	<b>New Zealand:</b> <b>The Role of Sustainable Management in the Coastal Environment: <i>King Salmon</i> in the Supreme Court</b> <i>Trevor Daya-Winterbottom</i>
	<b>Nigeria:</b> <b>The Cart before the Horse?: Biosafety Regulations and Modern Biotechnology Activities in Nigeria</b> <i>Uzuazo Etemire</i>
	<b>Papua New Guinea:</b> <b>Papua New Guinea' s Action Plan for Climate Change</b> <i>Hitelai Polume-Kiele</i>
	<b>Peru:</b> <b>Políticas y Legislación climáticas: A propósito de la Cumbre Mundial del Clima (COP 20, Lima)</b> <i>Erick Pajares G</i>
	<b>Poland</b> <i>Robert Rybski</i>
	<b>Scotland:</b> <b>Reform of Environmental Regulation in Scotland</b> <i>Sarah Hendry</i>
	<b>Singapore</b> <i>Lye-Lin Heng</i>

	<p><b>South Africa:</b>  <b>Developments in Environmental Law during 2014: Alien and Invasive Species</b>  <i>Michael Kidd</i></p>
	<p><b>Spain</b>  <i>Lucía Casado Casado</i></p>
	<p><b>Sweden:</b>  <b>New Policy Initiatives, Rules and Case Law</b>  <i>Annika Nilsson</i></p>
	<p><b>Taiwan:</b>  <b>The Development of Prganisational Reform and Environmental Law in Taiwan</b>  <i>YingShih Hsieh</i></p>
	<p><b>Thailand</b>  <i>Krisdakorn Wongwuthikun</i></p>
	<p><b>Ukraine:</b>  <b>Alternative Energy in Ukraine: Challenges, Prospects and Incentive Mechanisms</b>  <i>Svitlana Romanko</i></p>
	<p><b>United Kingdom:</b>  <b>Environmental Offences: Finally Making the Polluter Pay?</b>  <i>Opi Outhwaite</i></p>
	<p><b>United States of America:</b>  <b>EPA Continues Significant Regulatory Initiatives as Opponents of Environmental Regulation Prepare to Take Control of Both Houses of Congress</b>  <i>Robert V. Percival</i></p>

<b>Book Reviews</b>	<b>Global Environmental Law at Crossroads</b> (Robert V. Percival, Jolene Lin and William Piermattei, eds) <i>Reviewed by Tina Paloniitty</i>
	<b>Common Heritage of Mankind: A Bibliography of Legal Writing</b> (Prue Taylor and Lucy Stoud) <i>Reviewed by Edith Brown Weiss</i>
	<b>The Canadian Law of Toxic Torts</b> (Lynda Collins and Heather McLeod-Kilmurray) <i>Reviewed by Robert Kibugi</i>