

West Coast Accord litigation

In November 1986, the West Coast Accord was signed by the West Coast United Council under considerable pressure from Roger Blakeley, Secretary for the Environment, and Kerry Burke, Minister for Regional Development and Employment and M.P. for the West Coast. They firmly believed that they had signed a legally-binding contract, and this was confirmed by ministerial papers produced at the time.

In 1995 West Coast local authorities and the West Coast timber industry sued the Crown for failing to honour this agreement.

Ministers of the Crown had persistently stated that "the Government will honour the West Coast Accord". However, since 1991 officials have advised Government that the West Coast Accord was simply a political agreement, not a binding contract.

On September 29, 1995, Mr Justice Greig confirmed in the High Court that "the Accord is a legally-binding commercial contract". He acknowledged that the Accord strategy was to make available Crown timber resources to enable the maintenance of the West Coast sawmilling industry.

However, he rejected the specific terms argued by the plaintiffs, i.e. that the transition of the industry from reliance on podocarp species to dominantly radiata pine was to occur when the radiata supply was "adequate". Experts had demonstrated that in terms of commercial return, such a supply could not be expected until after the turn of the century and not at the beginning of 1995 as implemented by the Crown.

One of the plaintiffs, Westport Sawmilling Company Ltd, concurrently argued that, in the case of Buller and Karama, the appropriate volumes had to be made available firstly to the sawmills of the respective subregions, and only when these mills were unable to pay market price could the volume be considered for sale outside the subregions.

That the resource would be "adequate" in each subregion was axiomatic to the plaintiffs. There was therefore an expectation that the Crown had committed itself in signing the Accord to ensure that the area of exotic softwood resource would be increased to 3000 ha in Buller and 30,000 ha in North Westland.

Mr Justice Greig did not accept that planting further exotics in Buller and North Westland, or making available adequate resource in South Westland to per-

mit a smooth transition to exotics, were terms of the contract.

Nor did he find in favour of altering the management of land allocated to DOC with "in vacuo" status, pointing out that subsequent legislation had nullified this term of the contract. All land administered under the Conservation Act has a "conservation" bias, whether it was meant to or not.

That a West Coast beech scheme was meant to happen was firmly understood

by West Coast interests. However, Mr Justice Greig ruled that the commitment was simply prospective; Government had to invite investment in it and advertising for that expression of interest was sufficient to fulfil the term.

So the plaintiffs lost their case with respect to the terms of the West Coast Accord. Costs have been reserved.

Peter Allan

Application of criteria and indicators for sustainable forest management makes progress

The eighth meeting of the *Working Group on Criteria and Indicators for the Conservation and Sustainable Management of Temperate and Boreal Forests*, known as the "Montreal Process", was held during early June in Canberra. The meeting made further progress on the ability of the member countries to report on the criteria and indicators for sustainable forest management.

The Montreal Process was established in 1993 following the United Nations Conference on Environment and Development (UNCED), or the Earth Summit, held in Rio de Janeiro during 1992. The development and application of criteria and indicators is recognised as an important step in implementing the UNCED Forest Principles and Agenda 21.

Member Countries

Member countries involved, who represent over 90 per cent of the world's temperate and boreal forests, are: Argentina, Australia, Canada, Chile, China, Japan, Republic of Korea, Mexico, New Zealand, the Russian Federation, the United States of America and Uruguay. Observers participated from a number of countries, including several from the Pacific rim and those with tropical forests.

At the meeting in Canberra agreement was reached that better definitions within the criteria and indicators are required to achieve both consistency between countries and harmonisation in reporting. A

technical committee was established to recommend more specific definitions.

Aggregation of Data

One of the key areas of concern for countries with planted forests was the aggregation of data between natural and planted forests. This aggregation could result in the loss of important information on the status of each forest type. The New Zealand representatives, Paul McFarlane, NZ Forest Research Institute, and Dougal Morrison, Ministry of Forestry, made a presentation to the meeting to address this issue. The meeting agreed that there was a need to be transparent in methods used when reporting on criteria and indicators. To achieve transparency it was also agreed that countries should provide narrative comment on how data was sourced and used in reporting.

Main Outcome

The main outcome of the meeting was to agree that each country would complete its first approximation report on the criteria and indicators for temperate and boreal forests by May 31, 1997. A summary report will be presented to the World Forestry Congress to be held in Turkey during October 1997.

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