

### **New Publication On Trade And Biological Resources**

The International Centre for Trade and Sustainable Development (ICTSD) is proud to present a new product to the trade and sustainable development communities: ***BRIDGES Trade BioRes - Trade and Biological Resources News Digest***. This new publication is produced in collaboration with IUCN - The World Conservation Union, and its Commission on Environment, Economic and Social policy (CEESP), in an effort to complement the activities of both organisations on the increasingly important intersection of trade and biological resources.

Please note that we will not be sending you any more issues of *BRIDGES Trade BioRes* unless you wish us to do so. In order to receive this publication on a regular basis, please send a blank email to [subscribe\\_biores@ictsd.ch](mailto:subscribe_biores@ictsd.ch). The issues will also be posted on the ICTSD website at <http://www.ictsd.org>.

Recipients of the first issue were carefully selected in an effort to target key stakeholders in the trade and sustainable development communities. If you know of others who might be interested in receiving *BRIDGES Trade BioRes*, we would kindly ask you to forward this issue to them.

*BRIDGES Trade BioRes* aims to build bridges between diverse and often insulated communities (including policy-makers and those in civil society) working on issues related to biological resources, trade and sustainable development. To this end, the publication will continue in the tradition of *BRIDGES Weekly Trade News Digest*, providing its objective coverage, context setting, reporting and analysis on these intersecting issues. Articles will cover a diverse field of activities as they relate to trade policy and development of international governance mechanisms in areas such as biodiversity, traditional knowledge, intellectual property rights, biotechnology, genetically modified organisms, and food security.

The format of *BRIDGES Trade BioRes* will be closely modelled on the established format of *BRIDGES Weekly*. The main articles (4-6 per issue) will be grouped under categories that will prece each story title. These "tags" are intended to help the readers to quickly grasp each story's area of focus. An "Additional Resources" section at the bottom of most articles will provide links to further information sources on the topic. Articles will be complemented by "In Brief's" which provide a concise coverage of recent developments. The final section, "Events & Resources", will inform readers of upcoming events and recent publications in the relevant areas.

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**IN BRIEF** **11****EVENTS & RESOURCES** **12****WTO****ENVIRONMENT MAKES ITS WAY ONTO THE WTO NEGOTIATING AGENDA**

WTO Members for the first time in the trade body's history agreed to negotiations on environmental issues, thereby at least partly meeting one of the key demands pushed by the EC at the Fourth WTO Ministerial Conference, held in Doha, Qatar, on 9-14 November. The negotiations will be part of a single undertaking which includes negotiations on a range of other issue areas (see BRIDGES Weekly, 15 November 2001; <http://www.ictsd.org/weekly/01-11-15/story1.htm>). The EC and the United Nations Environment Programme (UNEP) welcomed this move, while developing countries and environmental organisations showed mixed reactions to the environment-related outcomes of the Conference.

As set out in the Ministerial Declaration, negotiations on all but the Singapore issues (ie investment, competition, transparency in government procurement and trade facilitation) will begin immediately. The Trade Negotiating Committee -- instructed to meet for the first time not later than 31 January 2002 -- will supervise the overall conduct of the negotiations under the authority of the General Council. The negotiations are set to conclude by 1 January 2005. The outcomes of the different negotiating areas (with the exception of the Dispute Settlement Review) will enter into force as part of a single undertaking.

**Stronger language in the preamble**

Using stronger language than ever before in WTO agreements, WTO Members in para. 6 of the Ministerial Declaration's preamble stress that the multilateral trading system and efforts towards environmental protection and sustainable development "can and must" be mutually supportive. In addition, the preamble recognises Members' right "to implement measure to protect human, animal or plant life or health". The text also for the first time explicitly recognises the importance of promoting cooperation between the WTO and relevant international

environmental and developmental organisations, singling out the WTO's continued cooperation with UNEP in particular.

### **Negotiations launched on environment**

The Ministerial Declaration launches negotiations on trade and environment in three areas (para. 31): (i) relationship between WTO rules and trade obligations set out in Multilateral Environmental Agreements (MEAs); (ii) procedures for information exchange between MEA secretariats and relevant WTO committees, including criteria for granting observer status; and (iii) the reduction or elimination of tariff and non-tariff barriers to environmental goods and services.

The first area was further qualified by adding that the negotiations "shall not prejudice the WTO rights of any Member that is not a party to the MEA in question", thereby avoiding the 'party versus non-party' issue, according to one UNEP official. Environmental groups are concerned that this qualification could in fact prove to be a disincentive for getting countries to sign on to MEAs. "These are loopholes for the US so it can duck the MEA issue," said Remi Parmentier of Greenpeace.

In addition, the Declaration further waters down the mandate under (i) and (ii) by saying that the negotiations "shall not add to or diminish the rights and obligations of Members under existing WTO agreements". According to sources, this shifts the possible outcomes of negotiations on these points away from rule changes and towards clarifications or footnotes to existing rules.

Members also agreed to conduct negotiations on clarifying and improving WTO disciplines on fisheries subsidies as part of negotiations on 'WTO Rules', "taking into account the importance of this sector to developing countries" (para. 28). This decision marks a significant change from the previous WTO mandate on this issue, which had restricted discussions in this area to the non-negotiating body of the Committee on Trade and Environment (CTE). The World Wildlife Fund (WWF), one of the key campaigners on fisheries subsidies, welcomed the launch of the negotiations, praising in particular the leadership of Iceland and the US at Doha. "For the first time, governments have recognised the responsibility of the WTO to do its part in promoting the health of a vital natural resource," said David Schorr, Director of WWF's Sustainable Commerce Program.

### **CTE mandate more focused**

The CTE is instructed to continue its work programme while focusing in particular on the effect of environmental measures on market access, relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) and eco-labelling (para. 32). The first two issues are of particular concern to developing countries and might have been singled out in order to obtain their support for negotiations on environment, as one trade source speculated. Similar to points (i) and (ii), however, discussions in the CTE should not impact on Members' rights and obligations under WTO agreements.

Para. 51 of the Declaration furthermore identifies the CTE together with the Committee for Trade and Development (CTD) as fora "to identify and debate developmental and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected". As one environmental source pointed out, this provision could help to elevate and focus the mandate of the CTE, where environmental discussions have remained at the purely analytical level since the WTO's creation in 1995.

### **Developing country concerns on environment**

The Declaration recognises the technical assistance (TA) and capacity building needs of developing countries in the area of trade and environment, and calls for a report on these activities to be prepared for the Fifth Session (para. 33). Activities will be carried out through the WTO Secretariat's technical cooperation programmes and other external mechanisms, including bilateral donors, regional banks and international organisations, such as UNCTAD. The budget for the WTO TA efforts overall will be "no lower than that of the current year" (ca. USD 10 million for 2000).

Environment also finds mention in the Decision on Implementation-Related Issues and Concerns, which takes note of a proposal stating that measures implemented by developing countries with a view to achieving legitimate development goals, such as "development and implementation of environmentally sound methods of production", should be treated as non-actionable subsidies. This proposal will be discussed in the Committee on Subsidies and Countervailing Measures, which will report on the outcomes by the end of 2002.

### **Mixed Reactions**

The EC in their assessment of the results at Doha expressed satisfaction with the way in which the Ministerial Declaration reflected its calls for increased action on sustainable development and environmental protection, which they say will be "mainstreamed throughout the negotiations". While the EC claims that the Declaration also covers precaution and labelling, EC Trade Commissioner Pascal Lamy has assured US Trade Representative Robert Zoellick that the EC will not use the controversial "precautionary principle" to justify illegitimate trade barrier.

The positive sentiments were echoed by Klaus Toepfer, Executive Director of UNEP. "Negotiations on trade and the environment were, until recently, a taboo subject in the WTO," he pointed out. "We still have a long way to go. But the agreements in Doha are, I believe, a new beginning". While welcoming the launch of negotiations on environment as "encouraging", one UNEP official cautioned that the outcomes for the environment will now depend on various other factors, including how Members use their mandate, the yet to be determined body that will carry out the negotiations, processes and coordination at the national level, participation of civil society and other international organisations, and further clarification of the negotiating mandate.

Developing countries -- who have so far strongly resisted negotiations on environment at the WTO fearing that resulting provisions might be used for protectionist purposes -- remain weary of the references to environment in the Ministerial texts and the resulting 'qualitative jump' from a work programme in the CTE to negotiations. While agreeing that the relationship between MEAs and WTO rules should be clarified, a developing country representative questioned why the WTO should be singled out as the forum for negotiations rather than the MEA Secretariats. One developing country delegate also pointed out that the environmental provisions in the end were "much less rigorous" than expected, but highlighted continued concern among developing country that negotiations might expand to other issues, such as precaution.

While environmental groups cautiously welcomed the launch of negotiations on environment, they also highlighted potential negative environmental impacts of the outcomes at Doha. WWF expressed concern about the launch of negotiations on investment, which they referred as a "significant setback for the environment" given the important role of investment flows on the world's environment. Greenpeace, one of the strongest critics of Conference's environmental outcomes, claims that "the agreement on environment offers very little progress in defending

environmental protections against trade concern". "This meeting has failed to produce a vision for sustainable development and the protection of the environment," said Parmentier.

### **Additional Resources**

The Ministerial texts (Declaration, Decision on Implementation and Declaration on TRIPs and Public Health) are available on the ICTSD website at <http://www.ictsd.org/ministerial/doha/relevantdoc.htm>. For daily coverage of the Ministerial Conference, see [http://www.ictsd.org/ministerial/doha/wto\\_daily/index.htm](http://www.ictsd.org/ministerial/doha/wto_daily/index.htm).

"EU assures U.S. it will not pursue 'precautionary principle' in new talks," WTO REPORTER, 21 November 2001; "environmental issues make significant progress at key trade talks," UNEP, 15 November 2001; "WTO Meeting Fails the World," GREENPEACE, 14 November 2001; "CAFOD analysis of WTO Doha Declarations," CAFOD, 19 November 2001; "Environment scores two wins, one loss in Doha," WWF, 14 November 2001; ICTSD Internal Files.

### **TRIPS COUNCIL TO EXAMINE GI EXTENSION, TRIPS-CBD RELATIONSHIP, PROTECTION OF TK**

In spite of the increasing number of developing country proposals on a range of issues concerning the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), negotiations in Doha focused mainly on just one: public health (see BRIDGES Daily Update No. 4, 13 November 2001; [http://www.ictsd.org/ministerial/doha/wto\\_daily/englishissue4.htm](http://www.ictsd.org/ministerial/doha/wto_daily/englishissue4.htm)). However, the Ministerial Declaration and the Decision on Implementation-Related Issues and Concerns each contain a section on TRIPs. These cover three areas: geographical indications, Article 27.3(b) and technology transfer to least-developed countries. In addition, the Ministerial Declaration contains some language on TRIPs in the context of trade and environment (see related story, this issue). While these provisions do not establish any new commitments in the sense of norm-creating, the decision to cover these controversial issues may ultimately result in a negotiations that go beyond the mere clarification of existing rules, a trade source said.

#### **Little headway on geographical indications**

Issues relating to the extension of the protection of geographical indications (GIs) to products other than wines and spirits, as provided for in Article 23 of the TRIPs Agreement, will be addressed in the Council for TRIPs. Discussions on this issue, however, have been going on in the Council for some time, and the Ministerial Declaration simply acknowledges that these are on-going without committing members to a resolution.

The inclusion of this issue is a response to demands made by some Members that additional protection should not be limited to wines and spirits, but should include products that are economically important for themselves. Countries that have been seeking such additional protection are mainly from Asia, Europe and Africa. They also include countries like Thailand and India that have complained about what they see as the misappropriation of high-value goods, namely jasmine and basmati rices. For these countries, the issue is of particular important as that GIs can be used to promote the export of valuable products and prevent misappropriation. They furthermore consider it a matter of fairness that such additional protection not be limited to alcoholic beverages. Those who have tended to oppose additional protection are mainly from the Americas plus Australia and New Zealand, all of which are bulk exporters of agricultural products.

In addition, WTO members have agreed to negotiate to establish "a multilateral system of geographical indications for wines and spirits by the Fifth Session of the Ministerial Conference". This essentially repeats the commitment contained in Article 23.4 of the TRIPs Agreement, except that it establishes a deadline. This provision is of great interest to those European countries, such as France, that use GIs to market wines and spirits. Conversely, several countries in the Americas and the southern hemisphere have successfully traded such products without resort to GI protection, and have little to gain from the establishment of the multilateral system.

#### **Article 27.3(b) discussions set to continue**

In spite of being one of the most controversial articles of the TRIPs Agreement, discussions on Article 27.3(b) (patentability of life forms) were understandably overshadowed by the negotiations relating to TRIPs and public health. In the end, the TRIPs Council is merely instructed "to examine, inter alia, the relationship between TRIPs and the Convention on Biological Diversity, the protection of traditional knowledge and folklore, and other relevant new developments raised by members pursuant to Article 71.1". [Article 71.1 deals with reviews of the implementation of the Agreement, including with a possible view to modifying or amending it.] While reference to traditional knowledge and folklore was novel for a Ministerial Declaration, indicating how mainstream these topics now are, no explicit commitments were made by WTO members.

To date, discussions at the TRIPs Council on these issues have failed to make substantial progress, leading trade sources to speculate that the contentious issues will only ever be resolved within the context of a new trade round that explicitly re-opens negotiations on the text.

#### **Technology transfer to least-developed countries**

The Decision on Implementation-Related Issues and Concerns reaffirms the "mandatory" nature of the provisions of Article 66.2 of the TRIPs Agreement, which requires developed country members to provide incentives for the promotion and encouragement of technology transfer to least-developed countries. The TRIPs Council is mandated to oversee developed country compliance. To this end, the latter countries must before the end of 2002 submit reports on the practical functioning of these incentive measures that will be reviewed in the TRIPs Council.

The Ministerial Declaration also establishes a Working Group under the auspices of the General Council to examine "the relationship between trade and transfer of technology" and "possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries". The General Council is to report on the progress of this examination to the Fifth Session of the Ministerial Conference.

#### **Some reactions**

Reactions to the text on 27.3(b) and GIs varied within the NGO community. Some considered the provisions on TRIPs -- and the outcome of the Ministerial Conference more generally -- to represent a defeat for developing countries. Others, however, saw it as a draw, setting a victory on public health against the failure of the Conference to commit to a substantive review of Article 27.3(b) and thereby respond to the concerns of a certain number of developing countries about biopiracy and the patenting of life-forms. However, because of the focus on public health, reaction so far to these other TRIPs-related issues has been perfunctory.

ICTSD Internal Files.

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**Plant Genetic Resources**

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**FAO INTERNATIONAL UNDERTAKING FINALLY ADOPTED**

After seven years of difficult negotiations, the revised International Undertaking (IU) -- now International Treaty (IT) -- on Plant Genetic Resources for Food and Agriculture (PGRFA) was finally adopted by the Conference of the UN Food and Agriculture Organization (FAO) on 3 November, making it the first binding international instrument dealing specifically with the conservation and sustainable use of PGRFA. It remains to be seen, however, how the IT's provisions will influence discussions at the WTO and which countries will actually ratify the Treaty.

Negotiations on the revision of the IU to harmonise it with the UN Convention on Biodiversity (CBD) have been underway since 1994. In its original form as a non-binding agreement, dating from 1983, the IU was based on the principle that PGRFA should be "preserved [...] and freely available for use, for the benefit of present and future generations" as part of the common "heritage of mankind." To date, 113 countries have adhered to the IU, the most notable exceptions being Brazil, Canada, China, Japan, Malaysia and the US.

Recognising both the sovereign rights and the inter-dependence of countries over their PGRFA, the IT establishes a Multilateral System that aims to facilitate access and benefit-sharing (ABS). ABS is to be regulated principally by means of a standard material transfer agreement (MTA), which will apply also to transfers to third parties and to all subsequent transfers.

**Agreement on IPRs despite US and Japan opposition**

An Open-Ended Working Group met from 30 October to 1 November in Rome, Italy, alongside the FAO Council to finalise the issues that had remained unresolved at June's Sixth Extraordinary Session of the Commission on PGRFA (see BRIDGES Weekly, 3 July 2001; <http://www.ictsd.org/html/weekly/03-07-01/story3.htm>). One of the most contentious points on the agenda related to Article 12.3(d) of the text, ie whether "genetic parts and components" received from the Multilateral System (MS) should be patentable.

After long and heated debates, delegates decided to keep the original text -- minus the brackets - - which stipulates that "recipients shall not claim any intellectual property or other rights that limit the facilitated access to the plant genetic resources for food and agriculture, or their genetic parts and components, in the form received from the Multilateral System". Such an undertaking is to be provided in the standard MTA adopted to regulate the facilitated access. Both Japan and the US opposed this formulation and consequently abstained from the final vote on the adoption of the IU. The US in their statement during the Final Plenary noted that it would be unable to ratify the agreement due to the restrictions it places on innovations. Some observers have questioned the usefulness of the Agreement if the US -- as one of the key countries involved in plant breeding and genetic engineering -- is not bound to the Treaty's provisions.

Canada and Japan also expressed concerns regarding the consistency between the IT and existing intellectual property rights (IPR) regimes, such as the WTO Agreement on Trade-Related Intellectual Property Rights (TRIPs) and in particular Article 27.3(b) which requires Members to grant patents on micro-organisms and non biological and microbiological processes, and to establish some kind of intellectual property protection for plant varieties. Some observers noted that the IT might provide an important precedent for the unresolved discussions on the review of Article 27.3(b) at the WTO.

Another IPR-related area concerns the IT provisions on benefit sharing that provide for monetary contributions derived from the commercialisation of products developed from PGRFA accessed under the MS. The payment is mandatory when the commercialisation of the product restricts the product's availability for use in further research and breeding, and voluntary when the product is freely available for such purposes. While the IT does not explicitly discriminate between IPR holders - who are by definition conferred exclusive rights under TRIPs - and others, some observers speculate that it does so in practice due to the different rules for products available for further research and breeding and those that are not. Depending on how governments incorporate the IT's provisions into their IPR regulations, the possibility might arise that they could be challenged on the basis that in doing so, they contravene their TRIPs obligations under Articles 27.1 and 29 by imposing additional conditions for IPR protection.

### **Other resolved issues**

Trade concerns were also raised in the context of Article 19.4(d) on financial resources for national activities for conserving and sustainably using PGRFA. In particular, delegates discussed a proposal by Australia to include a reference to avoiding subsidies in the text. Several countries opposed the reference, including Thailand, which argued that subsidies should be discussed at the WTO. The EU pointed out that this language would introduce trade issues inconsistent with the rest of the text. In the final text, the Article simply states that the provision of financial resources should not be used for ends inconsistent with the treaty, in particular in areas related to international trade in commodities.

Delegates furthermore agreed on the text of Article 4, which deals with the IT's relationship to other international agreements. The final text affirms the mutual supportiveness of relevant international treaties and the absence of hierarchies between them, thus leaving the relationship as ambiguous as in many other international negotiations, such as the Cartagena Protocol on Biosafety (see BRIDGES Weekly, 8 Feb. 2000; <http://www.ictsd.org/html/weekly/story4.08-02-00.htm>). Thus, it remains unclear which agreement would prevail in the case of a dispute remains.

Regarding Annex I of the IT, which lists crops for inclusion in the MS, delegates retained the list of 35 crop genera and 29 forages already agreed to in June despite efforts by the EU to expand the list. Some observers pointed out the paradox that a small list, as proposed by many developing countries, would actually leave a large number of crops, which are not included in the MS, available for patenting. Others also questioned whether the list, be it short or long, could actually be itself be sufficient to ensure food security, considering that the agreement will not affect the international agricultural trading system with its distortions, subsidies and other barriers to market access for developing countries.

The IT is now open for signature and will enter into force 90 days after ratification by at least 40 signatories, provided that at least 20 of the 40 signatories are Members of the FAO.

### **Background**

In some legal jurisdictions, it is possible to patent DNA sequences and chemical substances that have been isolated from plant material without any structural modification. Therefore a patent holder could restrict – subject to possible research exemptions – use of the protected sequence or compound by others, and even access if the patent covered the method of isolation. To some developed countries, allowing such patents is necessary to encourage innovation and disclosure of the 'invention'. But to many developing countries (and even some developed countries), they legitimise misappropriation of resources to which they have sovereign rights, and are contrary to the spirit of an international agreement that emphasises exchange rather than appropriation.



**Additional Resources**

For further information on the IU's trade implications, see BRIDGES Year 5, No. 6 (July-August 2001), p. 11 (<http://www.ictsd.org/English/BRIDGES5-6.pdf>). Documents of the meeting are available at <http://www.fao.org/waicent/faoinfo/agricult/cgrfa/IU.htm>. For daily coverage, see IISD Linkages at <http://www.iisd.ca/linkages/biodiv/iu-wg/>.

ICTSD Internal Files; ENB, Vol. 9 No. 213, 5 November 2001.

**MEXICO BIODIVERSITY PROJECT CANCELLED FOLLOWING NGO CRITICISM**

The US government on 9 November confirmed that the controversial Maya International Cooperative Biodiversity Group (ICBG-Maya) project on drug discovery, medical ethnobiology, biodiversity inventory, and sustainable development among the Maya of Highland Chiapas, Mexico, has been cancelled. The project, one of a series co-sponsored by three United States federal agencies, the National Institutes of Health (NIH), the National Science Foundation (NSF) and the US Department of Agriculture (USDA), began in 1998 and was scheduled to last for five years.

Organisations who had been strongly campaigning against the project -- including the locally-based Council of Indigenous Traditional Midwives and Healers of Chiapas (COMPITCH) and the Canadian NGO Rural Advancement Foundation International (now called ETC), who proceeded to launch an international campaign to stop the project -- enthusiastically welcomed the decision. "The definitive cancellation of the ICBG-Maya project is important for all indigenous peoples in Mexico," said Antonio Perez Mendez of COMPITCH. "Indigenous communities are asking for a moratorium on all biopiracy projects in Mexico," he added. "We want to insure that no one can patent these resources and that the benefits are shared by all."

The consortium running the project, consisting of the University of Georgia-Athens, Colegio de la Frontera Sur (ECOSUR), and Molecular Nature (a British biotech firm), claimed to have secured permission from 50 communities in 15 municipalities to carry out the project's activities, and to have received requests from eight Maya communities to help them set up medicinal plant gardens. The drug discovery element of the project, however, had attracted significant controversy, and the consortium found itself faced with intense criticism for allegedly committing biopiracy, failing to secure the prior informed consent of the Highland Maya to the satisfaction of these groups, and for violating the Convention on Biodiversity and International Labour Organization Convention 169 on Indigenous and Tribal Peoples (both of which Mexico is a party to) as well as Mexican law, the leader of the project.

**Additional Resources**

For further information, see the ECOSUR website at <http://www.ecosur.mx/icbg/default.htm>.

"US Government's \$2.5 Million Biopiracy Project in Mexico Cancelled Victory for Indigenous Groups in Chiapas", ETC GROUP, 9 November 2001, <http://www.etcgroup.org>; "Maya-ICBG Cancelled", GLOBAL EXCHANGE CHIAPAS, 15 November 2001; "A Maya ICBG Fact Sheet", Brent Berlin, University of Athens-Georgia, Jan. 2001.

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**Biotechnology**

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**EU RESISTS BIOTECH DISCUSSION IN SPS COMMITTEE**

At the meeting of the WTO Committee on Sanitary and Phytosanitary Measures (SPS) on 31 October to 1 November, the US and Canada strongly criticised Europe's continued de facto moratorium on the approval of genetically modified organisms (GMOs), in place since 1998. The EU reacted evasively to the criticism, arguing that the matter should instead be discussed in the Committee on Technical Barriers to Trade (TBT).

Despite frantic preparations for the WTO Ministerial Conference in Doha, Qatar (9-13 November), the SPS Committee meeting was well attended, with all the major players as well as many developing countries and representatives from capitals present. According to one trade source, the SPS Agreement is rapidly becoming a "hot topic" as WTO Members are increasingly recognising the importance of SPS measures as potential hidden trade barriers, in particular given the obligations under the Agreement on Agriculture to reduce other protective measures, such as export subsidies, tariffs and domestic support.

In what one trade source described as a "no-goer", the issue of GMOs was placed on the agenda of the SPS Committee for the first time when the US requested discussions on the European Commission's proposed labelling and traceability regulations (see BRIDGES Weekly, 31 July 2001; <http://www.ictsd.org/html/weekly/31-07-01/story5.htm>) in the context of 'non-trade concerns'. The EU, however, which had notified the proposed rules under the TBT Agreement, refused to enter into discussions, noting that the US should raise the matter in the TBT Committee which deals with questions of labelling. In a second attempt to force a discussion in the SPS Committee, the US -- supported by Canada -- again raised the issue under the agenda item 'other business'. The two countries strongly criticised the EU for the delay in implementing the necessary approval procedures for GMOs which they said had resulted in a significant trade impact. For its part, the EU reacted strongly to the US strategy, pointing out that substantive discussions under this agenda item contravened normal procedures and that they were not sufficiently prepared for a response.

As one trade source speculated, the EU, which has so far been reluctant to discuss the GMO issue at the WTO, is trying to restrict debates to the TBT Committee, as the TBT Agreement "doesn't really have teeth to bite them". In addition, the EU might want to avoid challenges under the SPS Agreement in light of its loss in the beef-hormone case which the US had brought against the EU under this Agreement (see BRIDGES Weekly 21-03-00, <http://www.ictsd.org/html/weekly/story8.21-03-00.htm>). However, the trade source also pointed out that the US would be free to invoke the SPS Agreement in a dispute and that the EU could find it difficult to justify that its proposed regulations do not fall within the scope of the Agreement.

Despite efforts by the European Commission to convince EU member states to lift the moratorium on GMO approvals, many EU member states have refused to do so until appropriate labelling and traceability regulations are in place. It will take at least another two years, however, until these regulations will enter into force (see BRIDGES Weekly, 30 October 2001; <http://www.ictsd.org/weekly/01-10-30/story4.htm>).

The next meeting of the SPS Committee is currently scheduled for 20-21 March 2002.

## Background

The SPS Agreement has two objectives, aiming to (i) recognise the sovereign right of Members to provide the level of health protection they deem appropriate, and (ii) ensure that SPS measures do not represent unnecessary, arbitrary, scientifically unjustifiable, or disguised restrictions on international trade. While requiring SPS measure to be based on science, the Agreement also allows WTO Members "in cases where relevant scientific evidence is insufficient" to provisionally adopt SPS measures. In such cases, Members are instructed to seek to obtain additional information necessary for a more objective risk assessment "within a reasonable period of time" (Art. 5.7). The Agreement furthermore encourages Members to base their SPS measures on international standards, guidelines and recommendations where they exist, recognising the Codex Alimentarius Commission (food safety), the Office International de Epizooties (OIE; animal health) and International Plant Protection Convention (IPPC; plant health) as international standard-setting bodies.

ICTSD Internal Files.

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## In Brief

**CBD ADVISORY BODY DISCUSSES FOREST TRADE.** At the seventh meeting of the Convention on Biological Diversity's Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA-7) (12-16 November), discussions focused mainly on forest and to some extent agricultural biodiversity. The deliberations on forest biodiversity covered a broad range of issues including trade, illegal harvesting, and the rights of indigenous peoples and local communities. The outcome of the meeting was a series of recommendations for the consideration of the CBD Conference of the Parties (COP) at its next meeting on 8-26 April 2002. The forest biodiversity recommendation outlines a suggested work programme, consisting of three elements, namely conservation, sustainable use and benefit sharing; institutional and socioeconomic enabling environment; and knowledge, assessment and monitoring. Among other issues, the work programme explicitly reflects the need to prevent the illegal importation of non-timber forest products not covered by the Convention on International Trade in Endangered Species of Fauna and Flora (CITES). Subject to its adoption by the COP, it would also investigate the impacts of illegal logging and trade. For daily coverage, see IISD Linkages at <http://www.iisd.ca/linkages/biodiv/sbstta7/>. Documents of the meeting are available at <http://www.biodiv.org/doc/meeting.asp?lg=0&wg=sbstta-07>.

**US KEEPS UP PRESSURE ON JAPAN TO HALT WHALING.** In response to the departure of the Japanese whaling fleet from Shimonoseki on 5 November, the US continued to put pressure on Japan to halt the annual hunt on Antarctic minke whale. Voicing the only significant official international criticism of the Japan's 2001-2002 whale hunt, US State Department spokesman Richard Boucher said that the US strongly backed international calls on Japan to stop the hunt, which Japan claims is only carried out for scientific purposes. Japan's decision to continue whaling despite concerns expressed by the International Whaling Commission (IWC) regarding a possible decline of the minke population was also strongly condemned by environmental groups. Greenpeace furthermore accused Japan of trying to obtain support from other nations ahead of the next meeting of the IWC in May 2002. "Japan wants a return to high seas whaling with factory ships, and it's willing to use bribery to get it," said John Bowler, Greenpeace campaign coordinator. "U.S. Pressures Japan to Stop Minke Whale Hunt," ENS, 13 November 2001.

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**Events & Resources**

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**EVENTS**

For a more comprehensive list of events in trade and sustainable development, please refer to ICTSD's web calendar at: <http://www.ictsd.org/html/calendar.htm>.

19-24 November, Bangkok, Thailand: FISH FOR PEOPLE. Conference on Sustainable Fisheries for Food Security in the New Millennium, organised by the ASEAN-South East Asian Fisheries Development Centre (SEAFDEC). For further information, contact the Conference Secretariat, fax (66 2 ) 940 6336; email: [secretariat@seafdec.org](mailto:secretariat@seafdec.org); Internet: <http://www.seafdec.org/>

25-30 November, Taiwan: 6TH ASIAN FISHERIES FORUM - TRIENNIAL MEETING OF THE ASIAN FISHERIES SOCIETY. The Forum will address various issues facing fisheries scientists and managers on a regional and global level, and will hold round table talks concerning the Asian sector's future, including capture fisheries, aquaculture and processing. For more information, contact: Mr. John Cooksey, tel: (1 760) 432-4270; fax: 432-4275; email: [meetingmanager@aol.com](mailto:meetingmanager@aol.com); Internet: <http://www.afs.tfrin.gov.tw> or <http://www.tfrin.gov.tw/AFS>

26-30 November, Helsinki, Finland: AD HOC WORKING GROUP ON THE INTERLINKAGES BETWEEN BIOLOGICAL DIVERSITY AND CLIMATE CHANGE. For further information contact: CBD Secretariat, Montreal, Canada; tel: (514) 288-2220; fax: 288-6588; e-mail: [secretariat@biodiv.org](mailto:secretariat@biodiv.org); Internet: <http://www.biodiv.org>. From Linkages: <http://www.iisd.ca/linkages/journal/>.

26 - 30 November, Montreal, Canada: GPA 2001 INTERGOVERNMENTAL REVIEW MEETING. Organised by UNEP's Global Program of Action for the Protection of the Marine Environment from Land-based Activities. For further information, contact the GPA Coordination Office, tel: (31 70) 3114460; fax: 345 6648; email: [gpa@unep.nl](mailto:gpa@unep.nl); Internet: <http://www.gpa.unep.org/igr/>

27-28 November, Geneva, Switzerland: WTO COUNCIL ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS).

27-29 November, Phnom Penh, Cambodia: WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT ASIA PACIFIC PREPARATORY MEETING. For further information contact: Hiroko Morita-Lou, UN-DESA, New York; tel: (212) 963-8813; fax: 963-4260; email: [morita-lou@un.org](mailto:morita-lou@un.org); Internet: [http://www.johannesburgsummit.org/web\\_pages/asia\\_pacific.htm](http://www.johannesburgsummit.org/web_pages/asia_pacific.htm).

27-30 November, Raleigh-Durham, US: LMOs AND THE ENVIRONMENT: AN INTERNATIONAL CONFERENCE. The Organisation for Economic Co-operation and Development (OECD) will host a conference to promote dialogue between developed and developing countries on the underlying science for assessing transgenic organisms in the environment. For further information contact: OECD; tel: (33 1) 4524-8097; fax: 4524-9437; email: [RaleighConference@oecd.org](mailto:RaleighConference@oecd.org); Internet: <http://www1.oecd.org/ehs/raleigh/index.htm>.

28-29 November, Montevideo, Uruguay: SYMPOSIUM ON THE INTERNATIONAL PROTECTION OF GEOGRAPHICAL INDICATIONS. Organised by the World Intellectual Property Organization (WIPO) and the National Directorate for Industrial Property (DNPI), Ministry of Industry, Energy and Mining of Uruguay. For further information contact: WIPO Secretariat, tel: (41 22) 338-9428; email: [francis.gurry@wipo.int](mailto:francis.gurry@wipo.int); Internet: [http://www.wipo.int/eng/meetings/2001/geo\\_mvdi/index.htm](http://www.wipo.int/eng/meetings/2001/geo_mvdi/index.htm).

29 November - 1 December, Flores, Peten, Guatemala: SECOND INTERNATIONAL MEETINGS OF SCIENTISTS: "PEASANT ECONOMY AND CHALLENGES FOR

SUSTAINABLE DEVELOPMENT IN THE SOUTHERN MAYA LOWLANDS OF GUATEMALA, MEXICO AND BELIZE." For further information contact: Silvel Elias at [selias@flacso.edu.gt](mailto:selias@flacso.edu.gt).

### Other Forthcoming Events

5 December, Geneva, Switzerland: UNEP/GEF BIOSAFETY PROJECT: A BRIEFING ON GOALS AND ACTIVITIES. The UNEP/GEF Biosafety Project will host this meeting to promote regional and sub-regional collaboration on issues relevant to developing countries' national biosafety frameworks. For further information, contact: The International Environment House; tel: (41-22) 917-8505; fax: 797-3464; email: [info@environmenthouse.ch](mailto:info@environmenthouse.ch); Internet: <http://www.environmenthouse.ch>.

10-14 December, Geneva, Switzerland: WIPO SECOND SESSION OF THE INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE. The following are on the agenda for this meeting: "Accreditation of certain Non-Governmental Organizations," "Operational Principles for Contractual Agreements Concerning Access to Genetic Resources and Benefit-Sharing," "Traditional Knowledge" which includes a review of current IPR protection, Folklore, and Future Work. For further information contact: WIPO Secretariat, tel: (41 22) 338-9428; email: [francis.gurry@wipo.int](mailto:francis.gurry@wipo.int); Internet: [http://www.wipo.int/eng/meetings/2001/igc/index\\_2.htm](http://www.wipo.int/eng/meetings/2001/igc/index_2.htm).

13-17 May 2002, Maracay, Venezuela: BIOSAFETY 3 - ADVANCED ISSUES ON BIOSAFETY: RISK MONITORING AND PUBLIC PERCEPTION OF BIOTECHNOLOGY. Organised by Centro Nacional de Investigaciones Agropecuarias/CENIAP (Maracay, Venezuela) and Centro Tecnológico Polar (Caracas, Venezuela). Postponed from 12-16 November 2001. For further information, contact: Dr. Efrain G. Salazar Yamarte; tel: (58-43) 471066; fax: 471066, 831421; email: [efra63@hotmail.com](mailto:efra63@hotmail.com); Internet: <http://www.icgeb.trieste.it/~bsafesrv/bsfn0011.htm>.

### RESOURCES

If you have a relevant resource (books, papers, bulletins, etc.) you would like to see announced in this section, please forward a copy for review by the BRIDGES staff to [hbaumuller@ictsd.ch](mailto:hbaumuller@ictsd.ch). Submissions of publications to ICTSD's documentation centre would also be welcome (contact [mgalvin@ictsd.ch](mailto:mgalvin@ictsd.ch)).

HARD FACTS, HIDDEN PROBLEMS: A REVIEW OF CURRENT DATA ON FISHING SUBSIDIES. Published by WWF, October 2001. The report concludes that fishing industry subsidies worldwide amount to US\$15 billion per year, as opposed to the US\$13 billion reported by governments, with Japan having the highest fishing subsidy levels, followed by the EU, the US, and China. Available online at [http://www.panda.org/endangeredseas/publications/hardfacts\\_oct26.pdf](http://www.panda.org/endangeredseas/publications/hardfacts_oct26.pdf).

TRADING AWAY THE LAST ANCIENT FORESTS: THE IMPACTS ON FORESTS OF TRADE LIBERALISATION MEASURES BY THE WTO. By R.G. Tarasofsky and S. Pfahl, Ecologic – Institute for International and European Environmental Policy, on behalf of Greenpeace International, November 2001. Available at <http://www.greenpeace.org/politics/wto/Doha/reports/wto.pdf>.

INTELLECTUAL PROPERTY IN BIODIVERSITY AND AGRICULTURE. Edited by Peter Drahos and Michael Blakeney. Published by Sweet and Maxwell, November 2001. The essays in this volume draw attention to a broad set of global biodiversity-related regulatory agendas with which intellectual property rights are now irrevocably linked, and address aspects of the failure to address the difficult relationship between intellectual property and the regulation of

food, agriculture, the environment, and health. Further information is available online at: <http://www.sweetandmaxwell.co.uk/products/cat/mydetails.cfm?title=107625&detail=126830>.

"The economic consequences of alien plant invasions: examples of impacts and approaches to sustainable management in South Africa," by B.W. van Wilgen et al, in ENVIRONMENT, DEVELOPMENT AND SUSTAINABILITY, 3 (2), 2001: 145-168. The paper reviews what is known of the economic consequences of alien plant invasions in South Africa. These economic arguments have been used to successfully launch the largest environmental management programme in Africa.

"Ecologically unsustainable trade," by J. O. Andersson and M. Lindroth in ECOLOGICAL ECONOMICS, 37 (1, 2001): 113-122. In this article, the ecological footprint concept is used to distinguish different types of ecologically unsustainable trade, but the issue of the possible effects of trade on the ecological footprints is also raised. The authors argue that since international trade can be a subtle mechanism by which ecological sustainability is preserved locally by means of importing biomass and sink-capacity from other countries, it can also blur the view of responsibility for the ecological effects of production and consumption. At the end of this article, some ethical and political dilemmas related to these issues are raised.

FOOD FOR ALL: CAN HUNGER BE HALVED? By the Panos Institute, 2001. The report, inter alia, looks at the question whether trade liberalisation should be seen as part of the solution to world hunger, or part of the problem. Available online at [http://www.panos.org.uk/food\\_for\\_all.htm](http://www.panos.org.uk/food_for_all.htm).

### Electronic Resources

INTERPORTAL.CH. This internet portal for cooperation and development was implemented by the Swiss Coalition of Development Organisations, Erklärung von Bern, cinfo, Swisssaid and the Swiss Tropical Institute, and will involve over 30 organisations, including charities, political and cultural organisations. Interportal.ch aims to enable a wide range of groups to exchange varied information and to network by providing up-to-the-minute news, background reports, as well as campaign and event announcements. The main language of the portal is German, with French and English versions to be introduced over time. For further information, see <http://www.interportal.ch>

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