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## Biotechnology

### US REQUESTS WTO CONSULTATIONS WITH EU ON BIOTECH MORATORIUM

The US on 13 May officially requested consultations with the EU over its continued de facto moratorium on the approval of genetically modified organisms (GMO). Canada has also filed a separate request while Argentina and Egypt have expressed their intention to follow suit. The countries allege that the moratorium poses an unjustified trade barrier in violation of various WTO Agreements. The European Commission expressed regret at the request, which it described as "legally unwarranted, economically unfounded and politically unhelpful". Civil society groups were also quick to attack the decision, accusing the US to trying to force biotech foods on European consumers.

### US denies possible link to FSC case

US Trade Representative Robert Zoellick has requested consultations on the continued de facto moratorium, in place since 1998, and national marketing and import bans on approved products in certain EU member states. In his official request, he alleged that these measures were inconsistent with the Agreements on Sanitary and Phytosanitary Measures (SPS), on Technical Barriers to Trade (TBT) and on Agriculture, as well as the General Agreement on Tariffs and Trade. "The EU's persistent resistance to abiding by its WTO

obligations has perpetuated a trade barrier unwarranted by the EC's own scientific analysis," Zoellick noted. "With this case, we are fighting for the interests of American agriculture," added Agriculture Secretary Ann Veneman. The US, Canada, Australia, Argentina and others have repeatedly criticised the EU moratorium in the WTO's TBT and SPS Committees as not workable, not enforceable, costly and more trade-restrictive than necessary (see BRIDGES Trade BioRes, 27 June 2002; <http://www.ictsd.org/biores/02-06-27/story3.htm>). Australia, Chile, Colombia, El Salvador, Honduras, Mexico, New Zealand, Peru and Uruguay have voiced their intention to join the case as third parties.

Trade sources speculated that the decision to request consultations at this time might be linked to the EU's recent move to seek authorisation in the WTO for retaliation in the Foreign Sales Corporation dispute (see related story, this issue). Zoellick, however, strongly denied the link, insisting that these were "separate tracks" and that the European Trade Commissioner Pascal Lamy shared this view. Regarding the current round of negotiations, WTO Director-General Supachai Panitchpakdi did not believe that the dispute would negatively impact the negotiations, but "would take place along the normal procedural lines". His view was echoed by Canada's Ambassador to the WTO Sergio Marchi and Ambassador Alfredo Chiradia of Argentina. "I don't see this having any impact on the Doha Round because we have had so many disputes in the past that have not prevented us from moving ahead with our business," said Chiradia.

### **Commission questions motives behind WTO challenge**

Lamy, however, has openly questioned the US' "real motive in bringing the case". "The EU's regulatory system for GMO's authorisation is in line with WTO rules: It is clear, transparent and non-discriminatory," he noted. "There is therefore no issue that the WTO needs to examine". David Byrne, European Commissioner for Health and Consumer Protection, stressed the EU's efforts to bring their regulatory system in line with "the latest scientific and international developments," which he said was "essential to restore consumer confidence in GMOs' in Europe". The Commission noted the importance of adequate approval procedures to ensure health and environmental protection, to avoid problems such as those recently experienced in the US, including the StarLink contamination. They also attacked the US for using developing countries' "legitimate concerns" regarding GM food aid against the EU GMO policy, arguing that these countries had the right to set their own level of protection.

The EU de facto moratorium has been in place since October 1998, following calls by Denmark, Greece, France, Italy and Luxembourg for the suspension of new authorisations pending the adoption of rules ensuring labelling and traceability of GMOs and GMO-derived products. Work on labelling and traceability regulations are still underway and the draft regulations have been submitted to the European Parliament for a second reading. At the 4 March Council of Environment Ministers meeting, the Commission announced that GMO approvals were expected to restart later this year, possibly in autumn (see BRIDGES Trade BioRes, 10 March 2003; <http://www.ictsd.org/biores/03-03-10/story1.htm>).

### **Civil society groups outraged**

Environmental and consumer groups were quick to attack the US decision. "This may be the moment of truth for the future of GM food in Europe, and future trade relations between the European Union and United States," said Alexandra Wandel of Friends of the Earth Europe. "If this [case] succeeds, the US will force GM foods onto European markets regardless of the wishes of consumers". Lori Wallack, Director of Public Citizen's Global Trade Watch, accused the US administration of undercutting democracy with its challenge, warning that the case "will become Exhibit No. 1 in the growing worldwide attack on the WTO's legitimacy". The concerns were echoed by Ben Ayliffe of Greenpeace. "The USA is determined to protect its agricultural export industry in line with its policy of emphasising trade protectionism ahead of the interests of the environment," he said.

Consultations to find a solution at the bilateral level usually take 60 days, after which the US can request the establishment of a WTO panel to assess the dispute (possibly by the end of September). If the panel rules in favour of the US, the EU can appeal the ruling to the WTO Appellate Body, which is required to hand down

its decision within three months. The entire dispute settlement process usually takes 12-18 months to complete. Even if the EU were to lift the moratorium while the panel was still considering the case, the US might still ask the panel to reach a final decision on the case "for precedential purposes", according to John Veroneau, General Counsel at the Office of the USTR.

### **Additional Resources**

For links to relevant documents, press releases and past coverage, see [http://www.ictsd.org/issarea/environment/biotech\\_case.htm](http://www.ictsd.org/issarea/environment/biotech_case.htm)

ICTSD reporting; " U.S. May Continue to Pursue GMO Case At WTO Even if EU Lifts De Facto Import Ban," WTO REPORTER 15 May 2003; "US opens legal proceedings against EU at WTO over moratorium on biotech imports," WTO REPORTER, 14 May 2003; "Moment of truth over GM as US files WTO complaint," FOEE, 13 May 2003; "U.S. and cooperation countries file WTO case against EU moratorium on biotech foods and crops," USTR, 13 May 2003; " European Commission regrets US decision to file WTO case on GMOs as misguided and unnecessary," DG TRADE, 13 May 2003; "Bush administration undercuts democracy by challenging European moratorium on genetically modified organisms," PUBLIC CITIZEN, 13 May 2003; "USA launches trade war with Europe over GM foods," GREENPEACE, 13 May 2003.

### **Forestry**

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#### **TRADE ISSUES EXPECTED TO FEATURE AT UPCOMING UN FOREST FORUM**

The third session of the UN Forum on Forests (UNFF-3), meeting from 26 May to 6 June in Geneva, Switzerland, will focus on three priority areas that include the economic aspects of forests; forest health and productivity; and maintaining forest cover to meet present and future needs. A number of trade-related issues are expected to feature in the context of the first of these areas (economic aspects of forests), including certification, subsidies and market access, as outlined in a supporting document prepared by the World Bank. The paper stresses the significant impact that macro-economic policies, such as trade liberalisation and the removal of export controls, can have on forest management, emphasising the need for forest concerns to be mainstreamed into overall economic development and poverty reduction strategies.

#### **Certification and labelling for sustainable forest management**

The World Bank paper notes the "considerable progress" made in the use of market-based tools to promote trade in forest products from sustainably managed forests, such as certification of forest management and labelling of forest products. These tools could also play an important role in combating illegal trade in forest products, which according to World Bank estimates has led to losses of more than USD 10 billion, eight times the total ODA flows into sustainable forest management. While the importance of voluntary certification schemes in achieving the objective of sustainable forest management was also stressed at UNFF-2, several delegates, in particular from developing countries, cautioned that such schemes should not be used as a barrier to trade for tropical timber (see BRIDGES Trade BioRes, 4 April 2002; <http://www.ictsd.org/biores/02-04-04/story6.htm>).

At the WTO, eco-labelling has been discussed more generally at the WTO Committee for Trade and Environment (CTE) based on the mandate by the Doha Work Programme to give particular attention to labelling requirements for environmental purposes in its work. Members remain far from agreement on how to address this issue at the CTE. The body is struggling with how it can add value to an issue area that most Members prefer to deal with at the Committee on Technical Barriers to Trade (TBT). Canada has put forward a framework for informal, structured discussions on labelling in the TBT Committee in an effort to develop a better understanding of the practical steps that need to be followed in developing labelling measures (G/TBT/W/174/Rev.1). While broadly welcoming Canada's efforts, many developing -- and some developed -- countries remain wary of engaging in extensive discussions on this issue due to concerns that stronger eco-labelling regimes could prove a barrier to their market access.

## **Eliminating perverse subsidies**

According to the World Bank paper, perverse subsidies that may result in deforestation and forest degradation are estimated to amount to about USD 14 billion per year. This includes implicit (or concealed) subsidies, such as low stumpage prices arising from inefficient rent collection and artificially depressed log prices due to trade restrictions. The removal of perverse subsidies, while likely to improve the climate for sustainable forest management, has proven difficult in the past due to "vested group interests", the paper asserts, adding that due to the potentially adverse impacts, this issue "should be an important area for future scrutiny, analytical clarification and action". In this context, the paper notes the opportunity offered by the Doha trade round for reducing agricultural subsidies, which can have an adverse impact on the forest sector by encouraging unwarranted land conversion.

In contrast to fisheries subsidies, forest-related subsidies have not been singled out as a distinct sector in the ongoing discussions in the WTO Negotiating Group on Rules (see related story, this issue). Rather, they are addressed within the broader debate on clarifying and strengthening the disciplines under the WTO subsidies agreement as part of the Doha mandate. Specific subsidy-related concerns have been raised in the US-Canadian softwood lumber dispute over Canadian stumpage fees -- a tax on each harvested tree -- which the US alleges are below market value and therefore constitute a subsidy to Canadian lumber producers (see related story, this issue; BRIDGES Trade BioRes, 16 May 2002; <http://www.ictsd.org/biores/02-05-16/story2.htm>). The US' view was supported by the Canadian First Nations group Interior Alliance, which goes even further, alleging that the non-recognition of Aboriginal land rights constitutes a subsidy under international trade law.

## **Improved market access for forest products**

While acknowledging the recent improvements in market access for forest products that have resulted from the Uruguay Round of trade negotiations, the World Bank paper stresses that more needs to be done to improve market access, especially with regard to non-tariff barriers and unilateral measures. This applies in particular to local communities who should be supported in the processing and marketing of forest products. In this context, the paper cites the ongoing negotiations on reducing tariff and non-tariff barriers for environmental goods and services as part of the Doha trade round, and suggests that UNFF-3 could assess ways of working collaboratively with the WTO on this issue, including ongoing efforts at the WTO to agree on a definition of environmental goods.

At UNFF-2, developing countries had proposed language calling for the elimination of tariff and non-tariff barriers on forest products in the context of the WTO Doha agenda. Following opposition from several developed countries, however, the final decision simply urged countries to promote sustainable forest management "through trade policies and practices, including in the WTO" and "to negotiate in the context of the Doha Work Programme".

Similar to forest-related subsidies, forest products have been discussed more generally in the context of market access negotiations, rather than as a specific sector. At the Negotiating Group on Market Access, Canada has expressed its support for negotiations of new "zero-for-zero"(duty-free) sectoral agreements, which could also cover forest products (TN/MA/W/9). This suggestion, however, was rejected by Japan, which argued that it could seriously impede the promotion of sustainable forest management (TN/MA/W/15/Add.1). Japan, which maintains relatively high levels of protection for its forest industry, stressed the importance of retaining flexibility when determining appropriate tariff levels to allow domestic and international factors to be taken into account.

In the context of environmental services, the EC submitted a communication in 1999 on classification issues in the environmental sector, which includes protection of forests and promoting sustainable forestry in the list of environmental services (S/CSC/W/25). However, the proposal has so far not received major backing from other countries and discussions at the WTO on how to define environmental goods and services continue (see related CTE story, this issue). In the context of the International Tropical Timber Organisation

(ITTO), emerging markets for forest services include: watershed protection; ecotourism; carbon sequestration; and biodiversity protection (see BRIDGES Trade BioRes, 21 November 2002; <http://www.ictsd.org/biores/02-11-21/story3.htm>).

BRIDGES Trade BioRes will report on the outcomes of UNFF-3 in the forthcoming issues.

### Additional Resources

WTO documents are available at <http://docsonline.wto.org>.

World Bank paper on economic aspects of forests and other UNFF-3 documents:

<http://www.un.org/esa/forests/documents-unff.html>

Daily coverage of UNFF-3: <http://www.iisd.ca/forestry/unff/unff3/>

ICTSD reporting.

### Fisheries

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#### WTO: EU TAKES LONG-AWAITED NEW STANCE ON FISHERIES SUBSIDIES

At the 5-7 May meeting of the WTO Negotiating Group on Rules, the EU presented a new proposal on fisheries subsidies. While the EU has in the past been reluctant to address fisheries subsidies in the WTO, the submission takes a more proactive stance following the adoption of the EU Common Fisheries Policy reform in late 2002 where EU member states had agreed to phase out subsidies for the renewal of fishing vessels (see BRIDGES Trade BioRes, 23 January 2003, <http://www.ictsd.org/biores/03-01-23/story2.htm>),

The European submission (TN/RL/W/82, available at <http://docsonline.wto.org>), which the EU stressed was based on hard-learned experience rather than a theoretical approach, proposes that capacity-enhancing subsidies -- i.e. subsidies for marine fishing fleet renewal and for permanent transfer of fishing vessels to third countries -- would be prohibited (subsequently referred to in discussions as "red box" subsidies). A separate "green box" of permitted subsidies would be created for subsidies aimed at reducing fishing capacity and mitigating adverse social and economic effects of the restructuring of the fishing sector. These would include subsidies for scrapping vessels, retraining fishermen, early retirement schemes, economic diversification, temporary breaks in fishing activities, modernisation of fishing vessels to improve safety, product quality or working conditions, and for promoting environmentally friendly fishing methods, as long as output was not increased. The "boxes" would be up for revision as necessary. Subsidies in the "green box" would have to be reported to the Committee on Subsidies and Countervailing Measures on a regular basis, and made available to the public. The submission also highlights the importance of resource management, noting that the FAO, OECD and UNEP may be better placed than the Negotiating Group to carry out this work.

A number of interventions were made during the meeting, welcoming the proposal. Some Members of the "Friends of Fish" group (that includes the US, Argentina, Chile, Iceland, New Zealand, Norway and Peru) said they felt that while the EU proposal was a good starting point it did not go far enough, and the category of prohibited subsidies needed to be further developed. One Member commented that there was no need to negotiate a "green box" until a much broader "red box" was agreed. Japan and Korea, who oppose addressing fishing subsidies in the WTO, engaged actively in the discussions, but their positions have become increasingly marginalised. One trade negotiator noted that significant momentum had been gained on this issue and there was no turning back. He commented that the EU paper in combination with an initial US paper (TN/RL/W/77), submitted at the previous Negotiating Group meeting, and a "Friends of Fish" background paper on categories of fisheries subsidies (see BRIDGES Weekly, 26 March 2003, <http://www.ictsd.org/weekly/03-03-26/story2.htm>) formed a solid basis from which to move ahead.

The environmental group WWF welcomed the EU proposal, stressing the significance of the EU -- a former opponent of discussions -- now supporting stronger rules on fishing subsidies. The group noted, however, that the proposal could go further with regard to banned subsidies, urged caution with regard to the proposed "green box" subsidies, and suggested a more proactive approach to special treatment for developing countries, including positive subsidies to support sustainable and local, artisanal fishing methods.

Also at the meeting, China introduced a paper (TN/RL/W/94) welcoming and commenting on the US paper. The paper draws attention to the special role of aquaculture, noting its "contribution to the protection of the world's marine fisheries resources" and food supply and food safety. Aquaculture is a rapidly growing sector and accounted for 27 percent of global fish supplies in 2000, according to the FAO's State of World Fisheries and Aquaculture. Various civil society groups have repeatedly raised concerns over the environmental impacts of aquaculture. In a report released in February, WWF warned that aquaculture was contribution to the pressure on already threatened fish stocks due to the large amounts of fishmeal and fish oil required to feed farmed fish (see <http://www.panda.org/downloads/marine/foodforthoug.pdf>).

ICTSD reporting; "WTO: fisheries subsidies - EU tables proposal for sustainable fishing," EC PRESS RELEASE, 22 April 2003.

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## Environment at the WTO

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### MEA SECRETARIATS AMBIVALENT ABOUT WTO ENVIRONMENT NEGOTIATIONS

WTO Members convened on 1-2 May for a special (negotiating) session of the Committee on Trade and Environment (CTE), where discussion focussed on the relationship between the WTO and so-called 'specific trade obligations' in multilateral environmental agreements (MEAs). Although the question of formal observer status has yet to be decided, secretariats from six trade-related MEAs attended as ad-hoc invitees, and responded to questions from Members. Several secretariat representatives expressed frustration with the process, questioning the value of putting resources into their involvement in the discussions at the WTO if their presence might simply serve to legitimise a WTO decision.

In paragraph 31 of the Doha Declaration, adopted in November 2001, Members agreed to negotiations on: (i) the relationship between WTO rules and specific trade obligations set out in MEAs; (ii) procedures for regular information exchange between MEA secretariats and relevant WTO committees, and the criteria for granting of observer status; and (iii) liberalisation of trade in environmental goods and services.

### MEAs circumspect about CTE role

An MEA secretariat official expressed disappointment with the format after the session, saying that while secretariat representatives were happy to have been invited, they were not given an opportunity to make interventions beyond answering questions from WTO Members. "It was an experiment," the official said, "we listened, and were given an opportunity to speak at the end. But we do not want to be there just to legitimise an eventual WTO decision." Frustration at the process in general was evident, as one MEA source said it was not clear that MEAs had anything to gain from devoting resources to the WTO-MEA endeavour, particularly as they did not see any sign that the WTO negotiations were helping them to implement their own MEA mandates. Some MEA secretariats were further constrained in responding to queries, sources said, because they were not in a position to provide advice without a mandate from their Parties.

The MEA secretariats were asked to leave the session after the discussion around para. 31(i) on the relationship between WTO rules and STOs, and were not present for the ensuing debate around para. 31(ii) on information exchange and observer status. While 31(ii) includes the sensitive sub-topic of criteria for observer status for MEAs, the session focused rather on procedures for regular information exchange between MEA secretariats and relevant WTO committees. One MEA official found this to be somewhat ironic, and questioned how they were supposed to figure out how to exchange information if they were not even allowed in the room.

According to sources who attended the meeting, many developing countries were wary of granting MEA secretariats too much of an expansive role, as they would like to keep the discussions at a slower pace and fear that substantive MEA participation could speed the talks up prematurely. Egypt was also worried that the presence of MEAs beyond a purely question-answering role might prejudice the outcome of broader talks on observer status at the General Council level.

The following secretariats attended: UN Environment Programme (UNEP), the Basel Convention; the Convention on Biological Diversity (CBD); CITES; the International Tropical Timber Organization (ITTO); the Montreal Protocol, and the United Nations Framework Convention on Climate Change (UNFCCC).

It remained unclear whether MEA secretariats would be asked back to the next session, given the ongoing impasse on observer status in the Doha negotiating sessions. The next meeting of the CTE special session on 8 July will be primarily geared toward finalising the CTE's report to the Cancun Ministerial in September, and is therefore unlikely to involve MEA secretariats. Informal consultations will be held on 22 May, at which point it is expected that MEA representation will be addressed, particularly with regard to the October session of the CTE.

### **MEA-WTO: divergent approaches**

At the meeting, most Members continued to press for a bottom-up, or an 'STO approach' that would base discussions on examples of specific trade obligations in MEAs. Members at this stage are still attempting to define what constitutes an STO, which MEAs should be considered, and ultimately how to go about clarifying the WTO-MEA relationship. A WTO Secretariat paper compiling submissions thus far on 31(i) (TN/TE/S/3/Rev.1, available at <http://docsonline.wto.org>), and an updated matrix on trade measures pursuant to selected MEAs (WT/CTE/W/160/Rev.2) were released to help underpin the discussions.

The EC and Switzerland, which were demandeurs on trade and environment at Doha, reiterated their view that broader concepts -- such as the mutual supportiveness of trade and environment -- should be elaborated by examples, but that a list of qualifying STOs should not be exclusive or exhaustive. A submission from Hong Kong, China (TN/TE/W/28), however, noted that it was not easy to generalise a set of common criteria for defining STOs, nor was it feasible to find a one-size-fits-all solution, and that some tailor-made solutions for identified STOs might be required.

The meeting showed that developing countries in particular have become more engaged. Most developing countries have tended to view the environment mandate with suspicion, and regard it as primarily an issue pushed by the Europeans. As a result, most are looking to limit the mandate so as to prevent it from expanding to include issues that could constrain their future market access. They are in general supported in this position by the US and Canada, who advocate that STOs be both specific and mandatory. At the CTE meeting, the support for a very specific definition of STOs was reflected in submissions by Malaysia (TN/TE/W/29), Argentina (TN/TE/W/2) and India (TN/TE/W/23).

### **Kenya looks to broaden discussion on environmental goods**

During discussions on para. 31(iii) on environmental goods and services, countries for the most part reiterated previously-stated positions on environmental goods (see BRIDGES Trade BioRes, 21 February 2003, <http://www.ictsd.org/biores/03-02-21/story1.htm>). Kenya, however, suggested that Members look beyond the current definitions of environmental goods -- which for the moment are based on lists from the Asia Pacific Economic Cooperation forum (APEC) and the Organization for Economic Cooperation and Development (OECD) -- to include products of export interest to developing countries. Kenya referred in particular to goods such as organic agricultural products, and indicated that it planned on submitting its list at the next meeting of the CTE special session. The US told Kenya that it was interested in exploring this idea. Such an initiative would likely be supported, one trade source said, by the EC and Switzerland, and just might be acceptable to other developed countries. But some other developing countries that fear the

definition could expand to include goods produced in an environmentally-friendly fashion (so-called process and production methods, or PPMs) would be likely to resist such a move, the source said.

### **CTE regular session**

The CTE met for its regular session on 29-30 April, where delegates focused on the 'non-negotiating' mandate contained in the Doha Declaration. This included EC papers on TRIPs - CBD (EC, WT/CTE/W/223), and on eco-labelling based on a life-cycle approach (WT/CTE/W/225), a Japanese proposal on fisheries subsidies and over-fishing (WT/CTE/W/226), and presentations on the environmental aspects of Doha round talks on rules (WT/CTE/GEN/10) and services (WT/CTE/GEN/11). Many Members told the EC that eco-labelling should be addressed at the TBT Committee, and that ambiguity remained over life-cycle analysis. Japan was overwhelmingly asked to raise its issue in the Negotiating Group on Rules under the rubric of fisheries subsidies.

ICTSD reporting.

### **Chemicals**

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#### **EUROPEAN COMMISSION RELEASES DRAFT CHEMICALS LEGISLATION**

The European Commission released its long-awaited proposal for the EU's new chemical legislation on 7 May for an eight-week public consultation process. Many experts have described the proposal as the most important piece of environmental legislation for a decade because of its enormous scope. European industry groups have expressed serious concerns about the legislation's impact on the competitiveness of the European chemical industry while US businesses and government officials have strongly criticised the proposal for its expected impact on international trade. For their part, environmental groups have accused the Commission of deliberately delaying the process, while noting that the proposal failed to endorse key components of the originally proposed strategy.

Termed REACH (Registration, Evaluation, Authorisation and Restrictions of Chemicals), the legislation, which is based on a White Paper adopted by the Commission in June 2001, would replace 40 different pieces of current legislation. Among the most fundamental changes are provisions that would shift the burden of proof for the safety of chemicals from public authorities to companies that produce, import and use chemicals. The legislation would be administered by a new European Chemicals Agency. Direct and indirect costs for industry and society could amount to ca EUR 15-33 billion, while the occupational health benefits are estimated to reach EUR 18-54 billion over the next 30 years.

Registration and approval procedures would vary depending on the amount of chemicals manufactured or imported, and the level of risk. While about 80 percent of all chemicals would only need to be registered, authorisation would be required for substances of "very high concern," such as carcinogens, mutagens and reproductive toxicants, subject to a risk assessment. To obtain authorisation for a specific use, the applicant would have to show that the risk from the use was adequately controlled or that socio-economic benefits outweighed the risks.

#### **Industry and US administration raise competitiveness and trade concerns**

While supporting the European Commission's efforts to develop a new chemicals policy, European industry groups expressed serious concerns over the impact of the proposed regulations on the industry's competitiveness. The European Chemical Industry Council (CEFIC) criticised the proposal as too one-sided in concentrating on environmental and health protection. "There is more at stake than just the environment," CEFIC stressed. "The issue is sustainability, and thus specifically the jobs and prosperity of people in Europe". Strong criticism was also voiced by the US industry, which regards the proposal as excessive, bureaucratic and unnecessary.



The US administration also attacked the initiative as costly, burdensome and lacking a scientific basis, thereby echoing similar criticisms levelled at the EU's biotech policy. "This is a big game; it will dwarf the GMO [genetically modified organism] dispute," said William Lash, Assistant Secretary of Commerce for Market Access and Compliance. Both industry and government sources have alleged that the proposed legislation could unnecessarily restrict trade and be in violation of WTO rules. The US Secretary of State Colin Powell in a note sent to US embassies in Europe warned that the new system "could present obstacles to trade and innovation, possibly distorting global markets for thousands of products".

### **Civil society groups frustrated with delays and details**

Environmental groups, including the European Environmental Bureau, Friends of the Earth, Greenpeace and WWF, expressed their frustration with the Commission's decision to extend the consultation period from five to eight weeks, which meant that the proposal could not be brought before the European Parliament before the 2004 elections, and thus would be delayed by at least a year. They also highlighted the Commission's failure to endorse some key components of the regulation as set out in the White Paper, including an obligation on industry to stop using hazardous chemicals where alternatives were available, and the principle of public right to know.

In addition, the groups noted that the proposal failed to provide adequate protection from chemicals in imported products, as it only required importers to register chemical substances "if during normal use and disposal they are released in quantities of over 1 tonne [per article type] and may adversely affect human health or the environment". Such a requirement, they argued, would be difficult to verify and enforce, and would effectively place the burden of proof on the authorities rather than the importers. Despite these shortcomings, they recognised the potential for REACH to "set a new global standard for corporate environmental responsibility," according to Daryl Ditz of WWF-US.

Civil society sources noted that while the language and logic of precaution was weaker in the proposal than it had been put forward in the White Paper, REACH had the potential to provide a concrete mechanism for precaution. This was reflected in the "no data, no market" approach to all chemicals in the draft text. However, the proposal failed to adequately apply precaution to chemicals of very high concern by not incorporating a strong substitution test to assess whether dangerous substances could be substituted by less dangerous ones where suitable alternatives are available.

For further information on the EU's chemical policy, see  
<http://europa.eu.int/comm/enterprise/chemicals/chempol/whitepaper/whitepaper.htm>.

ICTSD reporting; "Europe Plan on Chemicals Seen as Threat to U.S. Exports," DOW JONES, 8 May 2003; "Chemical industry says new EU chemicals policy is unworkable," EDIE, 9 May 2003; "Delay and indecision as Prodi Commission fails to protect us from hazardous chemicals," EEB, FOI, GREENPEACE & WWF, 7 May 2003; "Press Statement," CEFIC, 6 May 2003; "WWF sees global benefits in proposed EU chemical reforms," ENN, 7 May 2003; "Manufacturers face EU crackdown on risky chemicals," INDEPENDENT, 8 May 2003.

### **In Brief**

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#### **SCIENTIFIC STUDIES SEND WAKE-UP CALL TO FISHERY MANAGERS AND GOVERNMENTS**

On 14 May German and Canadian scientists released the findings of a long-term study, which concludes that ninety percent of all large fish in the world's ocean have been depleted over the past 50 years. The study, which was conducted over a ten year period, is based on data from all major global fisheries, in particular industrial fisheries, and shows that species such as giant blue marlin, bluefin tuna, tropical groupers and Antarctic cod will be extinct very soon if current fishing levels persist. "The findings of the [...] study should be a wake-up call to fishery managers and regulators all over the world," said Michael Hirshfield, chief scientist of the ocean conservation group Chesapeake Bay Foundation. "Without immediate action fishery

managers will have nothing left to manage and fishermen will have nothing left to catch." The study, which appeared in the 15 May issue of the journal *Nature*, encourages fishing nations to reduce quotas, reduce overall fishing effort, cut subsidies, reduce bycatch, and create networks of marine reserves in order to stabilise fish stocks worldwide.

In related developments, IUCN - The World Conservation Union released a new publication on the status of the world's cetaceans - whales, dolphins and porpoises. The study conducted by the IUCN Cetacean Specialist Group (CSG) warns that smaller species such as the Yangtze River dolphin will be extinct within the next ten years if fishing methods remain unchanged. Several other cetacean populations are also threatened by extinction according to IUCN due to unsustainable fishing methods and bycatch. "Some of the great whales such as the blue, humpback, sperm and right whales often receive a lot of attention. They are magnificent animals, and certainly important [...] however smaller species, often lesser-known are particularly threatened with extinction," says Dr Randall Reeves, Chair of the CSG.

"Dolphins, Whales and Porpoises: 2002-2010 Conservation Action Plan for the World's Cetaceans", IUCN CSG, 2003; <http://www.iucn.org/themes/ssc/actionplans/cetaceans/cetaceans.pdf>

"Great Fish Going the Way of the Dinosaurs," ENS, 14 May 2003; "Small cetacean species may not survive another decade warns new landmark publication," IUCN, 14 May 2003.

#### **INDONESIAN RAMIN WORTH MILLIONS TRADED ILLEGALLY AROUND THE WORLD**

According to a new report released by the London-based Environmental Investigative Agency (EIA) and the Jakarta-based Telapak, Malaysia and Singapore are trading heavily in *ramin* wood, a hardwood species protected under the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES). The two groups have now called for a worldwide boycott of *ramin*. The timber, which is used for picture frames, furniture, window blinds, pool cues and tool handles, is logged in Indonesia and then smuggled to Malaysia and Singapore from where it is sold internationally. The Indonesian government has tried to halt the illegal logging by putting up a ban on the export of raw logs in 2001. However, so far the ban has had minimal effect. According to the EIA, illegal loggers are paid USD 2.20 per cubic meter of *ramin*, which fetches a price of up to USD 1,000 on the international market. It has been estimated that the Indonesian rainforest will have disappeared within five to seven years if the illegal logging continues.

In related developments, US President George W. Bush and Singapore's Prime Minister Chok Tong Goh signed the US/Singapore Free Trade Agreement, which will strengthen the trade relationship between the two countries. EIA President Allan Thornton called on Bush to "persuade Singapore Prime Minister Goh Chok Tong to ban the trade in illegally cut timber and enact meaningful enforcement before the administration and Congress finalise the Free Trade Agreement." Environmental groups argue that Singapore's laws are too loose and do not facilitate adequate customs and regulatory controls over products which are imported or transshipped.

"Illegal trade alleged for Indonesian wood", Los Angeles Times, 9 May 2003; "US/Singapore Trade Pact Marred by Smuggling Claim" ENS, 6 May 2003.

#### **UK GOVERNMENT RESPONDS TO CIPR REPORT**

The UK government has issued its reaction to the report of the UK Commission on Intellectual Property (see BRIDGES Trade BioRes, 26 September 2002, <http://www.ictsd.org/biores/02-09-26/story2.htm>), providing responses to the more than 50 CIPR recommendations. While stressing the "vital role" intellectual property rights (IPRs) can play for development, Secretary of State for International Development Clare Short and Secretary of State for Trade and Industry Patricia Hewitt echoed the Commission's view that an "intellectual property system cannot of itself ensure a country attains its developmental goals". They also agreed with the Commission that IPRs should be "tailored to take into account individual countries' circumstances within the framework of international agreements such as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs)". The response acknowledged the importance of the flexibilities contained in Article 27.3(b) of the TRIPs Agreement for developing countries, including the option of *sui generis* systems that

could take into account farmers' rights and restrict the application of patenting in biotechnology. At the same time, the response stressed the obligation under the TRIPS Agreement to "provide patents for inventions involving microbiological and non-biological processes, which would include genetic modification technology".

The response is available at [http://www.iprcommission.org/papers/text/govt\\_response/govt\\_response.htm](http://www.iprcommission.org/papers/text/govt_response/govt_response.htm).

ICTSD reporting.

### **SOFTWOOD LUMBER PANEL TO BE ESTABLISHED**

On May 7 2003, the Dispute Settlement Body approved the establishment of a panel on the United States – Investigation of the International Trade Commission in Softwood Lumber from Canada (WT/DS277, searchable at <http://docsonline.wto.org>). The request was the second one made by Canada in this regard, and the panel will be established despite objections from the US. The US had claimed that "objective facts had shown the threat of material injury for US industry" and Canada's claim therefore lacked merit. At the same meeting, the EC and Japan reserved their rights to participate as third parties in the dispute. In this dispute, Canada challenges a decision by the US International Trade Commission allowing the application of anti-dumping and countervailing duties on Canadian softwood lumber (BRIDGES Trade BioRes, 16 May 2002; <http://www.ictsd.org/biores/02-05-16/story2.htm>). The next step is the selection of individuals to serve on the panel, which has to be done within the next twenty days.

ICTSD reporting.

### **CSD MOVES TOWARDS IMPLEMENTING WSSD OUTCOMES**

During the eleventh session of the United Nations Commission on Sustainable Development (CSD), which took place from 28 April to 9 May in New York, delegates agreed on a 12-year work programme for the Commission. In particular, delegates decided how the CSD was going to implement the commitments of the Johannesburg Plan of Implementation adopted at the World Summit on Sustainable Development. The meeting started off unconventionally with a three-day ministerial segment which many thought set a positive political tone for the negotiations. South Africa's Minister for Environmental Affairs and Tourism Valli Moosa, who chaired the meeting, pointed out that countries made great efforts to secure a successful meeting and thereby to strengthen multilateral action and the role of the UN system in addressing global problems. The Under-Secretary of the CSD, Nitin Desai, who is leaving the UN, further highlighted the importance of the CSD as the only forum where smaller countries felt that their concerns and interests were actually listened to and taken into account. The next CSD session will take place in April/May 2004.

Daily coverage of CSD-11: <http://www.iisd.ca/linkages/csd/csd11/>

"Implementation of sustainable development by 2016" SABCNEWS, 12 May 2003; "Summary of the eleventh session of the commission on sustainable development" ENB Vol 5 No. 193, 12 May 2003.

## **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>. Please bear in mind that dates and times of WTO meetings are often changed, and that the WTO does not always announce the important informal meetings of the different bodies.

### **Coming up in the next two weeks**

18-20 May, St. Louis, Missouri, United States of America: WORLD AGRICULTURAL FORUM 2003 CONGRESS. Organised by the World Agricultural Forum (WAF). The 2003 World Congress will bring together leaders and decision makers to discuss the future of agriculture and the existing barriers to

development. For more information contact: World Agricultural Forum; tel: (1-314) 206-3208; fax: 206-3222; email: wafstl@stlrca.org; Internet: <http://www.worldagforum.org/>

19 - 20 May, London, United Kingdom: CONFERENCE ON FOOD PRODUCTION AND THE NEW TRADE AGENDA. This two-day conference, hosted by the Royal Institute for International Affairs (RIIA), will address questions related to food production, transportation, and sales. For more information contact: RIIA; tel: (44-20) 7957-5700; fax: 7957-5710; email: [contact@riia.org](mailto:contact@riia.org); Internet: <http://www.riia.org>.

19 - 23 May, Bonn, Germany: INTERNATIONAL CONFERENCE ON RURAL LIVELIHOODS, FORESTS AND BIODIVERSITY. Organised by the Centre for International Forestry Research (CIFOR), the German Foundation for International Development (DSE), Germany's Ministry of Economic Cooperation and Development (BMZ) and 'Deutsche Gesellschaft für Technische Zusammenarbeit' (GTZ). This conference will consider the role of forests in supporting rural livelihoods in developing countries and in maintaining biodiversity. For more information contact: William Sunderlin; tel: (251) 622-622; fax: 622-100; email: [w.sunderlin@cgiar.org](mailto:w.sunderlin@cgiar.org); Internet: <http://www.cifor.cgiar.org/shared/template/livelihoodconference.asp>.

21-23 May, Kiev, Ukraine: FIFTH MINISTERIAL CONFERENCE - ENVIRONMENT FOR EUROPE. On the meetings agenda of Environment Ministers will be the pan-European environmental cooperation and taking stock of the progress made since the previous meeting held five years ago. The Ministers will also submit three new protocols for adoption, these are: the Protocol on Pollutant Release and Transfer Registers to the Aarhus Convention, the Protocol on Strategic Environmental Assessment to the Espoo Convention, and the Protocol on Civil Liability and Compensation for Damage Caused by the Transboundary Effects of Industrial Accidents on Transboundary Waters to the Helsinki Conventions. For information contact: The Kiev Secretariat; tel: (380-44) 290-4157 or (380-44) 290-3007; fax: 290-3719; email: [secretariat@kyiv-2003.in.ua](mailto:secretariat@kyiv-2003.in.ua); Internet: <http://www.kyiv-2003.info/main/index.php>

21-23 May, London, United Kingdom: 2010: THE BIODIVERSITY CHALLENGE. Organised by the CBD, UNEP-WCMC and UNDP. This second "Biodiversity after Johannesburg" meeting will follow up on the first that was held from 2-4 March 2003. For more information contact: Jerry Harrison, UNEP, World Conservation Monitoring Centre; email: [Jerry.Harrison@unep-wcmc.org](mailto:Jerry.Harrison@unep-wcmc.org); Internet: <http://www.unep-wcmc.org>.

22 - 24 May, Shanghai, China: INTERNATIONAL CONFERENCE ON ENERGY AND THE ENVIRONMENT (ICEE): Organised by the University of Shanghai for Science and Technology and George Washington University, this conference aims to provide an international forum for the discussion of clean city energy and related topics. For more information contact: Daoping Liu; tel: (86-21) 6568-9564; fax: 6568-0843; email: [dpiliu@online.sh.cn](mailto:dpiliu@online.sh.cn); Internet: <http://www.gwu.edu/%7Eeem/ICEE/firstpagenew.htm>

26 - 28 May, Geneva, Switzerland: WTO NEGOTIATING GROUP ON MARKET ACCESS. For information contact the WTO Information and Media Relations Division, Geneva; tel: (41-22) 739- 5007; fax: 739-5458; email: [enquiries@wto.org](mailto:enquiries@wto.org).

26 - 30 May, Trieste, Italy: INTRODUCTION ON BIOSAFETY AND RISK ASSESSMENT FOR THE ENVIRONMENTAL RELEASE OF GENETICALLY MODIFIED ORGANISMS (GMOS): THEORETICAL APPROACH AND SCIENTIFIC BACKGROUND. Organised by International Centre for Genetic Engineering and Biotechnology. The Workshop will be aimed at scientists dealing with risk assessment and management for the environmental release of GMOs. The main goal of the workshop is to provide the participants with an overview of the current research in biosafety and different risk assessment approaches used for the environmental release of GMOs. For information contact: Ms. Chiara Villanovich, ICGEB, Programme and Training Unit; tel: (39-040) 3757-333; fax: 226-555; email: [courses@icgeb.org](mailto:courses@icgeb.org); Internet: <http://www.icgeb.org/biosafety>

26 May - 6 June, Geneva, Switzerland: THIRD SESSION OF THE UNITED NATIONS FORUM ON FORESTS (UNFF-3). Delegates will discuss a variety of issues, including: economic aspects of forests,

forest health and productivity, and maintaining forest cover to meet present and future needs. For information contact: Mia Soderlund, UNFF Secretariat; tel: (1-212) 963-3262; fax: 963-4260; email: [unff@un.org](mailto:unff@un.org); Internet: <http://www.un.org/esa/forests/>

28 May, Brussels, Belgium: GMOs – CO-EXISTENCE OR CONTAMINATION? THE CHALLENGE TO ENSURE CO-EXISTENCE OF ORGANIC AND CONVENTIONAL FARMING WITH GENETICALLY MODIFIED CROPS. Organised by the Greens/EFA in the European Parliament, Friends of the Earth Europe, Euro Coop and the Heinrich Böll Foundation. For information, contact: Geert Ritsema, FOEE, tel: (32-2) 542-01-82; fax: 537-55-96; email: [geert.ritsema@foeeurope.org](mailto:geert.ritsema@foeeurope.org); Internet: <http://www.foeeurope.org/GMOs/conference/home.htm>

30 May - 12 June, Havana, Cuba: IV INTERNATIONAL CONVENTION ON ENVIRONMENT AND SUSTAINABLE DEVELOPMENT. For information contact: Araceli Mateo de Acosta Fernández, Convention Organizational Secretary, tel: (537) 867-0606 and 860-3411 ext 1291; fax: 33-8054; email: [mateo@citma.cu](mailto:mateo@citma.cu); Internet: <http://www.medioambiente.cu/convencion/ingles/default.htm>

28 - 31 May, Bologna, Italy: FROM THE GREEN REVOLUTION TO THE GENE REVOLUTION. Organised by University of Bologna University of Bologna. This Conference will bring together green revolution experts and plant biotechnology experts to assess new technologies for their value in identifying valuable alleles and in manipulating such alleles with indirect (e.g. marker-assisted selection) and/or direct (e.g. genetic engineering) approaches. For information contact: tel: (39-051) 656-4311; fax: (39-051) 656-4350; email: [avenuemedia@avenuemedia.it](mailto:avenuemedia@avenuemedia.it); Internet: <http://www.avenuemedia.it/linkCONG/Green-Gene.html>

### Other Forthcoming Events

1-3 June, Evian-les-Bains, France: G8 SUMMIT. Delegates will discuss issues relating to globalisation. Among the proposed major themes are solidarity, with particular emphasis on the New Partnership for Africa's Development (NEPAD), and access to water for all. Other topics include government and corporate responsibility, security and democracy. For information see <http://www.g8.fr/evian/english/home.html>.

16-20 June, Berlin, Germany: 55TH ANNUAL MEETING OF THE INTERNATIONAL WHALING COMMISSION. This meeting will be preceded by meetings of the Scientific Committee and various sub-groups. For further information contact: IWC; tel: (44 1223) 233971; fax: 232876; email: [iwc@iwcoffice.org](mailto:iwc@iwcoffice.org); Internet: [http://www.iwcoffice.org/2003\\_meeting.htm](http://www.iwcoffice.org/2003_meeting.htm).

16-18 June, Geneva, Switzerland: WTO PUBLIC SYMPOSIUM. Hosted by the World Trade Organization, this public symposium will focus on the challenges WTO Members face ahead of the WTO's 5th Ministerial Conference this September in Cancún, Mexico. Participants from governments, parliaments, civil society, the business sector academia and the media are invited to discuss what is at stake in the current negotiations and other key challenges facing the multilateral trading system. For information contact: WTO External Relations Division; tel: (41-22) 739 56 76 or 739 52 86; email: [symposium2003@wto.org](mailto:symposium2003@wto.org); Internet: [http://www.wto.org/english/tratop\\_e/dda\\_e/symp\\_devagenda\\_03\\_e.htm](http://www.wto.org/english/tratop_e/dda_e/symp_devagenda_03_e.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 or review by the BRIDGES staff to Heike Baumüller, [hbaumuller@ictsd.ch](mailto:hbaumuller@ictsd.ch).

A NEW CHEMICALS POLICY IN EUROPE – NEW OPPORTUNITIES FOR INDUSTRY: A RESPONSE TO THE CLAIMS MADE REGARDING THE BUSINESS IMPACT OF A NEW CHEMICALS POLICY THAT IS DESIGNED TO PROTECT THE ENVIRONMENT AND HUMAN HEALTH. WWF European Toxics Programme and the European Environmental Bureau, January 2003. Available at <http://www.panda.org/downloads/europe/wwfebreachnewopforindustry.pdf>.

EUROPE'S ENVIRONMENT: THE THIRD ASSESSMENT. Environmental assessment report No 10, May 2003. This is the third pan-European state of the environment report produced by the EEA. It was prepared for the 'Environment for Europe' Ministerial Conference being held under the auspices of the UN Economic Commission for Europe in Kiev, Ukraine on 21-23 May 2003. In contrast to previous reports issued in 1995 and 1998, it covers for the first time the entire Russian Federation and the 11 other Eastern European, Caucasus and Central Asian (EECCA) states. The report also analyses how the main economic driving forces put pressure on the European environment and identifies key areas where further action is needed. Available at [http://reports.eea.eu.int/environmental\\_assessment\\_report\\_2003\\_10](http://reports.eea.eu.int/environmental_assessment_report_2003_10).

DYNAMICS OF AGRICULTURE COMPETITIVENESS: POLICY LESSONS FROM ABROAD. By USDA's Economic Research Service, April 2003. The competitiveness of a nation's products in international markets is rooted in the relative abundance (and quality) of resources available to that nation. Recent experience in South America, the Former Soviet Union, and China also highlight the importance of policies, institutions, and even cultural values. Available at <http://www.ers.usda.gov/Amberwaves/April03/Features/DynamicsofAg.htm>

LOOKING BEHIND THE CURTAIN: THE GROWTH OF TRADE BARRIERS THAT IGNORE SOUND SCIENCE. By the US National Foreign Trade Council, May 2003. The paper details the growing application of national standards and technical regulations that could post barriers to international trade. Impacted products include, inter alia, beef and poultry; fresh and processed fruits and nuts; wines; Foods derived through the application of biotechnology; and chemicals and downstream users including textiles, plastics, and finished consumer goods. Available at <http://www.nftc.org/default/white%20paper/TR2%20final.pdf>.

KEEPING SCIENCE OPEN: THE EFFECTS OF INTELLECTUAL PROPERTY POLICY ON THE CONDUCT OF SCIENCE. By the UK Royal Society, April 2003. This report considers whether the progress of science has been affected by the interpretation and use of IP policies, and makes recommendations for improvement. Available at <http://www.royalsoc.ac.uk/templates/statements/StatementDetails.cfm?statementid=221>

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