



# Bridges Trade BioRes

*News, events and resources at the intersection of trade and biodiversity*

**Issue: 28 October 2005**

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## Environment at the WTO

### CTE LOOKS AT APPROACHES TO ENVIRONMENTAL GOODS LIBERALISATION

WTO Members remain divided on how to define 'environmental goods' earmarked for liberalisation under Paragraph 31 (iii) of the Doha Declaration. Discussions in the CTE Special (negotiating) Session (CTE-SS) on 14 October once again looked at two proposed approaches for defining such goods, namely the multilateral identification of a list of environmental goods and India's project approach, which would temporarily liberalise trade in environmental goods for use in environmental projects (see BRIDGES Trade BioRes, 24 June 2005, <http://www.ictsd.org/biores/05-06-24/story1.htm>). Some delegates suggested that

which approach to use in time for the Hong Kong Ministerial Conference in December.

### Renewable energy receives wide support; strong opposition to PPMs

Delegates noted that a workshop on 12 October on environmental goods, held as part of the WTO Symposium on Trade and Sustainable Development, had helped them identify the kinds of products that could be designated under the negotiations. They reported that the single thing that stood out in the workshop was the strong consensus among all Members, including least-developed countries (LDCs), about the benefits of renewable energy technologies in terms of both their environmental impact and their economic potential. Almost as stark was most Members' rejection, with the exception of the EU, to the incorporation of characteristics on production and processing methods (PPMs) into the definition of environmental goods. The EU agreed to suspend discussion of the issue for the time being, but indicated its intention to bring it up again in the future. With regards to environmentally preferable products (EPPs), Members generally agreed that the definition needed to be tightened.

### Argentine bridging proposal criticised

At the CTE-SS on 14 October, Argentina presented a new proposal (TN/TE/W/62, available at <http://docsonline.wto.org/>) that sought to bridge the gaps between India's 'environmental project' (EP) approach and the 'list' approach favoured by several developed countries. Argentina's so-called 'integral' approach seeks to incorporate the merits of both approaches. Drawing heavily from the EP approach, the proposal would have national authorities decide on whether to eliminate tariffs for environmental products used in designated environmental projects. However, as in the list



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approach, Members would multilaterally pre-identify categories of environmental projects and of environmental goods that could be used in the projects. Unlike the Indian paper, the Argentine did not mention environmental services liberalisation. As well, the proposal did not clarify other questions, including whether goods recognised by the CTE would have to be approved by the national authorities. According to the proposal, national authorities would then approve enhanced liberalisation of products used in environmental projects on the basis of these categories.

The US, the EU and Canada argued that the Argentine proposal was simply a variant of India's EP approach. As a result, subsequent discussions focused on the broader issues surrounding the EP approach rather than going into the specifics of Argentina's proposal. The US and Hong Kong repeated that they were opposed to the approach, contending that it was overly bureaucratic and difficult to implement. They also argued that it would not increase market access for small- and medium-sized enterprises since the large scale necessary for many environmental projects would mean that only big multinational companies would export the equipment needed for them. While the EU was less negative, it nevertheless defended the list approach over the EP approach in terms of achieving environmental objectives. One Member also pointed out that the project approach constituted a form of virtually voluntary case-by-case tariff cuts that was outside the scope of the Doha Mandate. Brazil pointed out that there are positive aspects and commonalities between the two approaches.

### **India refines EP approach**

India responded to concerns about how to implement its approach in a new proposal that elaborates on procedural and technical aspects (TN/TE/W/60). The submission describes the role of the Designated National Authorities (DNAs) that Member countries would set up in order to appraise environmental project proposals. DNAs would examine project proposals, including the quantity and type of goods required, to determine whether they are appropriate for achieving the project's stated objectives. The document also suggests that Members devise a fast-track approval process for small- and medium-sized enterprises, and create a database of approved projects.

Members opposed to the EP approach maintained that there was still not enough information about how it would be implemented. India expressed disappointment with their reaction, and suggested that countries that still found the approach unworkable were misunderstanding it. The list approach, India reiterated, would not appropriately address the real environmental mandate of the negotiations. Instead, Cuba, South Africa and Côte d'Ivoire said the EP approach was the more compelling option. They argued that most goods figuring in existing lists are of export interest mainly to developed countries, despite arguments to the contrary from the US and New Zealand (see BRIDGES Trade BioRes, 16 September 2005, <http://www.ictsd.org/biores/05-09-16/story1.htm>).

### **MEA-WTO relationship discussions at a standstill**

No progress was made in the negotiations under the Doha Declaration paragraph 31(i) on the relationship between existing WTO rules and specific trade obligations (STOs) set out in multilateral environmental agreements (MEAs). In response to requests from New Zealand and other Members, Switzerland circulated a communication to elaborate further on the principles of no-hierarchy, mutual supportiveness and deference in international law which it had previously proposed as three principles that should underlie the MEA-WTO relationship (TN/TE/W/61, see BRIDGES Trade BioRes, 8 July 2005, <http://www.ictsd.org/biores/05-07-08/story1.htm>). Referring to general principles of international law, Switzerland argued that rules in both MEAs and the WTO must be interpreted in ways that maintain their compatibility and integrity. No discussion took place on the submission.

### **Preliminary list by Hong Kong increasingly out of reach**

In light of Members' differences on which approach to take, many delegates consider consensus on a draft list by December highly unlikely. Debate on the issue of dual or multiple use, i.e. that listed goods might not be used for environmental purposes, continues to hinder progress on the lists that have been proposed. While developed countries would have liked to come up with a preliminary list before then, many developing

countries consider it premature to talk about specific lists before the Ministerial Conference, given that most developing countries have yet to clearly define their interests and come up with the positions accordingly.

While no more formal CTE special sessions have been scheduled before the Hong Kong Ministerial Conference, informal meetings will take place during the first week of November.

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## Fisheries

### WTO FISHERIES TALKS ADDRESS INFRASTRUCTURE SUBSIDIES

During negotiations on fisheries subsidies in the WTO Negotiating Group on Rules on 26 October, Members discussed subsidies to infrastructure based on a paper submitted by New Zealand which highlighted the need to include subsidies to fisheries infrastructure as a category into the disciplines (TN/RL/GEN/70). Motivated by statistics which indicate that such subsidies account for over 40 percent of industrialised countries' global financial transfers related to fisheries, discussions were polarised between Members that supported the general thrust of the submission and those that were reluctant to make a distinction between general infrastructure subsidies and those related specifically to fisheries.

According to New Zealand, the purpose of this paper was to initiate a dialogue on the category of "subsidies to fisheries infrastructure", as fisheries infrastructure accounts for a substantial proportion of government expenditure on global fisheries. The provision of "general infrastructure" is excluded from the definition of a subsidy in the WTO Agreement on Subsidies and Countervailing Measures (ASCM). In light of this, New Zealand noted that it was important that Members reached a clear understanding of what types of programmes should be treated as fisheries infrastructure as opposed to general infrastructure to then be able to establish how to treat them under new rules. It argued that subsidies that are specific to fisheries infrastructure could have an effect on overfishing and overcapacity and should therefore be prohibited under new disciplines. However, since little detailed information on spending in this area was currently available, the paper begins the

negotiating process by trying to identify types of programmes that could be classified as fisheries infrastructure. The submission makes a preliminary attempt to define three sub-categories, namely subsidies to port facilities, subsidies to the development of fishing communities, and subsidies to processing facilities for fisheries products. Programmes whose primary objectives are conservation or research and development are to be treated as separate, non-infrastructure categories.

### Does fishery-specific infrastructure exist?

Reactions to the paper followed two general lines of thought. The Friends of Fish -- a loosely defined group of countries including Australia, Argentina, Chile, Ecuador, New Zealand, Philippines, Peru, Norway, Iceland and the US -- saw it as a good starting point for discussing an important category of subsidies that had not previously received much attention while pointing out that more detail was needed. However, Japan, Korea and Chinese Taipei were reluctant to introduce a distinction between subsidies for fisheries infrastructure and general infrastructure subsidies. Citing the example of ports used for multiple purposes, these countries argued that differentiation between general and fisheries-specific subsidies was an impossible exercise in practice. Korea also declared that disciplining the use of infrastructure subsidies would amount to an infringement on countries' sovereign right and political duty to develop their domestic infrastructure.

The EC and China were ambivalent on the issue, in particular with regards to subsidies to port facilities. While in principle they welcomed the consideration of subsidies to fisheries infrastructure, they also pointed to the problem of multiple use of facilities. The EC instead promoted consideration of subsidies at the boat level, rather than for infrastructure. The members of the Friends of Fish responded that addressing fisheries subsidies at the boat level separately from other parts of the value chain missed important parts of the picture, as fish acquired value when landed, processed and presented to the consumer.

### Subsidies to develop fishing communities to be protected

The other two sub-categories proposed by New Zealand, subsidies for the development of fishing communities and those to processing facilities, were less controversial than subsidies to ports. While

China, Korea, Hong Kong and the EC felt that negotiations would touch on too many aspects beyond fisheries if they also addressed processing facilities, other Members supported the idea of disciplining subsidies in this area. However, Members -- and in particular developing countries -- supported New Zealand's proposal to consider subsidies for the infrastructure development of fishing communities as a suitable candidate for exemption from any prohibited category of fisheries subsidies. While agreeing to this principle, developing country Members stressed the importance of a clear definition of the type of "infrastructure development" and "fishery communities" covered by the exemption. New Zealand's paper only includes the provision of housing and of transport infrastructure for fishermen in the community development category. Indonesia spoke out in favour of expanding the definition to include additional support measures such as subsidised bait and fuel.

### **Diverging opinions on draft text for Hong Kong**

At the end of the meeting, Members discussed what to include into the draft text to be submitted to the Hong Kong Ministerial Conference. In general, Members felt that significant progress had been made in the Negotiating Group over the past year and that this fact ought to be reflected in the Ministerial Declaration. In particular, a consensus on the need for new disciplines on fisheries subsidies has been achieved, overcoming earlier opposition to the negotiations themselves. Members are now looking to Ministers in Hong Kong to edge the process forward by clarifying the areas and outlining a mandate for negotiations for the time following Hong Kong. They felt that work should intensify in 2006 so that new rules can be agreed upon by the end of the year. Negotiations are currently at a more technical stage of discussing specific types of fisheries subsidies. After concluding that stage, they will go back to negotiating the overall structure of the approach on disciplining fisheries subsidies to be adopted. In this context, the debate surrounding the question of whether a top-down approach (i.e. a broad ban of fisheries subsidies with well-specified exemptions as advocated by the Friends of Fish) or a bottom-up approach (that would establish prohibited subsidies on a case-by-case basis as preferred by Japan, Korea and Chinese Taipei) would be reopened. The role of special and differential treatment for developing countries would also be examined at this stage.

Only after these questions are resolved could Members turn to text-based negotiations.

Japan and Korea advocated a move to the stage of structural discussions as soon as possible, whereas New Zealand expressed its preference for waiting with these discussions until after Hong Kong. Latin American countries such as Argentina and Chile would like to include specific deadlines for the conclusion of different stages of negotiation into a draft text going to the Ministerial Conference. Chair Ambassador Valles Galmes of Uruguay announced that based upon the conversations of the Group, he would shortly submit a paper to WTO Director-General Pascal Lamy for the November General Council meeting in preparation for Hong Kong. A Rules meeting will be held the week of 28 November.

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### **Intellectual Property**

#### **US AND INDIA CLASH ON DISCLOSURE AT TRIPS MEETING**

At the WTO Council for Trade-related Aspects of Intellectual Property Rights (TRIPS) on 25-26 and 28 October, discussions on disclosure of the source of biological materials and related traditional knowledge in patent applications once again saw countries clash on whether such a patent-based system was indeed necessary to ensure the equitable sharing of benefits from genetic resources. In the morning of 26 October, in discussions on examining the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD) mandated by paragraph 19 of the Doha Declaration, India introduced a paper which responds to the most recent US paper that advocated a contract-based approach to disclosure. In the afternoon in separate informal consultations mandated by paragraph 12 of the Doha Declaration on implementation issues relating to the TRIPS-CBD relationship, India put forward draft text for the Hong Kong Ministerial Declaration calling for negotiations specifically on disclosure requirements under the Doha Round's "single undertaking".

Under paragraph 12, Members are mandated to negotiate on resolving outstanding implementation issues, including an amendment of Article 27.3(b) -- dealing with the patentability of life forms -- to take into account the CBD (under the Compilation of Outstanding Implementation Issues Raised by

Members, JOB(01)/152/Rev.1, 27 October 2001). These negotiations are held as a second track, parallel to those held in the regular session of the TRIPS Council under the paragraph 19 mandate. Developing countries have been pursuing discussions in both fora -- along with talks in the World Intellectual Property Organization (WIPO; see BRIDGES Trade BioRes, 14 October 2005, <http://www.ictsd.org/biores/05-10-14/story3.htm>) and the CBD (see BRIDGES Trade BioRes, 4 March 2005, <http://www.ictsd.org/biores/05-03-04/story3.htm>) in the hopes of making progress in one of them.

### **Indian insists disclosure requirements are necessary**

The Indian submission (IP/C/W/459) argues that under the current intellectual property regime, genetic resources and associated traditional knowledge are often erroneously dealt with as if they formed part of the public domain, open to appropriation by anybody without any obligation to ask for permission and pay back the provider. It responds to several statements made by the US in its June submission (IP/C/W/449; see Bridges Trade BioRes, 24 June 2005, <http://www.ictsd.org/biores/05-06-24/story3.htm>), including by noting that the TRIPS Agreement is in conflict with the CBD because it contains no effective provisions to protect genetic resources and associated knowledge from misappropriation and theft. While acknowledging the efforts taken domestically by the US to prevent such biopiracy, the paper says that the contract-based approach -- which simply encourages national authorities to enact legislation telling companies to set up private contracts with the holders of genetic resources -- would not prevent international misappropriation as it is difficult to enforce a foreign obligation for an act that is not prohibited in the country in which it is to be enforced. As most genetic resources are used and patented by multinational companies in foreign countries, India argued, a multilateral approach was necessary.

India also notes that three types of disclosure requirements have been suggested, namely (1) disclosure of source and country of origin of the genetic materials and associated traditional knowledge used in developing the invention claimed in the patent application; (2) disclosure of the evidence of prior informed consent and (3) disclosure of the evidence of benefit sharing agreement. In particular, such a system would

prevent the issuing of bad patents rather than forcing the burden of revoking bad patents on aggrieved third parties after they have been issued. The submission also attempts to refute US allegations that disclosure requirements would increase uncertainty and lead to additional burdens and obligations on patent applicants and offices. The Indian paper, as the second paper in response to as many US papers, was submitted as part of a technical process launched in March 2004 that aimed to clarify disclosure-related issues. In its intervention during the meeting, India presented the paper and suggested that the discussion in the TRIPS Council has reached a level of maturity which calls for graduating the issue into a negotiating area.

The proposal was supported by Brazil, Peru, Ecuador, Pakistan, Sri Lanka, China, Cuba, Bolivia, Colombia, Thailand, Turkey and Indonesia. Although developed countries said that they have completed the checklist of questions that have driven the technical process since 2004, the US continued to resist discussions on a disclosure requirement and expressed similar reservations as Japan and Korea, arguing that a disclosure requirement would not solve the problems of ensuring benefit sharing and avoiding erroneous patenting.

Australia, the EC, Canada and New Zealand said that although they did not support India's paper as it was, they agreed with the need for further discussions on the implications of disclosure requirements. In particular, they said that talks on how disclosure could help prevent biopiracy were necessary. The EC, while generally supportive of a disclosure requirement, expressed some reservations about the prior informed consent and benefit sharing components of the disclosure approach supported by the developing countries.

### **Second-track talks continue on implementation**

In the afternoon discussions on disclosure continued in an informal consultation session on outstanding implementation issues co-ordinated by Deputy Director General Rufus Yerxa. During the consultations, Indian Ambassador Ujal Singh Bhatia, supported by several developing countries, circulated a draft paragraph for the Hong Kong Ministerial Declaration. The text proposes an amendment to Article 27 of the TRIPS Agreement (on 'patentable subject matter'), arguing that paragraph 12 mandated negotiations on the CBD-

TRIPS relationship. These negotiations should cover the details of the mandatory requirements on patent applications to disclose, as a requirement, the source and country of origin of the biological material and traditional knowledge used by the applicant; the prior informed consent obtained; the benefit-sharing agreement; and the details of the evidence to be submitted by the patent application, of adhering to the requirements. The proposal was well received by most developing countries, but the US, Canada and Australia said that the talks were not at a level of maturity to launch such disclosure-specific negotiations at this point.

### **Peru points to Camu Camu**

In response to requests from developed countries for examples of specific cases of biopiracy, Peru presented a short paper documenting the story of Camu Camu (*Myrciaria dubia*), a Peruvian fruit which has been patented in Japan. The document, which is similar to a paper presented by them in June (IP/C/W/447), pointed out that national rules were unhelpful if the company that used the genetic resources made a patent application in another country. If such an application failed to disclose the origin of the genetic resource, mention the fact that the resource had already been in use in another part of the world, or provide evidence of an access and benefit-sharing agreement with the community of origin of the resource, then a bad patent could be issued.

### **No progress on public health amendment**

The issue made relatively greater progress than the discussions on health and intellectual property rights, which focused primarily on process-related issues (see Bridges Weekly, 26 October 2005, <http://www.ictsd.org/weekly/05-10-26/story3.htm>). Members have been working on how to convert the temporary "30 August 2003 Decision", which provided a system to enable countries to export generic drugs covered by patents to countries with a grave public health need. The discussions at the meeting attempted to craft a permanent amendment to the TRIPS Agreement in time for Hong Kong. Chair Ambassador Choi Hyuck of Korea said he will continue to hold informal consultations between the EU, US and African Group to try and reach a deal.

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## **In Brief**

### **EU AGREES TO TIMBER LICENSING SCHEME**

European Agriculture Ministers on 24 October agreed to establish a scheme under the 'EU Action Plan for Forest Law Enforcement, Governance and Trade' (FLEGT) under which countries that export timber to the EU could voluntarily decide to negotiate partnership agreements with the EU (see BRIDGES Trade BioRes, 21 January 2005, <http://www.ictsd.org/biores/05-01-21/inbrief.htm>).

Once the agreement was signed, the partner country would receive support to promote governance reform and would become subject to a binding licensing scheme. Under the scheme, timber exports from the country to the EU would require a government-issued license confirming the legality of the shipment in order to be permitted to enter EU borders. The license would have to state that the timber products had been produced from domestic timber that was legally harvested or from timber that was legally imported into the territory of the partner in accordance with national laws as laid down in the partnership agreement. European Commissioner for Development and Humanitarian Aid Louis Michel said "only by working in close partnership with timber-producing countries can we hope to have a real impact. The partnership agreements provide producing countries with the incentives and support required for them to fight illegal logging." However, Sebastien Risso of the environmental lobby group Greenpeace criticised the plan. "This [voluntary licensing] is like asking companies to voluntarily pay taxes. Legality should be a precondition for doing business, not a vain wish."

"Agriculture and Fisheries Council Meeting Press Release 13130/05" EU, 25 October 2005; "EU to tighten controls on illegal timber imports," EURACTIV, 26 October 2005; "EU Agrees Licensing Plan to Combat Illegal Logging," REUTERS, 25 October 2005.

### **WTO MEMBERS PROPOSE ENHANCED LIBERALISATION OF FOREST AND FISH SECTORS**

Canada, Hong Kong, New Zealand, Thailand and the US on 14 October presented a proposal to initiate sectoral negotiations for enhanced liberalisation of the forest product sector to the WTO Negotiating Group on Non-Agricultural Market Access (NAMA) (TN/MA/W/64) (see

BRIDGES Trade BioRes, 24 June 2005, <http://www.ictsd.org/biores/05-06-24/inbrief.htm>). Also on 14 October, Canada, Iceland, New Zealand, Norway, Singapore and Thailand submitted a proposal calling for accelerated liberalisation of trade in fish and fish products (TN/MA/W/63). Both proposals highlighted that developing countries could benefit from enhanced market access if tariffs were dramatically reduced in the sectors. They also pointed to problems such as tariff escalation -- which involves higher tariffs on imports of processed products than raw products, thereby creating an additional obstacle for exports of value-added products. Moreover, the proposals suggested that trade liberalisation was consistent with conservation and sustainable development objectives, in particular arguing that forestry liberalisation would be an "important contribution in facilitating further economic development within a sector of particular export interest to many developing countries". Liberalisation would also "increase forests' intrinsic value and foster long-term planning focused on sustainability, providing substantial commercial, social and environmental benefits". In response to arguments that tariffs are necessary to protect forests, the proponents argued that "sound forest policies that encourage law enforcement, good governance and sustainable forest management are far more effective tools to protect the environment than tariffs". The papers had been submitted in advance of the 25 October meeting of the NAMA Negotiating Group. However, discussions at the 25 October meeting were dominated by concerns regarding the failure to agree on the formula to reduce tariffs on industrial goods overall.

In the past, Japan (TN/MA/W/15/Add.1), Korea (TN/MA/W/6/Add.3) and Chinese Taipei (TN/MA/W/19/Add.2) have strongly resisted accelerated, across-the-board tariff liberalisation in fish and/or forest products. Japan has argued that Members should retain the flexibility to set tariffs based on their forest and fisheries managements schemes. Korea has warned that tariff elimination would provide an incentive for increased fishing efforts, which would likely lead to over-fishing in exporting countries without proper management schemes. For its part, Mauritius (TN/MA/W/21/Add.1) has raised concerns that accelerated liberalisation could lead to the erosion

of preferences currently being enjoyed by a number of poor countries, in particular in sectors such as fish and fish products that are of specific interest to the preference beneficiary countries.

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## **SOUTH AFRICA CONSIDERS AMENDMENTS TO BIOTECH LAWS**

A Genetically Modified Organisms (GMO) Amendment Bill was introduced into the South African Parliament on 14 October in an attempt to ensure that the country, which is the only country in Africa to have commercialised GMOs, complies with its obligations as a signatory of the Cartagena Protocol. The amendments to the 1997 Genetically Modified Organisms Act extend the rules to include the export of GMOs and the establishment of a Biosafety Clearing-House. Civil society groups criticised the new Bill for failing to address the many problems in South Africa's regulatory system for GMOs. The bill "does not go far enough to ensure that South Africans' Constitutional right to a safe environment is upheld and that livelihoods are not threatened," BioWatch South Africa director Leslie Liddell said. In particular, NGOs have pointed to the failure to incorporate the precautionary principle into the principles for decision-making; the absence of a mechanism for liability and redress; the lack of a clear and obligatory procedure and mechanism for meaningful public participation and access to information around decisions to grant GM permits; the lack of post-commercialisation monitoring of impacts of GMOs on human and animal health; and the absence of a requirement for an independent risk assessment process prior to commercial approval as problematic aspects of the current regime that have not been addressed in the new law.

The draft Bill is available at  
<http://www.polity.org.za/pdf/DraftGenetModOrgAB.pdf>

A report from the African Centre for Biosafety on the Amendment Bill is available at  
[http://www.biosafetyafrica.net/\\_DOCS/ACBCommentsGMOAmendmentBill.pdf](http://www.biosafetyafrica.net/_DOCS/ACBCommentsGMOAmendmentBill.pdf)

"GMO Amendment Bill Tabled In Parliament Doesn't Go Far Enough," BIOWATCH, 18 October 2005; "GMO Amendment Bill tabled," THE CITIZEN, 18 October 2005.

## **CBD EXPERTS PANEL ON LIABILITY AND REDRESS MAKES PROGRESS**

A 12-14 October meeting of legal and technical experts on liability and redress within Article 14(2) of the Convention on Biological Diversity (CBD) was able to move beyond defining the legal elements of liability and redress to tackling technical aspects. The expert panel, meeting in Montreal, Canada, was mandated to clarify responsibility for damage to biological diversity, except where such liability is a purely internal matter, including working on basic concepts and developing definitions; ways to incorporate biodiversity into pre-existing liability and redress regimes; creating a liability and redress regime within the CBD; analysing activities and situations that contribute to damage to biological diversity; and preventive measures. The meeting started with a report from the Chair of the Cartagena Protocol's Open-ended Ad-Hoc Working Group on Liability and Redress, who noted that the group at its 25-27 May meeting had struggled to define and put a value to damage to biological diversity in the context of the Protocol, an issue that also came up during the October meeting as a challenge for discussions within the CBD.

However, the CBD experts' group called into question its mandate, stating that "it may be premature at this time to draw a conclusion that an international regime focused on damage to biodiversity should either be developed or not developed". Particularly difficult are attempts to define responsibility and extent of damage to biodiversity in the context of international trade, limited-liability corporations and potentially lax domestic legislation. Nevertheless, the meeting report highlighted the need for capacity building at the national level on liability and redress, suggesting it would be key to developing much-needed technical elements of the mandate such as defining measurements, establishing baseline indications and implementing a national laws. The meeting finished positively owing largely to this national emphasis, suggesting that the group will need to clarify the CBD's policy role on liability and redress in the future.

The legal and technical experts report is available online at <http://www.biodiv.org/doc/meetings/cop/cop-08/official/cop-08-27-add3-en.pdf>.

ICTSD Reporting; "Report Of The Group Of Legal And Technical Experts On Liability and Redress in the Context of Paragraph 2 of Article 14 of the Convention on Biological Diversity," UNEP/CBD/COP/8/27/Add.3, 18 October 2005.

## **CULTURAL EXPRESSIONS CONVENTION ADOPTED DESPITE US OPPOSITION**

The UN Educational, Scientific, and Cultural Organisation (UNESCO) voted on 20 October to approve the Convention on the Protection and Promotion of the Diversity of Cultural Expressions in spite of staunch opposition from the US. Supporters of the treaty hailed the vote, which was 142 to two (with only the US and Israel against) under a majority system, as a victory for free expression, claiming that it would help governments protect national cultural identities and traditions from the homogenising pressures of foreign imports of cultural products. On the other hand, the US charged that it could serve as a pretext for arbitrary protection from free trade, could be used to curb free speech and could even be used to justify government censorship. France and Canada argued that the Convention's affirmation of countries' 'sovereign right' to promote diversity in cultural expressions will give them ammunition to counter demands that they renounce the use of subsidies, quotas and other measures to support domestic cultural products. However, the US has said it will lobby against the ratification of the Convention by UNESCO countries and will try to convince them not to seek its mention at the WTO's December Ministerial Conference in Hong Kong. At the heart of the debate is the interpretation of the provisions on the relationship of the Convention with other treaties in Article 20. The article, which is crucial in determining the relationship between the Convention's rules on subsidies to maintain cultural diversity and the WTO's rules on elimination of subsidies and liberalisation of tariffs, is somewhat ambiguous. While it says that "nothing in this convention shall be interpreted as modifying rights and obligations of the parties under any other treaties", implying that the treaty will not take precedence over trade agreements, it also says that countries "shall take into account" the UNESCO treaty when interpreting and applying other treaties. The Convention has been signed by 148 countries but will only enter into force three months after ratified by 30 governments.

For more information, see BRIDGES Weekly, 26 October 2005, <http://www.ictsd.org/weekly/05-10-26/story4.htm>

The Convention is available at [http://www.unesco.org/culture/culturaldiversity/convention\\_en.pdf](http://www.unesco.org/culture/culturaldiversity/convention_en.pdf)

"Next lone U.S. dissent: Cultural diversity pact," INTERNATIONAL HERALD TRIBUNE, 12 October 2005;



"US 'Pulls Out All Stops' As UNESCO Backs Culture Treaty," INTELLECTUAL PROPERTY WATCH, 17 October 2005; "UNESCO Adopts New Plan Against Cultural Invasion," NEW YORK TIMES, 21 October 2005; "US isolated over cultural diversity," FINANCIAL TIMES, 19 October 2005; "General Conference adopts Convention on the protection and promotion of the diversity of cultural expressions," UNESCOPRESS, 20 October 2005.

## **ORGANIC MOVEMENT PROMOTES ITS ROLE IN BIODIVERSITY CONSERVATION**

Under the auspices of this year's World Food Day theme, "Agriculture and intercultural dialogue", the International Federation of Organic Agriculture Movements (IFOAM) took the opportunity to highlight its role in global intercultural dialogue by coming out against unfair trade practices and in support of organic agriculture. At a time when over 800 million people worldwide remain hungry, IFOAM in a press release argued that organic agriculture could make a contribution not only by reducing hunger, but also by ensuring sustainable development through the enhancement of biodiversity, biological cycles and soil biological activity. IFOAM also spoke out against the impacts of the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) and patents on world agriculture, saying that they undermined the protection of indigenous knowledge and agricultural traditions. "Patents on seeds and genetic resources for food and agriculture threaten sustainable farming practices, farmers' livelihoods and food security," they argued.

The press release followed IFOAM's recent Organic World Congress where more than 1000 delegates from 72 countries endorsed organic agriculture, allocated budgetary funds for investment in organic agriculture and agreed to promote the internalisation of social and environmental costs in the prices of agricultural products by remunerating organic farmers for ecosystem services they provide. Organic products are those which have been produced, stored, processed, handled and marketed in accordance with precise technical specifications and have been proven to consume less energy and utilise no pesticides while maintaining a high yield.

"World Food Day 2005: International Federation of Organic Agriculture Movements (IFOAM) Highlights Its Role In

Global Intercultural Dialogue," IFOAM, 16 October 2005.

## **CIVIL SOCIETY GROUPS SHINE LIGHT ON CHINESE ROLE IN ILLEGAL LOGGING**

Environmental NGOs Global Witness and Greenpeace International attacked China's involvement in the trade of illegally logged timber in two reports released on 18 and 19 October respectively. The Global Witness report, entitled "A Choice for China: Ending the destruction of Burma's northern frontier forests", says that an environmental disaster is developing in Burma (now known officially as Myanmar), and in particular the northern Kachin state as a result of the illegal exportation of more than one million cubic meters of timber to China. The state, which is rich in biodiversity, has seen an increase in illegal logging by largely Chinese companies, they note. Driven by a 1999 law in China to ban domestic logging because of the disastrous increase in soil erosion and flooding in heavily logged regions, and despite the fact that the government in 2001 signed the Forest Law Enforcement and Governance (FLEG) agreement, the report says that Chinese companies are openly logging and exporting timber from Kachin with the acquiescence of Chinese customs officials. The government, the report alleges, allows the logging to continue in order to facilitate the flow of foreign exchange.

The Greenpeace report, entitled "Partners in Crime: The UK timber trade, Chinese sweatshops and Malaysian robber barons in Papua New Guinea's rainforests", documents how China imports illegal timber from threatened rain forests in Indonesia, Papua New Guinea, Malaysia, Gabon and other countries and subsequently exports finished products to countries including the UK.

The Global Witness report is available at <http://www.globalwitness.org/reports/show.php/en.00080.html>

The Greenpeace report is available at <http://www.greenpeace.org.uk/MultimediaFiles/Live/FullReport/7251.pdf?CFID=3149269&CFTOKEN=26408062>

"China emerges as main threat to Asian forests," GLOBE AND MAIL, 21 October 2005; "China 'fails to curb illegal logging in Burma'," FINANCIAL TIMES, 19 October 2005; "Burmese Junta Pays China in Timber for Protection," IPS, 20 October 2005.

## Events & Resources

### EVENTS

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

#### Coming up in the next two weeks

22-25 October, Dublin, Ireland: INTERNATIONAL  
28-29 October, Hamburg, Germany: CLIMATE OR DEVELOPMENT? This conference organised by the Hamburg Institute of International Economics addresses issues revolving around linkages between climate policy and poverty reduction. For further information contact Heike Kern, tel: (+49 40) 42834 337; fax: 42834 451; email: [heike.kern@hwwa.de](mailto:heike.kern@hwwa.de); Internet: [http://www.hwwa.de/Forschung/Klimapolitik/docs/2005/Events/28-10-2005\\_programme.pdf](http://www.hwwa.de/Forschung/Klimapolitik/docs/2005/Events/28-10-2005_programme.pdf)

28-29 October, Brussels, Belgium: SUSTAINABLE INNOVATION 05 CONFERENCE: GLOBAL 'STATE OF THE ART' IN SUSTAINABLE PRODUCT/SERVICE DEVELOPMENT AND DESIGN. Organised by an advisory board, the O2 - global network of sustainable designers, and the United Nations Environment Programme (UNEP), this conference will focus on the global 'state of the art' in sustainable product/service development and design and will provide an update on worldwide developments. It will analyse the obstacles and opportunities for sustainable product/service development and design. For further information contact Professor Martin Charter, tel: +44 (0) 1252 892772; fax: 1252 892747; email: [mcharter@surrart.ac.uk](mailto:mcharter@surrart.ac.uk); Internet: <http://www.cfsd.org.uk/events/tspd10/>

2-3 November, Geneva, Switzerland: COMMITTEE ON TECHNICAL BARRIERS TO TRADE. For further 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).

7-8 November, Beijing, China: BEIJING 2005 INTERNATIONAL CONFERENCE ON RENEWABLE ENERGY DEVELOPMENT. Following up on the Renewables 2004 event held in Germany, China is planning an international conference on renewable energy in late 2005. The conference will address issues such as the development and transfer of renewable energy technologies. This meeting is being organised by the Governments of China and Germany in cooperation with the UN DESA. For more information contact Mo Xiong Bing, tel: (+86 10) 516 658 98 or 685 013 41; fax: 840 648 62 or 68501971; email: [wangwh@mx.cei.gov.cn](mailto:wangwh@mx.cei.gov.cn); Internet: <http://www.birec2005.cn/>

7-9 November, Dakar, Senegal: ENERGY SUMMIT IN AFRICA. The issues to be addressed by this conference include energy needs and resources, infrastructure, investment, deregulation, the opening up of markets, and new regulations. The Summit will support the New Partnership for Africa's Development (NEPAD). For further information contact Jean-Pierre Favennec, tel: (+33 1) 4752 7116; email: [j-pierre.favennec@ifp.fr](mailto:j-pierre.favennec@ifp.fr); Internet: <http://www.gvep.org/content/calendar/detail/9326>

7-12 November, Yokohama, Japan: INTERNATIONAL TROPICAL TIMBER COUNCIL 39. The 39th session of the governing body of the International Tropical Timber Organization (ITTO), an intergovernmental organisation promoting the conservation and sustainable management, use and trade of tropical forest resources, will meet to discuss funding, governance and priorities. For further information contact Manoel Sobral Filho, tel: (+81 45) 223 1110; fax: 223 1111; email: [itto@itto.or.jp](mailto:itto@itto.or.jp); Internet: <http://www.itto.or.jp/live/PageDisplayHandler?pageId=189>

8-15 November, Kampala, Uganda: 9TH ORDINARY MEETING OF THE CONFERENCE OF THE CONTRACTING PARTIES TO THE CONVENTION ON WETLANDS. The Conference of the Parties will review the work of the Convention, plan its the future activities, and advance wetland science and policy and management tools. The conference's focus will be on the effective wetland management for poverty eradication, taking into consideration related priority actions found in Agenda 21, the UN Millennium Development Goals, and the Plan of Implementation adopted at the World Summit on Sustainable Development. For further information contact Dwight Peck, tel: (+41 22) 999 0170; fax: 999 0169; email: [peck@ramsar.org](mailto:peck@ramsar.org); Internet: <http://www.ugandawetlands.org/Cop9/index.htm>

#### Other upcoming events

16-18 November, Mumbai, India: WORLD CONFERENCE ON DISASTER REDUCTION. This event will address the specific need of corporate sector involvement in disaster management. It comes as the follow up of the WCDR held at Kobe, where need to involve all stakeholders in the disaster mitigation process was identified and enforced. This conference in November 2005 is aimed to identify sectors' strengths and highlight the areas where they can create a difference. The objective will be to connect government agencies, corporate world, expert organisations, relief organisations, and the communities to discuss the crucial role they can play in mitigating human suffering wrought by disasters. For further information visit <http://www.wcdr.gfdr.org>

19-26 November, Rome, Italy: FAO CONFERENCE 33RD SESSION. This Conference is the supreme governing body of the UN Food and Agriculture

Organization (FAO). Comprising all 184 FAO Members (presently 183 States and one Member Organisation, the European Community) it meets in regular session every two years. Its main functions are to determine the policies of the organisation, approve the budget, and make recommendations to Members and international organisations on any matter pertaining to the purposes of FAO. For further information contact, email: [FAO-Conference@fao.org](mailto:FAO-Conference@fao.org); Internet: [http://www.fao.org/unfao/bodies/conf/c2005/c2005\\_en.htm](http://www.fao.org/unfao/bodies/conf/c2005/c2005_en.htm).

26-30 November. Bonn, Germany: **WORLD RENEWABLE ENERGY ASSEMBLY**. The end of fossil resources is approaching, energy prices are rising, climate is changing: Renewable energies give the answer to these global challenges. The legislative framework is decisive for a global breakthrough towards renewables. Without clear and reliable laws, renewables cannot be brought quickly onto the markets, nor can a technology transfer to developing countries be secured. For this reason, parliaments take centre stage in the activities of the World Council for Renewable Energy (WCRE), pushing for an indispensable structural change in energy production. For further information contact the World Council for Renewable Energy (WCRE), tel: (+49 228) 36 23 73; fax: 36 12 13; email: [info@wcre.org](mailto:info@wcre.org); Internet: <http://www.wcre.org/>

13-17 December, Hong Kong, China: **HONG KONG TRADE AND DEVELOPMENT SYMPOSIUM**. The goal of this symposium, co-convened by the International Centre for Trade and Sustainable Development (ICTSD) and the University of Hong Kong in collaboration with the Institute for Agriculture and Trade Policy (IATP), is to encourage innovative thinking on issues related to trade and development that could subsequently be translated into constructive inputs for the ongoing Doha Round negotiations. The main topics for discussions will be drawn from key development-related issues in the trade policy and trade rules arena. For further information contact Patrick Lunt, tel: (+41 22) 917 88 37; fax: 917 80 93; email: [plunt@ictsd.ch](mailto:plunt@ictsd.ch); Internet: <http://www.ictsd.org/ministerial/hongkong/tds/>

13-18 December, Hong Kong: **SIXTH WTO MINISTERIAL CONFERENCE**. For further 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); Internet: [http://www.wto.org/english/thewto\\_e/minist\\_e/min05\\_e/min05\\_e.htm](http://www.wto.org/english/thewto_e/minist_e/min05_e/min05_e.htm)

16-20 January 2006, Geneva, Switzerland: **UN CONFERENCE ON THE RENEGOTIATION OF THE INTERNATIONAL TROPICAL TIMBER AGREEMENT, 1994, FOURTH PART**. Members of the ITTO will meet for the fourth time in Geneva to negotiate the provisions of a successor agreement to their current governing pact. For more information, contact

UNCTAD, tel: (+41 22) 917 5809; fax: 917 0056; email: [correspondence@unctad.org](mailto:correspondence@unctad.org); Internet: <http://www.unctad.org/Templates/Meeting.asp?intItemID=3323&lang=1>

## 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 [smohan@ictsd.ch](mailto:smohan@ictsd.ch).

**IS THE WTO THE ONLY WAY? SAFEGUARDING MULTILATERAL ENVIRONMENTAL AGREEMENTS FROM INTERNATIONAL TRADE RULES AND SETTLING TRADE AND ENVIRONMENT DISPUTES OUTSIDE THE WTO**. By Adelphi Consult, Friends of the Earth Europe and Greenpeace, October 2005. This report aims at initiating a debate within governments and inter-governmental organisations on alternatives to the WTO for clarifying the legal relationship between global trade rules and Multilateral Environmental Agreements (MEAs), and settling trade and environment disputes. It shows that there are effective and viable ways to safeguard environmental agreements from trade rules outside the WTO, notably through the International Court of Justice and the United Nations. To access this paper visit [http://www.foeeurope.org/publications/2005/alternatives\\_wto.pdf](http://www.foeeurope.org/publications/2005/alternatives_wto.pdf)

**SOWING AUTONOMY: GENDER AND SEED POLITICS IN SEMI ARID INDIA**. By Carine Pionetti (IIED), 2005. This publication focuses on women's roles in saving and reproducing seed in the drylands of the Deccan Plateau, in South India. Detailed farmers' accounts of why seed-saving is essential emphasise the interconnectedness between self-reliance in seed, crop diversity and nutrition. By extension, the realms of food culture and religious rituals (which entail the use of traditional crops) are also linked to seed autonomy. What is most significant about the intertwining of seed-saving, crop diversity and nutrition is that these three realms are largely under women's control. However, the processes of industrialisation and institutionalisation in the seed sector are undermining the very basis of autonomous seed production. To access this publication visit <http://www.iied.org/pubs/display.php?o=14502IIED>

**THE DIGITAL DUMP: EXPORTING REUSE AND ABUSE TO AFRICA**. By the Basel Action Network (BAN), October 2005. This report exposes the escalating global trade in toxic, obsolete, discarded computers and other e-scrap collected in North America and Europe and sent to developing countries by waste brokers and so-called recyclers. The report focuses on Nigeria, in western Africa, but says the situation is similar throughout much of the developing world. To access this report visit <http://www.ban.org/BANreports/10-24-05/>

**GUIDELINES FOR APPLYING THE PRECAUTIONARY PRINCIPLE TO BIODIVERSITY CONSERVATION AND NATURAL RESOURCE MANAGEMENT.** By the Precautionary Principle Project - a joint initiative of Fauna & Flora International, IUCN-The World Conservation Union, ResourceAfrica and TRAFFIC, July 2005. These Guidelines represent the first set of guidance for the precautionary principle in biodiversity conservation and NRM. They aim to inform and assist decision-makers, policy-makers and managers in interpreting and applying the principle. Whether the context is protected areas, ecosystem services, trade in wildlife, invasive species or fisheries, decision-makers must grapple with poor or incomplete data, inherent unpredictability, and ignorance. These Guidelines seek to provide clear, coherent guidance to address this situation. To access these guidelines visit [http://www.pprinciple.net/PP%20Guidelines\\_english.pdf](http://www.pprinciple.net/PP%20Guidelines_english.pdf)

**THE WATER FOOTPRINT OF COTTON CONSUMPTION.** By A.K. Chapagain, A.Y. Hoekstra, H.H.G. Savenije and R. Gautam, September 2005. The consumption of a cotton product is connected to a chain of impacts on the water resources in countries where cotton is grown and processed. A recent report by UNESCO-IHE and the University of Twente, the Netherlands, shows the 'water footprint' of worldwide cotton consumption, identifying both the locations and the character of the impacts. The study shows that the worldwide consumption of cotton products requires 256 Gm<sup>3</sup> of water per year. Given the general lack of proper water pricing mechanisms or other ways of transmitting production-information, cotton consumers have little incentive to take responsibility for the impacts on remote water systems. To access this paper visit <http://www.waterfootprint.org/Reports/Report18.pdf>

**WORKSHOP PROCEEDINGS ON MORAL AND ETHICAL ASPECTS OF GENETICALLY ENGINEERED AND CLONED ANIMALS.** By Pew Initiative on Food and Biotechnology, October 2005. In January 2005, the Pew Initiative on Food and

Biotechnology hosted a workshop to explore moral and ethical aspects of genetically engineering and cloning animals. Participants and attendees included animal biotechnology researchers from academia and industry, representatives from the biotechnology and food and agriculture industries, consumer and animal welfare advocates, ethicists and federal and state regulatory officials. Over the course of two and one half days, the assembled group discussed the moral and ethical issues relative to genetically modified and cloned animals and whether those issues differ from the questions raised in regard to conventional animal breeding, production and use. To access the proceedings of the meeting visit <http://pewagbiotech.org/events/0124/>

**FORESTS AND FLOODS: DROWNING IN FICTION OR THRIVING ON FACTS?** By the UN Food and Agriculture Organization (FAO) and the Center for International Forestry Research (CIFOR), 2005. This report states that there is no scientific evidence linking large-scale flooding to deforestation. It is a timely analysis that should prompt a close examination of the many issues involved in a major flood event—and an abandonment of the myth that deforestation is the root cause. The report comes as major floods around the world are taking place, particularly in the Asian lowlands, Eastern and Central Europe and Central America. To access this report, visit [http://www.cifor.cgiar.org/publications/pdf\\_files/Books/BCIFOR0501.pdf](http://www.cifor.cgiar.org/publications/pdf_files/Books/BCIFOR0501.pdf)

**FOOD AND NUTRITION BIOTECHNOLOGY: ACHIEVEMENTS, PROSPECTS, AND PERCEPTIONS.** By A. Sasson, 2005. This paper from the United Nations University provides an encompassing perspective on the state of play with regard to food and nutrition biotechnology. Rather than draw specific conclusions and provide recommendations, this paper seeks to address current issues, debates, and perspectives with regard to the foods we eat and the role of biotechnology. To access this paper, visit <http://www.ias.unu.edu/binaries2/Foodbiotech.pdf>

BRIDGES Trade BioRes© is published by the International Centre for Trade and Sustainable Development (ICTSD), <http://www.ictsd.org>, in collaboration with IUCN - World Conservation Union, <http://www.iucn.org>, and IUCN's Commission on Environmental, Economic and Social Policy, CEESP, <http://www.iucn.org/themes/ceesp/index.html>. This edition of BRIDGES Trade BioRes was edited by Heike Baumüller, [hbaumuller@ictsd.ch](mailto:hbaumuller@ictsd.ch). Contributors to this issue were Andrew Aziz, Trineesh Biswas, Ruth Fend, Sarah Mohan, Daniel Robinson and Amy Unander. The Director is Ricardo Meléndez-Ortiz, [rmelendez@ictsd.ch](mailto:rmelendez@ictsd.ch). ICTSD is an independent, not-for-profit organisation based at: 7, ch. de Balexert, 1219 Geneva, Switzerland, tel: (41-22) 917-8492; fax: 917-8093. Excerpts from BRIDGES Trade BioRes may be used in other publications with appropriate citation. Comments and suggestions are welcomed and should be directed to the Editors or the Director. BRIDGES Trade BioRes is made possible in 2004 through the generous support of the Swiss Agency for the Environment, Forests and Landscape (BUWAL) and the State Secretary for Housing, Spatial Planning and the Environment of The Netherlands (VROM). It also benefits from ICTSD's core funders: the Governments of Finland, Denmark, the Netherlands and Sweden; Christian Aid (UK), the Rockefeller Foundation, MISEREOR, NOVIB (NL), Oxfam (UK) and the Swiss Coalition of Development Organisations (Switzerland). ISSN 1682-0843

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