



Bridges Trade BioRes

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

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Environment @ WTO

DEVELOPING COUNTRIES PRESENT VIEWS ON ENVIRONMENTAL GOODS

Developing countries put forward their views on how best to liberalise trade in environmental goods at an informal technical session of the WTO Committee on Trade and Environment Special Session (CTE-SS) on 12-13 June. Three documents from India, Colombia and a group of developing countries set out their objections to the list approach and their preferred approaches to the mandate under paragraph 31(iii) of the Doha Declaration to negotiate on the "reduction or, as

appropriate, elimination of tariff and non-tariff barriers to environmental goods and services".

The meeting had been originally planned as the final technical session in a series of gatherings where WTO Members were to evaluate whether to liberalise products that had been proposed as candidates for inclusion in a list of environmental goods (see *Bridges Trade BioRes*, 19 May 2006, <http://www.ictsd.org/biores/06-05-19/story2.htm>). The remaining categories of products to be discussed included environmental monitoring, analysis and assessment equipment; remediation and clean up of soil and water; cleaner technology and products; environmentally preferable products based on end use or disposal characteristics; and high environmental performance or low environmental impacts. Several proponents of the list approach, which are members of the so-called 'Friends of environmental goods' group that includes mainly developed countries, made presentations about the products they had suggested for liberalisation. However, developing countries expressed doubts regarding the effectiveness of the step-by-step examination of products under the list approach, saying that discussions were going in circles.

Developing countries' concerns

Several developing countries expressed concern that cross-cutting issues such as special and differential treatment, non-tariff barriers and technology transfer needed to be addressed in more detail. They noted that these concerns were very important to them, and needed to be taken into account in any approach to the negotiations. In addition, they repeated their opposition, expressed in previous meetings, regarding the practice of identifying

specific products for liberalisation solely by name rather than by HS code -- the so-called 'ex-out' approach.

However, developing countries also raised more systematic complaints and criticisms regarding the list approach. Egypt, India, Argentina, Brazil, Mexico and South Africa, along with several other developing countries, tabled a room document stressing the importance of only liberalising environmental goods that serve a single environmental end-use. The group of countries, who referred to themselves as the 'Friends of the environment and sustainable development', said that unless liberalisation was limited to these single end-use products, the paragraph 31(iii) mandate could be used to reduce tariffs without environmental benefits, which would only benefit the economy of the exporting country. Better efforts needed to be made, they suggested, to make sure products liberalised under the environmental goods mandate actually served real environmental and developmental goals. They said that the proponents of the 'list approach' had failed to demonstrate that the products they were proposing only had a single environmental end-use, nor had they shown the environmental or developmental benefits of liberalisation of the products. Instead, the developing countries said that Members should focus on India's 'environmental project approach' in order to get clear environment and developmental benefits.

India presents refined 'project approach'

India submitted a fourth version of its proposal to adopt an 'environmental project' approach to the negotiations (TN/TE/W/67). The project approach proposes enabling a designated national authority (DNA) to decide, on the basis of multilateral agreed criteria and parameters, whether an environmental project should qualify as a project under the WTO rules, and thereby be eligible for market access concessions on goods and services used for the duration of the project (see Bridges Trade BioRes, 23 June 2005, <http://www.ictsd.org/biores/05-06-24/story1.htm>).

The paper argues that the project approach responds to the objectives of Paragraph 31 (iii) of the Doha Ministerial Declaration in a much more effective and comprehensive manner than the 'list approach'. Unlike the 'list approach', they argue, the

project approach includes tariff reduction in environmental services, addresses non-tariff barriers and enables dynamic coverage of changing technologies. The paper also attempted to address some of the criticisms that have been made regarding the project approach, including the lack of predictability and transparency. It points out that the approach would multilaterally define the boundaries and parameters of policy space for Member countries to address their environmental problems in a developmentally-supportive way. In this sense, it addresses concerns by several developing countries that the list approach could restrict their flexibility to make environmental policy. Instead, India argues, the project approach would create multilaterally-agreed criteria for EGS liberalisation with which individual countries could address their national environmental goals along with global environmental objectives.

A compromise?

Colombia also presented a non-paper (JOB(06) 149) which addresses the concern of other developing country Members that goods and services liberalised under the paragraph 31(iii) mandate must be "clearly and obviously related to the environment" while taking into account the "special situation of developing countries". To qualify for liberalisation as a good that has a single environmental use, they propose that the product must have direct and verifiable environmental application in the categories of environmental control and environmental improvement which supports the objectives of multilateral environmental agreements (MEAs). For goods with dual and multiple uses, Colombia proposes that goods only be liberalised if a designated national authority has approved a project, programme, plan or system with verifiable environmental benefits that uses the good.

This non-paper seeks to bring together India's project approach, the list approach, the Argentinean "integrated" approach (see Bridges Trade BioRes, 28 October 2005, <http://www.ictsd.org/biores/05-10-28/story1.htm>), special and differential treatment and multiple-use concerns. Sources expressed hope that the non-paper could bridge the gaps between the proponents of the list and project approaches, but indicated that all the proposals needed more debate and refinement. Another proposal from Uruguay will be discussed at the next formal meeting of the CTE-SS, which will be held on 6-7 July.

South Africa offers to open borders to environmental consultants

In related news, South Africa on 8 June presented an environmental services liberalisation offer which is the first response to a March request on opening the environmental services sector (see Bridges Trade BioRes, 3 March 2006, <http://www.ictsd.org/biores/06-03-03/story2.htm>). Under the negotiation process currently underway in the Committee on Trade in Services Special Session, groups of countries have made so-called "collective" requests to other countries to ask them to open up particular sectors, including the environment. In its offer, South Africa commits to liberalise its regulations on the cross-boundary temporary movement of people providing consultant services in the sewage, refuse disposal, sanitation, noise and vibration abatement and landscape protection services. In addition, it also offers to open up its soil remediation and noise and vibration abatement services sectors to cross-border supply, where only the service crosses the border, and the commercial presence of a company providing these services. The company would only be allowed to set up in the country, though, if it established a joint venture with a local service provider with a maximum of 51 percent foreign ownership. South Africa's proposal explicitly points out that the proposal does not include services related to the collection, purification and distribution of water for human use.

ICTSD Reporting.

BRAZIL FILES FIRST SUBMISSION IN WTO RETREADED TYRES CASE

On 8 June, Brazil filed its first written submission with the WTO in a dispute with the EU concerning trade in retreaded tyres. In its submission, Brazil responded to allegations made in the EU's first submission, which was confidentially submitted to the WTO in April. The WTO created a dispute settlement panel on 20 January 2006 regarding an EU claim that a Brazilian import ban on retreaded and used tyres, associated fines, the exemption of Mercosur countries from these measures and a domestic prohibition on the marketing of imported retreaded tyres were WTO inconsistent. In its response, which was made publicly available, Brazil did not deny the WTO inconsistency of the targeted measures and the EU allegation of a General Agreement on Tariffs and Trade (GATT) violation,

but rather tried to make a defence of the measures under the Agreement's Article XX "exemption" clause (See Bridges Trade BioRes, 3 February 2006, <http://www.ictsd.org/biores/06-02-03/story1.htm>).

In its defence, Brazil held that the measures are justified under Article XX (b) as necessary to protect human life and health and the environment and that no alternative measures are reasonably available. Furthermore, it defended the so-called 'anti-circumvention' fines, a regime penalizing traders who circumvent import controls by placing fines on the importation, transportation, and storage of used and retreaded tyres within the country. It argued that these fines are justified under Article XX (d) because they are, as required by that article, necessary to secure compliance with the import ban.

Brazil's defence of the measures under Article XX

For the targeted measures to be allowed by the WTO as a legitimate exemption to other WTO rules, Brazil needs to satisfy a two pronged test. Firstly, it has to prove that the measures are necessary to protect human, animal or plant life or health, as specified in Article XX(b). Secondly, Brazil will have to prove that the measures fall within the chapeau of Art. XX in that they are not applied in an arbitrary or unjustifiably discriminatory fashion.

In taking on the first leg of the test, beginning with Article XX(b), Brazil pointed out that the Appellate Body has recognized in previous cases the legitimacy of policy that seeks to protect human life and health and the environment, and that WTO Members have significant autonomy to determine domestic environmental policy objectives and the legislation necessary to fulfil these goals. The submission went on to explain that the government policy objective behind the measures in question was indeed the protection of human life and health by directly reducing "harm to health and the environment" from waste tyre accumulation and disposal.

It further stated that the ban was 'necessary', as required by Article XX, because there was no less trade-distorting measure that would contribute so effectively in reducing the health and environmental threats posed by retreaded tyres. If the import ban had not been implemented, the submission argues, a

high number of retreaded tyres would have entered Brazil and, as they have a short life span and can not be retreaded again, they would have quickly become waste. The import ban as such prevents waste tyres from entering the country, and so arguably reduces detrimental effects to human life and the environment. The domestic prohibition on marketing of imported retreaded tyres, insofar as it supports the import ban, is similarly defended under Article XX (b).

In laying out its defence of the 'anti-circumvention' fines under Article XX (d), Brazil contended that it was not, as alleged by the EU, protecting its domestic tyre industries. Rather, it said that the fine scheme was applied on an equal basis among domestic and foreign businesses and significantly enhanced the effectiveness of the ban.

After having argued that the measures were covered by the provisions of Article XX, Brazil went on to address the measures vis-à-vis the chapeau of Article XX and thereby satisfying the second prong of the test. They argued that the ban was applied in a reasonable, consistent and predictable and thus not arbitrary or discriminatory manner. They further noted that the relevant issue in making this determination was whether the measure was the least trade-restrictive measure possible and whether it was applied 'reasonably' which it held the measure to be.

The exemption of the Mercosur countries

In its submission, Brazil argued that the exemption given to Mercosur countries was required under its obligations to Mercosur, a customs union to which it belongs that is authorised under GATT Article XXIV. In 2002, a Mercosur tribunal found, in a case brought by Uruguay against Brazil, that the retreaded tyre measures were in violation of the Mercosur agreement. To comply with this ruling, Brazil exempted Mercosur countries Argentina, Paraguay and Uruguay from the measures, and so allows imports from these countries. The exemption was targeted by the EU as being in violation of Article XIII of the GATT, which prohibits discriminatory administration of quantitative restrictions, and the Most Favoured Nation (MFN) principle in Article I. Brazil, in its defence, underlined that the exemption did not raise new barriers but merely lifted the trade restrictions for the Mercosur countries. In addition, they argued, imports from Mercosur countries were necessary to secure compliance with Brazil's

obligations under the WTO-recognised regional trade agreement. Under Article XX(d) Members are allowed to implement measures necessary to secure compliance with laws and regulations which are consistent with WTO law -- possibly including, Brazil argued, measures necessary to ensure compliance with regional agreements authorised under Article XXIV.

The first hearing of the panel is expected to take place in early July, after which time the EU submission will be released to the public.

The submission and other documents relating to the case are available online at

<http://www.trade-environment.org/page/theme/tewto/tyrescase.htm>

ICTSD Reporting.

Intellectual Property

DISCUSSIONS ON CBD-TRIPS GAIN MOMENTUM WITH NEW PROPOSALS

Advocates of amending the WTO Agreement on Trade-related Intellectual Property Rights (TRIPS) to include a mandatory 'disclosure requirement' submitted two concrete proposals to amend the agreement in the first two weeks of June. Both a submission from a group of developing countries and a proposal from Norway propose an amendment to the TRIPS Agreement that would require patent applicants to disclose the country providing genetic resources used in the invention and, if the providing country has legislation requiring prior informed consent (PIC) for access to those resources, evidence of such consent. The developing country submission also called for evidence of benefit-sharing to be included as a requirement on patent applicants. At informal consultations held on the proposals, Members including the US, Japan and Canada insisted that in light of the substantial differences on what approach to take, it was too early to start negotiating on a specific text.

Under paragraph 12 of the Doha Declaration, WTO Members have been discussing the relationship between the implementation of the TRIPS Agreement and the Convention on Biological Diversity (CBD). In particular, they have focused on the implementation of Article 27.3b of the TRIPS Agreement, which sets out exemptions

to patent requirements, and the CBD's third objective of "fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access". Discussions on the implementation of TRIPS Article 27.3 and its relationship to the CBD have been taking place in informal consultations led by WTO Deputy Director-General Rufus Yerxa. They have come to focus less on Article 27.3b and more on the potential of a disclosure requirement to ensure that TRIPS and CBD are mutually supportive. At the same time, the TRIPS Council has been holding relatively less political and more technical discussions on the overall CBD-TRIPS relationship under a mandate from paragraph 19 of the Doha Declarations (see Bridges Trade BioRes, 17 March 2006, <http://www.ictsd.org/biores/06-03-17/story4.htm>).

Developing countries propose new Article 29bis

In their proposal, Brazil, India, Pakistan, Peru, Thailand and Tanzania, subsequently joined by China and Cuba, suggest creating a new Article 29bis in the TRIPS Agreement with the express purpose of "establishing a mutually supportive relationship" between the TRIPS Agreement and the CBD (WT/GC/W/564/Rev.1). This marks the first time the countries, which call themselves the "Disclosure Group", has tabled specific text on a disclosure requirement. However, in November 2005 India had proposed text for the Hong Kong Ministerial Conference that would have launched negotiations on amending Article 27.3b of the TRIPS Agreement to include a disclosure requirement (see Bridges Trade BioRes, 9 December 2005, <http://www.ictsd.org/biores/05-12-09/story2.htm>). Although Article 27.3b is the subject of both Doha Declaration mandates insofar as it covers exemptions to patentability for plants and animals, experts suggested that the change in strategy amongst the Disclosure Group in advocating for a change in Article 29 would help incorporate the proposed disclosure requirement into current TRIPS rules on information that patent applicants must disclose, including a description of the invention.

The Disclosure Group's text would require applicants seeking to patent inventions derived from or developed with biological resources and its associated traditional knowledge to disclose the country of source -- defined as the country providing the resources to the applicant -- and also the country of origin of the resource, which is

undefined. Its definition of biological resources is broader than "genetic resources", the term generally used, and is intended to ensure that all possible cases of biopiracy are covered and to keep pace with technological developments especially with respect to biotechnology. Traditional knowledge not specifically linked to biological resources, however, is not included.

The amendment would also oblige patent applicants to provide, when required under the national legislation of the providing ("source") country, sufficient evidence of compliance with its legal requirements regarding prior informed consent for access and for equitable benefit sharing arising from commercial use. Even after their applications were accepted, patent-holders would be obliged to disclose any new information regarding the source or origin of the resource, or of relevant access or benefit rules in the providing country, of which they become aware.

To ensure compliance the proposed amendment would require Member governments to empower domestic authorities to deny and revoke patents "when the applicant has, knowingly or with reasonable grounds to know, failed to comply" with the disclosure requirements, or provided false information. However, at the consultation, India suggested in response to questions that patent offices would only be required to check if information had been supplied and not its veracity, and that as a result the burden on patent offices would be minimal. Sources suggested, however, that if the patent office is not responsible for checking the truthfulness of the information, the likelihood of denial or revocation of patents because of false disclosure would be lower.

Norway supports disclosure requirements

Norway, which has been supportive of demands for disclosure requirements both in the WTO and the World Intellectual Property Organisation (WIPO), formally expressed its backing to the proposed Amendment to the TRIPS Agreement. At the informal consultations held on 14 June, Norway submitted its proposal to this effect (WT/GC/W/566).

However, Norway's proposal has certain elements that differ from that of the Disclosure Group. For instance, while the disclosure group would use patent revocation as a compliance tool, Norway proposes using criminal or other legal sanctions to

discipline non-compliance with the disclosure rules. In addition, the Norwegian proposal says that while the obligation to disclose the providing country is a "binding international obligation" information on the country of origin would only be included if "known and different" in contrast to the Disclosure Group's requirement for both origin and source information. Norway's disclosure requirement would be triggered for both genetic resources and traditional knowledge, with the latter included even if it was not associated with genetic resources, in contrast to the Disclosure Group's proposal. Furthermore, Norway's proposal does not include the disclosure groups' requirement that patent applications must disclose evidence of compliance with provider country benefit-sharing regulations. Norway also suggested that countries could send any declarations of origin that they receive to the CBD clearing-house mechanism. The CBD is currently negotiating on how to ensure effective access and benefit sharing arrangements, including through examining the possible role of certificates of origin (see Bridges Trade BioRes, 3 February 2006, <http://www.ictsd.org/biores/06-02-03/story2.htm>).

Positions remain largely unchanged

During the informal consultations led by Deputy Director General Yerxa on 1 and 14 June held under the implementation paragraph 12 mandate, and during a formal TRIPS Council meeting on 15 June when the proposals were also discussed, negotiators largely reiterated the same positions they had put forward at earlier meetings. Several developing countries, including Ecuador, Sri Lanka, Kenya, Colombia, Bolivia, Turkey and the Philippines, expressed support for the Disclosure Group's proposal. However, the US, Japan, Korea, Australia, New Zealand and Canada opposed the proposal and in general the idea of a disclosure amendment to the TRIPS Agreement. They argued, as they had at previous meetings, that a new disclosure requirement would not help prevent the issuance of "bad" patents that incorporate genetic resources without proper recognition of the source or access agreements. Instead, the US said that the disclosure requirement could generate burdensome procedures and additional costs on patent offices. It reiterated its support for private contract-based methods of ensuring equitable access and benefit sharing.

In reaction to a US call to learn more about national experiences, Japan presented a proposal on 14 June that shares some experiences from its industry and

suggests that genetic resource databases could help prevent the approval of bad patents (IP/C/W/572). Canada, Australia and New Zealand similarly shared their experiences with access and benefit sharing. The EU, for its part, repeated that it is interested in mandatory disclosure of the country of origin requirements, but would not support enforcement measures that include the potential revocation of patents, and would along with Switzerland prefer to amend WIPO patent rules to reach these objectives (see Bridges Trade BioRes, 14 April 2006, <http://www.ictsd.org/biores/06-04-14/inbrief.htm>).

Yerxa said he would hold consultations and discussions to achieve progress on the issue. However, sources suggested that the two proposals, and particularly the amendment from Norway, clarified the link between potential TRIPS rules and the ability of some Members to implement their national legislation -- in this case, Norway's access and benefit sharing rules. Similarly, other sources suggested that the concrete suggestion of amendments to the agreement had created momentum within the negotiations and highlight the priority of the issue to developing countries.

At a consultation on 6 June, Switzerland explicitly linked the new proposal on the TRIPS amendment to ongoing discussions on GI (geographical indication) extension. The GI debate revolves around whether the higher level of intellectual property protection of a product based upon the original location of its production ("geographical indication" or GI protection), currently accorded to wines and spirits, should be extended to other products. Switzerland reminded Members that 'GI extension' was the priority of several developed countries, and it would want to see progress on the issue if it were to start negotiating disclosure requirements in the TRIPS Agreement. In light of this, several delegates suggested there could be a potential tradeoff between GI extension and the TRIPS-CBD relationship discussions to break the deadlock on both issues.

Additional Resources

All new CBD-TRIPS proposals are available online at <http://www.iprsonline.org/submissions/article273.htm>

Developing countries' responses to questions regarding their proposal is available online at <http://www.ip-watch.org/files/Brazil-India%20%20Response.doc> ICTSD reporting; "Brazil, India Get Developed Country Support For TRIPS Amendment On Biodiversity," IP WATCH, 15 June 2006.

Chemicals

DEVELOPING COUNTRIES SAY REACH COULD HAVE "GRAVE CONSEQUENCES"

Thirteen of the EU's leading trade partners, including several developing countries, issued a statement on 8 June urging Brussels to modify the proposed Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) legislation to reduce its "potentially disruptive impact on international trade" and "grave consequences on developing economies". The joint press statement from the missions to the EU of India, Brazil, Mexico, Singapore, South Africa, Thailand, Chile, Israel, Korea, Malaysia, Australia, Japan and the US came at the end of a meeting hosted by the American Chamber of Commerce to the EU (AmCham-EU) in Brussels, Belgium on the impact of the draft chemicals regulation on international trade flows. The legislation has gone through a first reading in the European Parliament and a vote in the Council of Ministers (see Bridges Trade BioRes, 25 November 2005, <http://www.ictsd.org/biores/05-11-25/inbrief.htm#5>).

Risk, notification costs and substitution key concerns

The statement calls on the EU to use the opportunity provided by the second reading in Parliament, scheduled for October 2006, to make key changes to reflect their concerns regarding the workability of the regulation, its effects on international trade, and the opacity of the regulatory process. In particular, the countries said they wanted a "more risk-based authorisation process" to decide what products would be subject to the registration and regulation requirements. They stressed the importance of only including chemicals on the basis of a risk assessment that demonstrated clear health or environmental risks, and questioned the environmental value of including chemicals which have been processed to the point at which they have no more risky characteristics, or which are covered by other legislation. They said that some parts of the draft legislation, such as the inclusion of "everyday bulk commodities", high registration fees and demands on technological and human resource capacity could be particularly burdensome for small and medium-sized enterprises in developing countries.

The countries also took aim against the substitution principle in the draft legislation, under which companies that wanted to use a chemical that had been deemed hazardous by the REACH approval and registration process would be required to use another safer chemical, if available. They argued that mandatory substitution would cause "unnecessary market disruptions without clear environmental benefits". Instead, they suggested that the EU harmonise its rules with existing international regulatory efforts, using data from the Organisation for Economic Co-operation and Development (OECD) and other relevant organisations.

No explicit mention of WTO compatibility, but allusions made

Although the countries did not make an explicit reference to the WTO-compatibility of REACH, the frequent references to "effects on international trade", "unnecessary market disruptions" and "unclear environmental benefits" was interpreted by many analysts as a reference to the possibility that aspects of REACH could be regarded as constituting an unnecessary obstacle to trade. The US in April of this year suggested that the regulation could be challenged through the WTO's dispute settlement system under Article 2.2 of the WTO Agreement on Technical Barriers to Trade (TBT), which specifies that WTO Members shall not adopt or apply technical measures that are unnecessary barriers to trade insofar as they are more trade-restrictive than necessary.

The US is expected to raise its objections to REACH at an EU-US summit to be held on 21 June in Vienna.

EU, civil society lash back

REACH was originally designed to protect consumers and the environment against the adverse effects of chemicals found in products like paint, detergents, cars and computers. Environmental group WWF said that the countries making the statement had failed to take account of changes that had been made to the bill after its first reading in the EU parliament -- including revisions to the text to make sure the rule-making was based on that from relevant international regulatory fora, to allow for exemptions, and to prioritise chemicals on the basis of risks. Justin Wilkes, a chemical safety campaigner at WWF, said it was "part of a continuing US effort to weaken REACH to the

benefit of its chemicals industry". Instead, WWF argued, REACH could help developing countries to create domestic systems for sound chemicals management. A recent study drafted for the European Parliament's Development Committee estimates the costs to the chemical companies operating in African, Caribbean and Pacific countries to be just Euro 50 million over 11 years.

In response to questioning regarding the statement and the WTO implications of the legislation, the EU told reporters on 9 June that it had consulted with the WTO and its own legal service about compliance with the TBT Agreement. "We do not see how [REACH] could contravene WTO rules", said environment spokesperson Barbara Helfferich.

Additional resources

The joint press statement is available at http://useu.usmission.gov/Dossiers/Chemicals/Jun0806_REACH_Statement.asp

ICTSD reporting; "US mounts coalition to defeat EU chemical safety reform (REACH)," EURACTIV, 9 June 2006; "US, others pressure EU to re-think chemicals bill," REUTERS, 9 June 2006; "EU chemicals bill under fire from US-led coalition," don't know agency, 9 June 2006; "U.S. Rallies 12 Nations to Pressure EU To Ease Burden of REACH Chemical Reform," WTO REPORTER, 12 June 2006.

In Brief

US GOVERNMENT SUED FOR ALLEGEDLY IMPORTING ILLEGALLY LOGGED MAHOGANY

In a lawsuit filed on 6 June with the US Court of International Trade, a US conservation organisation and two Peruvian indigenous groups have called on the US government and timber importers to halt their imports of illegally logged Peruvian mahogany. The Natural Resources Defense Council (NRDC), along with the Native Federation of Madre de Dios (FENAMAD) and Racimos de Ungurahui, allege that the US government and private companies have been importing mahogany timber for use in luxury furniture without the proper documentation of legality required by the US Endangered Species Act and the Convention on International Trade in Endangered Species in Wild Flora and Fauna (CITES), which has since 2003 included mahogany on its Appendix II. Under the rules governing species listed in Appendix II, mahogany is subject to strictly regulated trade on the basis of quotas and permits to ensure that trade does not compromise

its survival. All shipments of the timber must be accompanied by a CITES export permit that corresponds to the exporting country's export quota, which in 2006 is 23,000 cubic metres for Peruvian mahogany.

The groups call on the US Department of Homeland Security, Department of Interior Department and the Department of Agriculture to stop all illegally traded Peruvian mahogany from entering the US, and request three US timber companies to forfeit illegally imported Peruvian mahogany already in the country. The groups contend that loggers illegally cut the mahogany in parts of Peru that have been set aside for protection, plundering its resources and disrupting the lives of the indigenous people, and that Peruvian authorities have not been able to control illegal harvesting. However, Brent McClendon, the executive vice president of International Wood Products Association, a trade group not named in the suit, argued that mahogany imports into the US are legal. "It is accompanied by all the necessary permits, documents and paperwork that allow it to be traded legally and sustainably under international and national laws and regulations", he said. The NRDC has argued that pervasive forgery of documents and corruption makes all mahogany imports from Peru suspect.

"Federal Border Agencies Allowing Illegal Mahogany Imports, Say Native Peruvians And U.S. Conservation Group," NRDC, 6 June 2006; "Groups Seek to Halt Peru Mahogany Imports," AP, 6 June 2006; "Evergreen importer sued over Peruvian mahogany dispute," PRESS REGISTER, 6 June 2006.

EU, SAO TOME AND PRINCIPE SIGN FISHERIES AGREEMENT

The European Commission and Sao Tome and Principe have signed a four-year fisheries partnership agreement (FPA) that will replace the previous agreement, which ended on 31 May. The new agreement will last until 31 May 2010 and come into effect retroactively for 1 June once it is approved by the EU Agriculture and Fisheries Council and the relevant authorities of Sao Tome and Principe. Under the previous agreement the EU had paid EUR75 per ton of fish taken from Sao Tome and Principe's water while the private sector European fishing fleet had paid EUR25. Under the new agreement the contribution by the European boat owners has been increased to EUR35 a ton,

while the EU contribution has been reduced to EUR65. In the new regime, fishing opportunities will be provided exclusively for tuna to 43 vessels as opposed to 61 under the previous agreement. The EU has also agreed to a flat-rate financial contribution of EUR663,000 per year, which includes EUR552,500 per year for European access to up to 8,500 tons of tuna from Sao Tome and Principe's exclusive economic zone. Any additional catches beyond this overall amount will be paid retrospectively. The total also includes a specific additional annual allocation of EUR110,500 to support Sao Tome and Principe's national fisheries management policy. The technical conditions governing tuna fishing have also been revised to take into account the practices specific to highly-migratory species fisheries, including requirements for the presence of regional observers and obligations to hire fishermen from the African, Caribbean and Pacific region. The government of Sao Tome and Principe said it would to dedicate 50 percent of the total financial contribution -- that is, EUR331,500 -- to the promotion of sustainable fisheries in their waters, and that it would engage in active dialogue on the fisheries policy of the country with the EU.

ICTSD Reporting; "EU and Sao Tome e Principe initial new fisheries partnership agreement", EU PRESS RELEASE, 8 June 2006; "EU and Sao Tome e Principe initial new fisheries partnership agreement," FISHUPDATE, 9 June 2006.

INDIA FILES REQUEST FOR WTO CONSULTATIONS WITH THE US ON SHRIMP

On 12 June, India requested WTO consultations with the US over bonds that importers of Indian shrimp have to deposit with US customs authorities. India's filing is based on antidumping measures imposed by the US in February 2005 on frozen warmwater shrimp from India and other countries (see Bridges Trade BioRes, 28 April 2006, <http://www.ictsd.org/biores/06-04-28/inbrief.htm#2>). Under an amendment to the US Customs anti-dumping directive, which covers shrimp and other agricultural and aquaculture goods, importers of the products have to give the US government money ("bond") that amounts to a certain percentage of the value of the past 12 months of the targeted imports, and the US government would hold the cash for one year. The amount prescribed by the formula is much higher than the previous rules, which required only a bond

amounting to 10 percent of the duties, taxes and fees paid by the importer annually. In its request to the WTO, India claims that the measures under the amended directive are in violation of the WTO Anti-Dumping and Subsidies and Countervailing Measures Agreements as well as the General Agreement on Tariffs and Trade (GATT). The Indian request follows an earlier legal action on the shrimp anti-dumping duties by Thailand and Ecuador against the US use of a 'zeroing' methodology to calculate anti-dumping duties and its bond requirement. Reportedly, Ecuador is next in the line of countries to contest the US imposition of antidumping duties and high bond requirements for shrimp. Their request for consultations is expected at the 19 June meeting of the Dispute Settlement Body (DSB).

ICTSD Reporting.

TARO PATENTS TO BE GIVEN BACK TO HAWAII'S INDIGENOUS PEOPLE

The University of Hawaii has decided to relinquish its claims to three patents on taro plant varieties in recognition of the plants' cultural significance for natives of the country. Taro is a tropical plant native to Hawaii grown primarily as a vegetable food for its edible corm, and secondarily as a leaf vegetable. In a statement on 3 June, the Vice Chancellor of the University said that because of the University's "strong desire to maintain appropriate respect and sensitivity to the indigenous Hawaiian culture", which considers taro to be a sacred ancestor of Hawaiian people, three patents over taro varieties crossbred to be resistant to leaf blight would be transferred to indigenous Hawaiians. Discussions are underway to determine what legal entity should be responsible for the patents, but the indigenous people, taro farmers and students who have protested against the patents have raised concerns about ownership more broadly. "Culturally significant plants such as taro should not be owned", said Sarah Sullivan of Hawaii Seed. Indigenous groups have also expressed concerns about genetic modification of taro, with Moloka'i activist Walter Ritte Jr. arguing that "You can't change our ancestors without our permission". University of Hawaii plant pathologist and taro researcher John Cho agrees that taro intended for food consumption should not be genetically modified owing to the religious and cultural significance of the crop, but has suggested that traditional breeding methods can enhance resistance to disease. The Hawaiian state legislature is

currently considering two proposals which would ban until 2011 field testing of GM coffee and taro in the state and would ban for five years further GM efforts on taro. The root crop has gained in popularity in recent years, as its cultural, nutritional and food security value has become more appreciated. A papaya variety genetically modified to be resistant to the ringspot virus was introduced to the island in 2000, at a time when the domestic papaya crop was virtually eliminated by the virus, and increased the profile of biotech in domestic food security debates.

Further information on the cultural and religious links between taro and Hawaiian culture is available at http://www.earthfoot.org/lit_zone/taro.htm

"Univ Hawaii agrees to give up 3 patents on taro," HONOLULU STAR BULLETIN, 6 June 2006, "Lawmakers push limits on crop modification," KNIGHT RIDDER, 2 March 2006; "Taro genetic work blasted," HONOLULU ADVERTISER, 14 February 2006; "UH to give taro patents to Native Hawaiians," AP, 3 June 2006.

Events & Resources

EVENTS

For a more comprehensive list of events in trade and sustainable development, please refer to ICTSD's web calendar.

Coming Up In the Next Two Weeks

2 June - 1 August, Global: EUROPEAN COMMISSION ONLINE CONSULTATION ON THE REVISION OF THE NOVEL FOODS REGULATION. This consultation aims to gather input from the general public, stakeholders and Member States in order to carry out an impact assessment for a future legislative proposal to revise the current Novel Food Regulation. The Commission is seeking feedback on how to take into account, for example, particular needs of traditional exotic food from third countries and which is adjusted to applications which cover several food uses. For background information visit http://ec.europa.eu/food/food/biotechnology/novelfood/nfia_expl_doc.pdf and to join the consultation visit http://ec.europa.eu/dgs/health_consumer/dyna/enews/enews.cfm?al_id=241

17 June, Global: WORLD DAY TO COMBAT DESERTIFICATION. This year, there is double reason to celebrate the World Day to Combat Desertification, with 2006 being the International Year of Deserts and

Desertification. This year's theme is "The Beauty of Deserts - The Challenge of Desertification." For further information contact the UN Convention to Combat Desertification Secretariat, tel: (+49) 228 815 2808; fax: 815 2898; Internet: <http://www.unccd.int>.

19-21 June, Tunis, Tunisia: CONFERENCE ON THE FUTURE OF DRYLANDS: This conference will focus on drylands research, conservation, policy and sustainable drylands development. Organised by the UN Educational, Scientific and Cultural Organisation (UNESCO) For further information contact Thomas Schaaf, tel: (+33-1) 45 68 40 65; fax: 45 68 58 04; e-mail: sc.drylands@unesco.org; Internet: <http://www.unesco.org/mab/ecosyst/futureDrylands.shtml>.

19-21 June, Beijing, China: ENVIRONMENT, RESOURCES AND AGRICULTURAL POLICIES IN CHINA. Organised by the Directorate for Food, Agriculture and Fisheries, the Environment Directorate and the China Ministry of Agriculture. For further information contact OECD Directorate for Agriculture, Food, and Fisheries, email: agr.contact@oecd.org; Internet: http://www.oecd.org/document/49/0,2340,en_2649_34487_32618737_1_1_1_1,00.html.

19-22 June, Havana, Cuba: LATIN AMERICAN AND CARIBBEAN CONSULTATION ON THE ROTTERDAM CONVENTION. This meeting will address prior informed consent procedure for certain hazardous chemicals and pesticides in international trade. Participating countries are Cuba and Costa Rica. For further information contact the Rotterdam Convention Secretariat, tel: (+41) 22 917-8296; fax: (+41) 22 797-3460; email: pic@pic.int; Internet: <http://www.pic.int/en/ViewPage.asp?id=405>

19-23 June, Geneva, Switzerland: WTO SERVICES WEEK. For further information, contact the WTO Information and Media Relations Division, Geneva; tel: (+41-22) 739- 5007; fax: (+41-22) 739-5458; email: enquiries@wto.org.

26-27 June, London, England: CLIMATE CHANGE IN A POST 2012 WORLD. This conference organized by Chatham House will take as a starting point the multiple global efforts to mitigate and adapt to the effects of climate change, including the ongoing negotiations at the United Nations Framework Convention on Climate Change, the G8 Dialogue and the Asia-Pacific Partnership on Clean Development and Climate. For further information contact Catherine O'Keeffe, tel: (+44-0) 20 7957 5700; fax: 20 732 1 2045; email: conferences@chathamhouse.org.uk; Internet: <http://www.chathamhouse.org.uk/index.php?id=5&cid=92>

26 -30 June, Geneva, Switzerland: PROVISIONAL COMMITTEE ON PROPOSALS RELATED TO A

WIPO DEVELOPMENT AGENDA: SECOND SESSION. For further information, contact the WTO Information and Media Relations Division, Geneva; tel: (41-22) 739- 5007; fax: (41-22) 739-5458; email: enquiries@wto.org.

27-29 June, Geneva, Switzerland: WORKSHOP ON THE WTO AGREEMENT ON GOVERNMENT PROCUREMENT. For further information, contact the WTO Information and Media Relations Division, Geneva; tel: (+41-22) 739- 5007; fax: 739-5458; email: enquiries@wto.org.

28 - 30 June, Geneva, Switzerland: WTO COMMITTEE ON SANITARY AND PHYTOSANITARY MEASURES. For further information, contact the WTO Information and Media Relations Division, Geneva; tel: (+41-22) 739- 5007; fax: (+41-22) 739-5458; email: enquiries@wto.org.

29 June, Addis Ababa, Ethiopia: WORKSHOP ON PRESENT STATUS, CHALLENGES AND FUTURE OPPORTUNITIES. Organised by the Horn Biotechnology Forum. The workshop aims to raise biotechnology awareness and promote better understanding of the current status, challenges, and future opportunities of biotechnology applications for the Horn of African countries (Djibouti, Eritrea, Ethiopia, Somalia, and Sudan). For further information contact Tilahun Zeweldu, email: tila@apepuganda.org, zeweldu@msu.edu or tilazew@yahoo.com; Internet: <http://www.netard.dk/>.

29 June-1 July, Lima, Peru: 3RD MEETING OF THE BIG-LEAF MAHOGANY WORKING GROUP. Organized by the Convention on International Trade in Endangered Species of Wild Flora and Fauna. Big-leaf Mahogany (*Swietenia macrophylla*) is the most commercially important of the Mahoganies and generates over 100 million per year in export sales. Big-leaf mahogany is now subject to international trade regulations under CITES Appendix II. For further information contact the CITES Secretariat, (+41) 22 917-8139; fax: (+41-22) 797 3417; email: cites@unep.ch; Internet: <http://www.cites.org>

29 June-2 July, Ravello, Italy: AGRICULTURAL BIOTECHNOLOGY: FACTS, ANALYSIS AND POLICIES. This conference, organised by the International Consortium on Agricultural Biotechnology Research, will focus on the impact of agricultural biotechnology on international trade, among other topics. For further information contact Vittorio Santaniello, tel: (+39) 06-7259-5843; e-mail: icabr@economia.uniroma2.it.

Other upcoming events

14-15 September, Trieste, Italy: FUTURE AQUACULTURE. Organised by EUROFISH International Organisation with the support of the

European Commission, Directorate General for Fisheries, Maritime Affairs and Italy, the Ministry of Agriculture and Forestry Policies. This two-day conference for industry and trade will address the opportunities and challenges of aquaculture in Europe, with a regional focus on the southern and eastern areas of Europe. For further information contact EUROFISH International Organisation, tel: (+39) 040 368343; fax: 040 368808; email: eurofish@theoffice.it; Internet: <http://www.eurofish.dk/indexSub.php?id=3222&easysitestadid=1140793271>.

4 July, Lancaster, UK: SCIENCE, INTELLECTUAL PROPERTY AND OPENNESS. Hosted by Lancaster University. This day is intended for scientists and others interested in how the intellectual property system interacts with their work, and especially those who are concerned with the understanding current debates about the balance between openness and property in science (and other research arenas). For further information contact Chris May, tel: (+44-0) 1524 594272; fax: (+44-0) 1524 594238; email: c.may@lancaster.ac.uk.

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.

ICTSD Resources

TRADE AND MARKETPLACE MEASURES TO PROMOTE SUSTAINABLE FISHING PRACTICES. By Cathy Roheim and Jon G. Sutinen (ICTSD, May 2006). This report examines the current range of trade and marketplace measures being used by individual states, regional fisheries management organizations (RFMOs), the fishing industry and non-governmental organizations (NGOs) to reinforce international fisheries conservation and management provisions, achieve fisheries management and sustainability objectives and minimize illegal, unreported and unregulated (IUU) fishing. These measures take the form of various policies and practices to monitor and track seafood products from the time the fish are caught to when they are sold to final consumers, including border controls that allow countries or territories to regulate, restrict or prohibit trade in these products. To access this paper visit http://www.ictsd.org/pubs/ictsd_series/nat_res/Roheim_Sutinen_2006.pdf

MARKET ACCESS AND TRADE LIBERALISATION IN FISHERIES. By Mahfuz Ahmed (ICTSD, June 2006). This paper analyses the pros and cons of liberalizing fish trade, and explores options for accelerated liberalization of the fish sector. The paper focuses on constraints faced by developing countries from both demand and supply perspectives. The demand-side considerations include market constraints related to trade, such as tariff and non-tariff

barriers, while the supply-side constraints encompass domestic challenges in developing countries. To access this paper visit http://www.ictsd.org/pubs/ictsd_series/nat_res/Ahmed_2006.pdf

Other Resources

THE BEST OF TEXTS, THE WORST OF TEXTS. By David K. Schorr (WWF, June 2006). This report provides a critical analysis of the submissions currently being discussed at the WTO on fisheries subsidies. In the context of goals that governments have highlighted for the talks, including reducing subsidisation of fishing that causes overexploitation of fish stocks, texts from Brazil, the European Communities, Japan, New Zealand and the US are duly examined. To access this report, visit http://assets.panda.org/downloads/best_of_texts__final__b_w_.pdf

AMERICA'S FREE TRADE FOR ILLEGAL TIMBER- HOW US TRADE PACTS SPEED THE DESTRUCTION OF THE WORLD'S FORESTS. By the Environmental Investigation Agency, June 2006. The report critically examines America's free trade agreements with countries such as Singapore and Honduras where illegal logging has contributed to destruction of forests. The report also examines a US-Malaysia FTA, currently under consideration, and potential impacts on the rainforests in Southeast Asia. To access this report visit <http://www.eia-international.org/>

HOW MUCH BIOENERGY CAN EUROPE PRODUCE WITHOUT HARMING THE ENVIRONMENT? By Tobias Wiesenthal, Aphrodite Mourelatou, Jan-Erik Petersen and Peter Taylor (European Environment Agency, June 2006). The report examines the increasing use of renewable energies offering significant opportunities for Europe to reduce greenhouse gas emissions and secure its energy supply. To access this report visit http://reports.eea.europa.eu/eea_report_2006_7

BIOFUELS FOR TRANSPORTATION: GLOBAL POTENTIAL AND IMPLICATIONS FOR SUSTAINABLE AGRICULTURE AND ENERGY IN THE 21ST CENTURY. (Worldwatch Institute, June 2006). The report analyses the rising importance and share of biofuel production in the global transport fuel market, which is nonetheless predominantly oil driven, and the effects of such the growth of biofuels upon other sectors. To access this report visit <http://www.worldwatch.org/taxonomy/term/445>.

SURVEY OF NANOTECHNOLOGY GOVERNANCE: ROLE OF NGOS AND ROLE OF INDUSTRY. By M.C. Roco and E. Litten (IRGC, June 2006). This set of surveys provides a summary of current risk governance strategies employed by industry and NGOs, as well as the International Risk Governance Council's recommended frameworks for risk governance strategies. To access these surveys visit <http://www.irgc.org/irgc/projects/nanotechnology/>

ENERGY EFFICIENCY FINANCING AND THE THERE COUNTRY ENERGY EFFICIENCY PROJECT (World Bank, May 2006). The report examines energy efficiency financing while relying on country specific case studies which China, India and Brazil. This report can be accessed at <http://3countryec.org/>

Vacancies

ATTORNEY - INTELLECTUAL PROPERTY AND SUSTAINABLE DEVELOPMENT, Center for International Environmental Law (CIEL). S/he will be responsible for the development of innovative solutions to legal and policy questions arising at the interface of international law relating to environment and health, trade, and development, with a particular focus on the rules and institutions of the WTO, WIPO, WHO, FAO, CBD, as well as regional and bilateral trade. Applicants should send a cover letter, along with their CV and a writing sample to Sofia Plagakis, at splagakis@ciel.org. The deadline for applications is 19 June 2006. For more information, please see http://www.ciel.org/Join/IP_Director_30May06.html.

TRADE OFFICER – NATURAL FUTURES PROGRAM. The World Conservation Union (IUCN) is looking for a Trade Officer for a position in South Africa to support regional natural product trade issues. For further information visit http://www.iucn.org/en/about/vacancies/2006_06_natural_futures_trade_officer.pdf

DIRECTOR - POLICY, ECONOMICS AND SOCIAL SCIENCE. The World Fish Centre is seeking a candidate with a Ph.D in a relevant discipline and 10 years research and management experience to develop, lead and mentor an organization with globally recognized expertise and ensure leadership of the organization at global and regional levels through innovative research that contributes to the organisation's mission. For further information visit <http://www.worldfishcenter.org>

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