



# Bridges Trade BioRes

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

**Issue: 3 March 2006**

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## Biotechnology

### MOP-3: LABELLING FOR BIOTECH EXPORTS UP FOR DISCUSSION AGAIN

After Parties to the Cartagena Protocol on Biosafety failed to reach agreement at their last meeting, documentation requirements for shipments of living modified organisms (LMOs) are again likely to dominate the agenda of the third Meeting of the Parties (MOP-3), to be held from 13-17 March in Curitiba, Brazil. Parties will be under some pressure to finalise this issue which they had been mandated to agree on within two years of the Protocol's entry into force in September 2003.

Given the fundamental differences among Parties - which had already threatened to derail negotiations of the Protocol itself -- and the lack of dialogue and progress since the last meeting, observers have expressed scepticism that an outcome beyond the status quo could be achievable at MOP-3. However, the fact that Brazil -- one of the key opponents to extensive documentation requirements -- is hosting the meeting and would likely prefer to see a conclusion of the negotiations at the meeting might provide the needed political impetus for discussions. To facilitate this process and bridge the gap between the different positions, Brazil is convening an informal meeting with key countries ahead of MOP-3.

### LMO commodities in the spotlight

The negotiations on documentation requirements for LMOs for use in food and feed and for processing (LMO-FFP) aim to further elaborate on the provisions of Article 18.2(a) which requires LMO-FFPs to be labelled as "may contain" LMOs and as not intended for release into the environment. African countries in particular continue to push for deleting the word "may", instead calling for a mandatory requirement to declare all LMOs contained in a shipment. At MOP-2, the EU had been willing to accept a reference to "may", provided that a clear specification of the LMOs that may be contained in the shipment was included. These proposals, however, had proven unacceptable for some countries, notably Brazil and New Zealand, and Parties in end had to postpone the negotiations to MOP-3 (see [http://www.trade-environment.org/page/infoxch/CPB\\_MOP2.htm](http://www.trade-environment.org/page/infoxch/CPB_MOP2.htm)). Other contentious issues include whether to use an existing document (such as the commercial invoice) or a stand-alone document to provide the required information; and what additional information, such

as a unique identifier code, should be provided.

In the absence of agreement at MOP-2, countries continue to operate based on an interim decision adopted at MOP-1 (see [http://www.trade-environment.org/page/infoxch/CPB\\_MOP1.htm](http://www.trade-environment.org/page/infoxch/CPB_MOP1.htm)). The decision elaborates somewhat on Article 18.2(a), but simply "urges" Parties to implement additional requirements while still leaving a number of options open for some of the more controversial issues. Beyond the Article 18.2(a) requirements, the interim decision urges Parties and other governments to require information on the name of the organism and the transformation event or unique identifier code. No new draft text has been put forward for discussion at MOP-3 at this time. Instead, the Secretariat's paper (UNEP/CBD/BS/COP-MOP/3/8) on the issue outlines three options, namely to base discussions on the Chair's texts adopted at the Open-ended Ad hoc Technical Expert Group and at MOP-2; only on the MOP-2 Chair's text; or the interim decision adopted at MOP-1.

### Other issues at MOP-3

A number of other issues have been placed on the agenda of MOP-3. Among them, Parties will debate the need for standards on the identification, handling, packaging and transport practices in LMO trade as mandated by Article 18.3 of the Protocol. In preparation for MOP-3, the Secretariat reviewed the suitability of existing rules and standards, including, among others, those provided by the WTO, FAO, the World Organisation for Animal Health (OIE), the WHO, the OECD and the International Organization for Standardization (ISO) (UNEP/CBD/BS/COP-MOP/3/8/Add.2). The review concludes that none of these standards comprehensively cover the scope of Article 18. The paper notes that most of the existing standards aim to protect human, animal or plant health rather than biodiversity per se; that many labelling requirements deal with food products that are largely outside the scope of the Protocol; and that many of the rules and standards are limited to certain geographical or political regions (such as the EU or the OECD). The paper suggests that Parties should proceed by soliciting views on potential gaps in existing frameworks by MOP-5 and to continue gaining experience on implementing the Protocol's current provisions (under Article 18).

How to deal with cases of repeated non-compliance of the Protocol is also expected to come up at MOP-3. This question had proven controversial at MOP-1, in particular the use of trade sanctions as a possible compliance measure. Also on the agenda are issues related to risk assessment and risk management, including the need for additional guidance and capacity building on risk assessment. Issues related to liability and redress -- a particular concern of many African countries -- will also be touched on at MOP-3 although substantive discussions on a possible legally binding regime are likely to be left to the Ad Hoc Open-ended Working Group which at MOP-1 was tasked with elaborating options for elements of rules and procedures by 2007 (see related In Brief, this issue).

### Additional Resources

Documents of the meeting are available at <http://www.biodiv.org/doc/meeting.aspx?mtg=MOP-03>.

Daily reporting will be provided by IISD Linkages, <http://www.iisd.ca/biodiv/bs-copmop3>.

ICTSD reporting.

### Environment at the WTO

#### EC, OTHERS TABLE REQUEST FOR LIBERALISATION OF ENVIRONMENTAL SERVICES

On 28 February, Australia, Canada, the European Communities, Japan, Korea, Norway, Switzerland, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, and the United States circulated a collective request for a number of large developing countries to open their environmental services markets to foreign services providers. Specifically, the request asks them to open up their sewage; refuse disposal; sanitation; cleaning of exhaust gases; noise abatement; nature and landscape protection; and other environmental protection services in specific ways. However, it explicitly excludes any request for water for human use (i.e. the collection, purification and distribution of natural water).

#### Request marks new services liberalisation process

WTO talks on the liberalisation of services in the Committee on Trade in Services Special Session

(CTS-SS) had until the end of 2005 used a bilateral "request-offer" process, under which one country would request another to open up a particular service sector in a particular way, and the recipient country could consult with the asking one and then decide whether to offer to open the named sector in the way requested. However, at the Hong Kong Ministerial Conference in December 2005, WTO Members decided to allow a group of Members to submit a 'plurilateral request' on services, and set an end-February 2006 deadline for such requests. The sending out of a number of different requests prompted one Western official to dub it, tongue-in-cheek, the first successfully-met deadline in the Doha Round negotiations.

Paragraph 31(iii) of the Doha Declaration mandated WTO Members to negotiate on "the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services". While the environmental goods part of this mandate has been taken up at some length in the Committee on Trade and Environment Special Session (see related story, this issue), CTS-SS work on environment services had to date been limited to a few scattered requests for liberalisation of environmental services. Most notably, the EC at one point had asked several developing countries to open their water provision sectors to foreign investment, a request that they later took back after a backlash from civil society and several developing countries.

### **Broad sectoral coverage requested**

In the WTO Services Sectoral Classification List (WTO Document MTN.GNS/W/120 ), the environmental services sector is defined as being comprised of four sub-sectors of activity: sewage services; refuse-disposal services; sanitation and similar services; and other environmental services. However, the UN Central Product Classification (CPC) system contains several additional sub-sectors of activity for environmental services, namely, cleaning services of exhaust gases, noise abatement services, nature and landscape protection services and other environmental services not elsewhere classified. The plurilateral request encourages recipients to liberalise in all four WTO sub-sectors and the UNCPC sub-sectors as well, but urges all recipients to include in particular commitments in their sewage; refuse disposal; sanitation; cleaning of exhaust gases; noise abatement; nature and landscape protection; and other environmental protection services sectors.

### **Level of commitment**

WTO Members have divided up the type of trade in service provision into four categories or "modes". Mode 1 covers cross-border supply, where only the service crosses the border (e.g. telecommunications); Mode 2 covers consumption abroad (e.g. tourism); Mode 3 covers commercial presence of a service supplier (e.g. banking services supplied by a foreign bank subsidiary); and Mode 4 covers the movement of "natural persons", that is the temporary movement of workers to a country to provide services.

The request does not ask for the recipients to open services under Mode 1, but asks them to fully open Mode 2 (including tourism) for all subsectors, for example. On Mode 3, they point out that most environmental services are supplied in this way and asks recipients to "undertake ambitious commitments", including barriers to commercial presence like foreign equity limitations, joint operation requirements and restrictions or requirements on types of legal entity for foreigners such as requirements for joint ventures for a license to operate in a country. It also asks, in Mode 4, for recipients to ensure the mobility of people providing environmental services.

### **Liberalisation could benefit environment, demandeurs say**

The request highlights its link to the paragraph 31(iii) mandate, and notes that the countries presenting the document believe that liberalisation in these sectors could benefit the exporters and importers of the services and the environment and development as well. It notes, however, that services liberalisation should not hinder governments' ability to impose performance and quality controls on environmental services and other ways that the governments can make sure that service suppliers are fully qualified to carry out their tasks in an environmentally sound manner. While noting that a number of environmental services are granted public monopoly and exclusive rights at a central or local level, it says that foreign suppliers should be able to compete with local ones to provide those services. In addition, it points out that government procurement of services under national laws is not covered by the request, and reiterates that all WTO Members can under WTO rules establish, maintain, and enforce their own levels of protection, for consumers, health, safety and the environment.

The Special Session of the Council for Trade in Services (CTS-SS) will reportedly meet informally on 7 March to discuss how to proceed with the plurilateral market access negotiations (see Bridges Weekly, 1 March 2006, <http://www.ictsd.org/weekly/06-03-01/WTOinbrief.htm#1>).

ICTSD reporting; "US is Active Participant in Coalition to Jumpstart WTO Services Negotiations," US TRADE REPRESENTATIVE PRESS RELEASE, 28 February 2006; "WTO Circulates Plurilateral Requests; EU Participates in 11 Services Initiatives," WTO REPORTER, 1 March 2006; "EU and others launch 'plurilateral' process to boost Doha services negotiations," EUROPEAN COMMISSION PRESS RELEASE, 28 February 2006; "WTO services negotiations move up a gear," REUTERS, 1 March 2006.

### **"STEP-BY-STEP" APPROACH TO ENVIRONMENTAL GOODS LIBERALISATION CONSIDERED**

During an formal 21-22 February meeting of the WTO Committee on Trade and Environment Special Session (CTE-SS), Members decided on a work plan to consider the products that have been notified as potential environmental goods, but differed on what criteria should be used to evaluate them and whether single-use products should be addressed first, or simultaneously, with dual-use products. Divisions, however, remain about the broad approach to follow when liberalising trade in environmental goods, as well as on the overall scope of products to be discussed. Members also remain uncertain about how to address issues such as special and differential treatment for developing countries and non-tariff barriers.

Paragraph 31(iii) of the Doha Declaration mandated Members to negotiate on "the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services". The December 2005 Hong Kong Ministerial Declaration instructed them to complete this work "expeditiously" (see Bridges Trade BioRes, 20 January 2006, <http://www.ictsd.org/biores/06-01-20/story1.htm>).

#### **Chair, US propose parameters to identify environmental goods**

Members adopted a step-by-step approach towards fulfilling the Paragraph 31(iii) mandate. They decided to consider products from among the 480

that have already been identified in the environmental goods lists submitted by nine Members (and compiled into an informal document by the WTO Secretariat in November 2005, TN/TE/W/63). This would not preclude the future consideration of goods not included in the compilation.

Countries are considering two sets of 'indicative parameters' for evaluating some of these products. The first set, which was proposed by CTE-SS Chair Ambassador Toufiq Ali (Bangladesh) a week before the meeting, asks whether the product has a clear and direct environmental end use; what environmental products, categories of products or projects are of particular interest to developing country Members; and what other considerations may be taken into account when determining whether a product constitutes an environmental good. The second, more product-specific set was tabled by the US on the day of the meeting (TN/TE/W/64). It asks whether the product has a clear and direct environmental benefit; if any potential dual or multiple uses could be addressed by using a narrower product description at the national level; whether the product is "so central to the delivery of key environmental and developmental benefits... that its exclusion from liberalisation would reduce the intended environmental benefits" of the initiative; and if the product is sensitive or raised other concerns for delegations. The US proposal, furthermore, urged Members not to continue "the same kind of unstructured debate" as last year.

#### **Issue of multiple use of products, focus categories remains divisive**

After consulting with several Members on the second day of negotiations, Ali proposed discussing the merits of some proposed products in four categories -- renewable energy, air pollution control, wastewater treatment and soil remediation -- in a technical meeting during the next CTE-SS. India, on behalf of a group of ten developing countries including Argentina, Brazil, China, Egypt, Mexico and South Africa, rejected that suggestion. Instead, it proposed that Members examine products in the categories of renewable energy and air pollution control, apply the criteria of single environmental end-use as a filter, and to examine the remaining products against cross-cutting issues such as special and differential treatment, related non-tariff barriers and technology transfer. The US expressed opposition to proceeding in such a manner,

indicating that it would prefer to proceed quickly to the consideration of multiple use products, and to discuss other issues later. Cuba also raised some doubts about the practicality of applying the parameters first for single-use renewable energy and air pollution control products, and then restarting the whole exercise for multiple use products in the same categories.

As a result of these disagreements and the existence of the two sets of parameters for evaluating products, the procedure to be adopted at the next meeting remained somewhat ambiguous. The Chair emphasised, however, that all proposals related to products within the categories of air pollution control and renewable energy tabled prior to the Hong Kong Ministerial Conference would be discussed.

### **List approach criticised once again**

At the meeting, divisions emerged once again between proponents of the so-called "list approach", who have proposed identifying a list of environmental goods for liberalisation, and those -- primarily from developing countries -- sceptical of the approach. India, which under its "environmental project approach" has proposed temporarily liberalising market access for certain goods and services used in approved "environmental projects" (see BRIDGES Trade BioRes, 23 June 2005, <http://www.ictsd.org/biores/05-06-24/index.htm>), contends that the environmental character of some of the lists that countries have put forward is called into question by the fact that they include many products with multiple uses. According to one developing country delegate, industrialised countries that have already put forward lists have simply adopted those put together either by the Asia-Pacific Economic Cooperation (APEC) or the Organisation for Economic Cooperation and Development (OECD) -- organisations that many developing countries are not members of -- without having made an effort to filter the products contained therein on the basis of environmental merit.

The next meeting of the CTE-SS will be held on 14-15 June.

ICTSD reporting.

## **Forestry**

### **UNFF LOOKS FOR RELEVANCE IN INTERNATIONAL FOREST GOVERNANCE**

Delegates meeting in New York from 13-24 February for the sixth session of the United Nations Forum on Forests (UNFF-6) adopted a set of measures that officials hoped would strengthen the International Arrangement on Forests (IAF) that the UNFF administers and make the IAF more relevant and influential in global forest governance. In the draft resolution forwarded to the UN Economic and Social Council (ECOSOC), countries agreed to four global objectives for forests, identified three aspects of the IAF to strengthen, and decided to forgo efforts to create a legally binding instrument (LBI) on forests. Notwithstanding the agreement on the resolution, which comes in marked contrast to the failure to adopt any text at UNFF-5 in 2005 (see Bridges Trade BioRes, 29 April 2005, <http://www.ictsd.org/biores/05-06-10/inbrief.htm#5>), low civil society interest and participation and a lack of enthusiasm amongst delegates themselves led to questions on the impact of the UNFF on international forest governance, and in the longer-term, sustainable forest management and livelihoods on the ground.

### **UNFF's current role in international forest governance**

The UNFF was created by ECOSOC in 1995 (Resolution E/2000/35) to provide a home for talks that had been ongoing for five years within the Intergovernmental Panel on Forests (IPF) and the Intergovernmental Forum on Forests (IFF). IPF-IFF talks themselves had been launched by forest negotiations at the Rio Summit in 1992 where consensus on an international instrument on forests was not forthcoming, in contrast to talks on biodiversity, desertification and climate change. The UNFF was mandated to facilitate the implementation of forest-related agreements and foster a common understanding on sustainable forest management, provide a forum for policy development and dialogue, enhance cooperation and strengthen political commitment. In addition to adopting decisions urging UN Members to take agreed-upon measures and approaches, the UNFF has also headed up the Collaborative Partnership on Forests, which includes 14 major organisations working on forests, has instituted a notification

system and has hosted talks on the nature and content of an international instrument on forests. It aims to be the global forum for forest policy, taking a holistic approach to biodiversity, social, developmental, economic, financial, trade and other aspects of forests. While the UNFF mandate from ECOSOC is open-ended, a new programme of action will come into force in 2007 and last until 2015.

### **Measures adopted to add "teeth" and "meat" to IAF**

Four global objectives were agreed upon -- based on proposed "global goals" from UNFF-5 -- on reducing the loss of forest cover; enhancing economic, social and environmental benefits of forests; increasing the area of protected forests; and reversing the decline in official development assistance for sustainable forest management. To make the UNFF and the Collaborative Partnership on Forests -- known together as the IAF -- more effective, UN Members also agreed to instruct the IAF to enhance the contribution of forests to achieve the millennium development goals; encourage and assist countries in developing and implementing forest conservation and rehabilitation strategies; and strengthen activities with regional and sub-regional forest-related mechanisms. Páki Patosaari, UNFF Director, suggested that these measures will, when adopted by ECOSOC in July of this year, "reaffirm" the international community's political drive behind work on forests, and in particular the UNFF's role in international policy-making on the issue.

However, several civil society groups active on forestry issues have questioned the relevance and impact that UNFF processes have on the ground in forest conservation and sustainable use. This was reflected at the meeting by the low participation of civil society and other 'major groups' (shorthand for indigenous, youth and other groups that are represented at UNFF) in the talks. Describing it as a "talk shop", they have questioned the power that the UNFF has to actually implement the policy decisions it urges countries to take. Instead, many civil society groups -- and particularly European-based ones -- have focused on regional and national efforts, including the forest law enforcement, governance and trade (FLEGT) processes in Europe and elsewhere (see Bridges Trade BioRes, 25 November 2005, <http://www.ictsd.org/biores/05-11-25/story2.htm>). This shift has also been recognised

by the UNFF through the adoption of a decision to strengthen interaction between the UNFF and relevant regional and sub-regional forest-related mechanisms, institutions, instruments, organisations and processes, along with its commitment to "strengthen the capacity of countries to address illegal practices according to national legislation and illegal international trade in forest products in the forest sector, through the promotion of FLEGT at the national, sub-national, regional and sub-regional levels."

Some NGOs and a number of countries have, in the corridors, suggested that the UNFF's work should be moved to the Convention on Biological Diversity (CBD) and operationalised by a Protocol on Forests, given that the CBD has a strong biodiversity focus arising from the fact that officials negotiating it are largely from environment ministries (as opposed to the forestry officials that attend UNFF talks or trade officials that attend International Tropical Timber Organization (ITTO) talks). The next opportunity for an initiative to increase CBD activity on forests will arise at the 9th Conference of the Parties to the CBD (COP-9) in 2008, at which time a significant review of the implementation of a programme of work on forest biodiversity initiated at the COP-6 in 2002 will be undertaken and further work planned. The move to shift jurisdiction toward the CBD was, however, previously resisted by countries, such as Canada that formerly suggested that the UNFF could deliver substantial gains through the adoption of a legally binding instrument on all types of forests.

### **Parties decide to opt for non-legally binding option**

In an effort to avoid the deadlocked debates that have stymied UNFF talks on an international instrument on forests in the past, and building on informal discussions at a Berlin meeting on the subject (see Bridges Trade BioRes, 25 November 2005, <http://www.ictsd.org/biores/05-11-25/story2.htm>), the UNFF decided to give up on the creation of a legally binding instrument (LBI) on forests, and instead resolve to make a non-LBI within a UNFF-led process. Although the last UNFF meeting, held in May 2005, contemplated the possibility of the creation of a LBI based upon EU and Canadian demands, at the meeting the EU decided to compromise and accept a non-LBI for the time being. As a result of the decision to not negotiate an LBI in the UNFF, Canada, Argentina, Chile and others have suggested that they will

pursue the creation of a global LBI on forests elsewhere -- which could mean in the CBD or in regional forums -- given the urgent need for conservation of the world's forests and promotion of livelihoods, development and other aspects of the issue.

Draft texts with options from the EU, Brazil, Australia and others will be used as a starting point for the negotiations of a voluntary agreement, which will begin shortly after the ECOSOC meeting. The UNFF Secretariat will circulate a compilation of the draft indicative elements by 30 June, and an open-ended ad-hoc working group will be held shortly thereafter "to consider the content of the non-legally binding instrument", which will feed into the next UNFF meeting in April 2007. Although a number of countries wanted to review the possibility of changing the instrument into a binding one before the end of the decade, the final resolution says that a review of the IAF, including the non-LBI, will take place in 2015 and will consider a LBI as an option.

Delegates also noted that the UNFF should give input to the 2012-2013 Commission on Sustainable Development (CSD) focus on forests. In the same year, possible incorporation of avoided deforestation as a measure subject to compensation under the Kyoto Protocol to the UN Framework Convention on Climate Change (UNFCCC) Clean Development Mechanism (CDM) could come into effect, leading one source to suggest that the UNFCCC could one day become the de facto LBI. However, the use of avoided deforestation has proven contentious amongst UNFCCC Parties, and comments on a proposal on the issue tabled at the December 2005 COP will be taken up at a meeting of the UNFCCC Subsidiary Body for Scientific and Technical Advice (SBSTA) on 18-26 May 2006 in Bonn, Germany.

#### Additional Resources

Daily reporting on the meeting is available at <http://www.iisd.ca/forestry/unff/unff6/>

The draft resolution forwarded to ECOSOC is available at <http://www.un.org/esa/forests/>

ICTSD Reporting; ENB Vo. 13 No. 144, 27 February 2006.

#### In Brief

### BIOTECH LIABILITY TALKS PROGRESS ON SCOPE, DAMAGE, CAUSATION

The Open-ended Ad Hoc Working Group on Liability and Redress of the Cartagena Protocol on Biosafety, meeting on 20-24 February in Montreal, Canada, for their second meeting, were able to make some progress to bridge the broad chasms that separate positions on how the Protocol should treat the contentious issue. The talks were mandated by the Protocol itself in Article 27, which urges Parties to adopt before 2009 a "process with respect to the appropriate elaboration of international rules and procedures in the field of liability and redress for damage resulting from transboundary movements of living modified organisms" (see Bridges Trade BioRes, 28 October 2005, <http://www.ictsd.org/biores/05-10-28/inbrief.htm#4>). Discussions in Montreal focused on the scope of damage resulting from transboundary movements of living modified organisms (LMOs), the definition of "damage" and how to establish a causal link to the damage, and the actor to be held liable for the damage. On all three issues, delegates put together compilations of operational legal-type texts from a number of Parties. The operational texts mark a step closer among the positions on the three issues, building on narrative analysis submitted by some Parties and civil society before the meeting, and although divergences remain represented in the text and some criticised the tedious issue-by-issue, position-by-position process that led to their formation, the next meeting of the Working Group will likely seek to create similar papers for the eight outstanding issues. Parties have yet to address channelling of liability, role of parties of import and export, standard of liability; limitation of liability; mechanisms of financial security; settlement of claims; standing/right to bring claims; non- parties; complementary capacity building measures; and choice of instrument.

The question of the type of instrument that should embody the new regime on liability and redress for biotechnology was touched on, as was the standard of liability (e.g. a strict or fault-based standard) and how to finance the final instrument. Industry representatives as well as exporting countries expressed concern that financial security mechanisms, such as compulsory insurance, might operate as an economic trade barrier. However, sources suggested that detailed debates on these

elements are being held until a more advanced phase of negotiations.

ICTSD Reporting; ENB Reporting, Vol. 9 No. 345, 27 February 2006.

### **US-COLOMBIA FTA SIGNED, SAYS ENVIRONMENTAL LAWS TO BE UPHELD**

A trade promotion agreement signed by the US and Colombia on 27 February incorporates environmental provisions in a dedicated chapter of the text as well, in a side Environmental Cooperation Agreement and in a side understanding on the importance of traditional knowledge (TK) and biodiversity. The environmental chapter of the bilateral free trade agreement says that domestic environmental laws must be upheld and not diminished for the sake of attracting trade or investment, and makes that obligation subject to the dispute settlement procedures of the accord. In addition, it says that proceedings for the administration and enforcement of environmental laws should remain fair and transparent and that innovative market-based mechanisms to protect the environment should be encouraged. It also establishes an Environmental Affairs Council of high-level officials to ensure that these provisions are enforced. Furthermore, the side Environmental Cooperation Agreement, which creates a framework for undertaking environmental capacity building in Colombia, mandates the formation of an Environmental Cooperation Commission. The understanding on TK and biodiversity recognises their potential contribution to cultural, economic and social development, and notes that the two countries will "endeavour to seek ways to share information that will provide quality patent examination". It also recognises the importance of using contracts to achieve prior informed consent and equitable benefit sharing on the use of genetic resources and TK, similarly to a Peru deal signed in December 2005 (see Bridges Trade BioRes, 3 February 2006, <http://www.ictsd.org/biores/06-02-03/inbrief.htm#2>).

This is the second bilateral FTA to emerge from the Andean FTA negotiations that the US launched with Colombia, Ecuador and Peru in May 2004 (with Bolivia as an observer). After the joint talks faltered over disagreements on a number of different issues -- in particular, Ecuador's opposition to some of the US' demands on intellectual property rights -- the US and Peru

signed a bilateral deal in December 2005 (see BRIDGES Weekly, 25 January 2006, <http://www.ictsd.org/weekly/06-01-25/story3.htm>).

ICTSD Reporting; "Free Trade with Colombia: Summary of the Agreement," US TRADE REPRESENTATIVE, 27 February 2006; "Colombia Trade News," COLOMBIAN GOVERNMENT TRADE BUREAU, 1 March 2006; "Colombian Students Oppose FTA," PRENSA LATINA, 28 February 2006.

### **NORWAY TO TAKE EU TO WTO OVER SALMON ANTIDUMPING MEASURES**

The Norwegian foreign ministry on 21 February said it would on 22 March formally challenge the antidumping measures imposed by the EU on its farmed salmon through the WTO Dispute Settlement Mechanism (DSM). This move comes after the Council of the European Union on 21 January decided to continue to impose a minimum import price of EUR 2.80 per kg of whole fish equivalent for farmed salmon originating from Norway for five years in response to what they allege is dumping of Norwegian salmon on EU markets. While according to the EU their measures are in accordance with the WTO Anti-Dumping Agreement WTO rules, Norway claims they violate them and hopes for their repeal through the WTO DSM.

Farmed salmon imports to the EU have been the subject of disputes for a number of years because of losses suffered by the UK and Ireland salmon industries that have been attributed to import competition. In mid-2004, the Commission adopted quotas to safeguard EU producers from Norway, Chile and Faroe Islands imports. Those safeguard measures, however, were revoked in April 2005 and replaced with provisional anti-dumping duties only targeted at Norway ranging between 6.8 percent and 24.5 percent added to the value of Norwegian salmon imports (see Bridges Trade BioRes, 29 April 2005, <http://www.ictsd.org/biores/05-04-29/inbrief.htm>). The change followed complaints by EU salmon producers that Norwegian exporters were engaging in unfair pricing -- in particular selling under cost of production -- and a confirmation of these complaints by a EU investigation. These 'ad valorem' duties, which were collected by the EU at ports, were changed in June 2005 to a provisional minimum import price that requires Norwegian exporters to ship their products above that price, which the EU claims reflects



production costs in Norway. Norway has challenged the allegation that export prices are below production costs, saying that the minimum price will make them lose market share in the EU.

"European Commission regrets Norwegian decision to take EU to WTO over anti-dumping measures on Salmon," EU PRESS RELEASE, 21 February 2006; "Anti-dumping. Norwegian Salmon. Memo," EUROPEAN COMMISSION, 16 February 2006; "Norway takes salmon row to WTO in surprise move," EU OBSERVER, 22 February 2006.

## LEGAL STATUS OF MARINE GENETIC RESOURCES IN QUESTION

A 13-17 February informal meeting of a UN General Assembly Working Group on marine biological diversity struggled with the legal status of and access and benefit sharing arrangements for marine genetic resources on the high seas. Delegates, meeting in New York with a mandate to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, clashed in particular over the legal status of marine genetic resources and whether they fall under the 'common heritage of mankind' principle or the 'freedom of the high seas' principle. While the G77/China adhere to the regime of the common heritage of mankind, namely that no state can claim or exercise sovereignty or sovereign rights over any part of the marine genetic resources, some countries within the group stressed that the benefits arising from marine genetic resources should be shared with developing countries by expanding the jurisdiction of the International Seabed Authority (ISA) or through new international regulations. While they pointed to article 136 of the UN Convention on the Law of the Sea as justification for the relevance of the common heritage principle to marine genetic resources, the US and Japan argued that this regime applies only to mineral resources whereas marine genetic resources should be subject to the freedom of the high seas principle, namely that the high seas are open to all States, and pointed to article 87 of UNCLOS to justify their position.

Countries also discussed how destructive fishing practices on marine ecosystems and genetic resources. The EU proposed a new UNCLOS implementation agreement and the creation of marine protected areas, invoking the precautionary principle in the face of overwhelming evidence of disastrous impacts of practices such as bottom trawling on ecosystems. However, the idea of such an agreement met with opposition from the US,

Japan, Korea, Norway and Iceland and was not embraced by developing countries, either, as it said little on the issue of marine genetic resources. In the absence of a new agreement, these groups as well as Mexico, New Zealand and the EU urged delegates to adopt short-term measures to address the most critical threats to marine biodiversity.

ICTSD reporting; Earth Negotiations Bulletin; "Protection for High Seas Biodiversity – Time to Get Serious," DSCC, 13 January 2006; "EU Position Change Signals Real Hope for Deep Oceans," DSCC Press Release, 17 January 2006.

## EU: NO LICENCE FOR MEDICINE IN GM GOAT MILK

An application to licence the world's first medicine to be produced from a genetically modified (GM) animal was turned down by the European Medicines Agency (EMA) on 24 February. GTC Biotherapeutics, a company based in the US, engineered goats to contain a human gene that codes for anti-thrombin, an anticoagulant. The result was goats that produce in their milk a substance that inhibits blood clots from forming. The medicine, called Atryn, would have been used by people with an inherited disease leaving them prone to developing blood clots. However, the EMA decided that the company applying for the licence had failed to demonstrate the benefits of the drug outweighed its risks. EMA said the testing process on patients giving birth or undergoing surgery was insufficient and not supportive. On the other side of the Atlantic, the US Food and Drug Administration (FDA) is continuing to consider a preliminary report that showed that meat and milk products from cloned farm animals and their offspring were as safe for human consumption as conventional animals, though a regulatory decision on food from cloned animals has been postponed for several months and is expected soon (see Bridges Trade BioRes, 24 June 2005, <http://www.ictsd.org/biores/05-06-24/inbrief.htm#6>). The World Organization for Animal Health (OIE) at its last General Session decided to undertake further investigations on the need for international standards on the use of animals that have been genetically engineered to produce medicines or chemicals (see Bridges TradeBioRes, 10 June 2005, <http://www.ictsd.org/biores/05-06-10/story3.htm>).

ICTSD Reporting; "Pharmed" goat drug not approved," BBC NEWS, 24 February 2006; "Pharmed" goats seek drug licence", BBC NEWS, 22 February 2006.

## Events & Resources

### EVENTS

For a more comprehensive list of events in trade and sustainable development, please refer to ICTSD's web calendar. Please bear in mind that dates and times of WTO meetings are often changed, and that the WTO does not always announce the important informal meetings of the different bodies.

### ICTSD Events

9 March, Geneva, Switzerland: UNDERSTANDING THE WTO INTERIM BIOTECH RULING -- WHAT IS IT ALL ABOUT? The release of the interim ruling by the WTO panel assessing the US/Canada/Argentina complaint against the EU's alleged de facto moratorium on the approval of new biotech products has attracted widespread public attention. The resulting 1,050-page document will require careful reading and analysis to identify the key findings and their implications. In addition, the interim ruling – and the case as a whole – has raised fundamental questions about the impact of WTO rules on the approach countries take to dealing with biotechnology. This meeting aims to shed light on these issues. For further information contact Sarah Mohan, tel: (+41 22) 917-8755; fax: 917-8093; email: smohan@ictsd.ch; Internet: <http://www.trade-environment.org>

### MOP-3 to the Cartagena Protocol on Biosafety

13-17 March, Curitiba, Brazil: THIRD MEETING OF THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE CARTAGENA PROTOCOL ON BIOSAFETY (MOP3). Organised by the Convention on Biological Diversity (CBD). For further information contact the CBD Secretariat, tel: (+1-514) 288-2220; fax: 288-6588; email: [secretariat@biodiv.org](mailto:secretariat@biodiv.org); internet: <http://www.biodiv.org/meetings/default.asp>

### Side-events

Tuesday, 14 March 2006, 13h15 to 14h45: INTERNATIONAL GRAIN TRADE - A PERSPECTIVE ON THE BRAZILIAN ECONOMY AND LOGISTIC. Organised by ABIOVE- Brazilian Association Of Grain Processor Industries, ANDEF - Brazilian Crop Protection Association And ICONE - Institute Of International Trade Negotiations.

Tuesday, 14 March 2006, 13h15 to 14h45: GENETIC CONTAMINATION AND GMO FREE ZONES. Organised by AS-PTA Assessoria E Serviços A Projetos Em Agricultura Alternativa.

Tuesday, 14 March 2006, 13h15 to 14h45: THE WTO RULING AND REGULATING LMOs UNDER THE PROTOCOL. Organised by the Washington

Biotechnology Action Council (WASHBAC), Friends Of The Earth International (FOEI) and others.

Thursday, 16 March 2006, 13h15 to 14h45: TRADING PRECAUTION: THE PRECAUTIONARY PRINCIPLE AND THE WTO. Organised by UNU-IAS.

Friday, 17 March, 13h15 to 14h45: IMPLICATIONS OF BIOTECHNOLOGY AND NANOTECHNOLOGY FOR INTELLECTUAL PROPERTY RIGHTS. Organised by Universidad Del Mar.

For a complete list of COP/MOP 3 side-events, visit <http://www.biodiv.org/register/side-events/list.aspx?mtg=MOP-03>.

### Coming Up In the Next Two Weeks

3-4 March, St. Louis, USA: INTRODUCTORY SEMINAR ON THE CARTAGENA PROTOCOL ON BIOSAFETY. This seminar is organised by the Public Research Sector Initiative, a project that aims to involve the public research sector in the development and implementation of biotechnology regulations. The seminar will inform scientists from public research institutions from both developing and developed countries about the background, content, and implementation of the Cartagena Protocol on Biosafety, as well as about the ongoing discussions in the Meetings of the Parties. For further information contact Kathleen MacKey, tel: (+1 314) 587 1203; email: [kmackey@danforthcenter.org](mailto:kmackey@danforthcenter.org); Internet: <http://pubresreg.org/Members/Kim/Danforth/Danforthmeeting>.

6-10 March, Cairo, Egypt: 22 GENERAL ASSEMBLY OF THE AU-INTER-AFRICAN PHYTOSANITARY COUNCIL. This biannual meeting brings together all the National Plant Protection Services of the African Union to update, and review implementation of the recommendations of the previous general assemblies as well as exchange information on the latest happenings at the international level in the phytosanitary field. For further information, information, contact the IPPC Secretariat, tel: (+237) 221 19 69; fax: 221 19 67; e-mail: [au-cpi@au-appo.org](mailto:au-cpi@au-appo.org); Internet: <https://www.ippc.int/servlet/CDSServlet?status=ND0xNDU5OS50MTA4OTAzjY9ZW4mMzM9ZXZlbnRzjM3PWluZm8%7E>

6-10 March, Treviso, Italy: INTRODUCTION TO BIOSAFETY AND RISK ASSESSMENT FOR THE ENVIRONMENTAL RELEASE OF GENETICALLY MODIFIED ORGANISMS (GMOs): THEORETICAL APPROACH AND SCIENTIFIC BACKGROUND. This workshop is being organised by the International Centre for Genetic Engineering and Bio technology (ICGEB) in collaboration with the Istituto Agronomico per l'Oltremare. The workshop will be aimed at those scientists who are interested in issues related to risk

assessment and management for the environmental release of GMOs. For further information, tel.: +39-040-3757333; fax: +39-040-226555; email: [courses@icgeb.org](mailto:courses@icgeb.org); Internet: [http://www.icgeb.org/MEETINGS/CRS06/6\\_10marzo.pdf](http://www.icgeb.org/MEETINGS/CRS06/6_10marzo.pdf)

7-8 April, New Delhi, India: INTERNATIONAL WORKSHOP ON CLIMATE CHANGE AND SUSTAINABLE DEVELOPMENT. This workshop, organised by Department of Economic and Social Affairs (DESA) and The Energy Research Institute (TERI), will explore the linkages between climate change and sustainable development. For further information, contact DESA, tel: (+1 212) 963-8102; fax: 963-4260; Internet: [http://www.un.org/esa/sustdev/sdissues/climate\\_change/climateChange\\_inter.htm](http://www.un.org/esa/sustdev/sdissues/climate_change/climateChange_inter.htm)

8-9 March, Sao Paulo, Brazil: BIOTECHNOLOGY AND BRAZIL: IMPLICATIONS AND OPPORTUNITIES FOR GLOBAL AGRICULTURE. Biotechnology and Brazil is the first major international conference to focus on Brazil's recently approved seed legislation and the effect it will have on the prospects in Brazil itself and around the world. The conference is an opportunity to meet and discuss biotechnology issues with people who are actively involved in the subject. For further information, contact Agra Informa, tel: (+44 20) 7017 7500; fax: 7017 7599; email: [marketing@agra-net.com](mailto:marketing@agra-net.com); Internet: <http://www.agra-net.com/biotech06>

8-10 March, Hong Kong, China: PRACTICAL SOLUTIONS TO COMBAT ILLEGAL LOGGING: INTERNATIONAL DIALOGUE ON BEST PRACTICE FOR BUSINESS AND CIVIL SOCIETY. This initiative is being organized by the Forest Dialogue of Yale University, in collaboration with various other organisations and agencies such as the Nature Conservancy and the World Wildlife Fund. The dialogue has three objectives: to raise awareness among business leaders of the problems posed by illegal logging, identify solutions, and agree on how participants can work together for widespread adoption of these resolutions. For further information contact Gary Dunning, tel: (+1 203) 432 5966; fax: 432 3809; email: [info@theforestdialogue.org](mailto:info@theforestdialogue.org); Internet: <http://research.yale.edu/gisf/tfd/logging.html>.

13 - 17 March, Dakar, Senegal: FIRST TRAINING WORKSHOP ON BUILDING CAPACITY TO SET PRIORITIES FOR AGRICULTURAL BIOTECHNOLOGY IN WEST AND CENTRAL AFRICA. The motivating question for this workshop is how to allocate biotechnology and other crop-improvement investments to maximise poverty reduction and environmental sustainability. Organised by West and Central African Council for Agricultural Research and Development (CORAF). For further information, contact Marcel Nwalozi, email:

[marcel.nwalozi@coraf.org](mailto:marcel.nwalozi@coraf.org);  
<http://www.scidev.net>

Internet:

16-17 March, Geneva, Switzerland: WTO COMMITTEE ON TECHNICAL BARRIERS TO TRADE. 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](mailto:enquiries@wto.org); Internet: <http://www.wto.org>

20-21 March, Geneva, Switzerland: THE WTO AND FISHERIES: A WORKSHOP ON THE IMPACT OF WTO AGREEMENTS AND THE CURRENT WTO NEGOTIATIONS ON THE FISHERIES SECTOR. This meeting is organised by the UN Food and Agriculture Organization (FAO) and Conference on Trade and Development (UNCTAD) and includes sessions on international fish trade and NAMA, fisheries subsidies, quality and safety aspects for fish trade, financing infrastructure and fishing activities, disputes and fishery products and fisheries management, access and labelling. For further information, contact Audun Lem, tel: (+39 06) 5705 2692; fax: 5705 6500; email: [audun.lem@fao.org](mailto:audun.lem@fao.org); Internet: <http://www.fao.org/fi/default.asp>

#### Other upcoming events

1-12 May, New York, US: FOURTEENTH SESSION OF THE COMMISSION ON SUSTAINABLE DEVELOPMENT. CSD-14 is the year of the second implementation cycle, and will review progress on energy for sustainable development, industrial development, air pollution/atmosphere and climate change. For further information contact Federica Pietracci, Major Groups Programme Coordinator, UN DSD/DESA, tel: (+1-212) 963-2803; fax: 963-4260; email: [pietracci@un.org](mailto:pietracci@un.org); Internet: <http://www.un.org/esa/sustdev/csd/review.htm>

#### RESOURCES

If you have a relevant resource (books, papers, bulletins, etc.) you would like to see announced in this section, please forward a copy or review by the BRIDGES staff to [smohan@ictsd.ch](mailto:smohan@ictsd.ch).

STAKEHOLDER ATTITUDES TOWARD GMOS IN THE PHILIPPINES, MEXICO, AND SOUTH AFRICA: THE ISSUE OF PUBLIC TRUST. By Philipp Aerini and Thomas Bernauer of the Swiss Federal Institute of Technology (World Development Vol. 34, No. 3, pp. 557-575), March 2006. This paper investigates the perceptions and interests of stakeholders in Mexico, the Philippines and South Africa in the public debates on the risks and benefits of genetically modified organisms (GMOs) in developing countries. A survey has showed that local stakeholders in these countries tend to have

pragmatic views towards the use of GMOs and that there is a trend towards political polarisation that is linked to the transatlantic dispute on GMOs. The paper argues that it is also the increasing competition for public trust that can explain why European stakeholders have been so successful on influencing regulation of GMOs in developing countries. Academia may also be crucial in abating political polarisation and in the facilitation of pragmatic political action. To access this article, visit <http://www.sciencedirect.com>

**AN ANALYSIS OF TRADE RELATED INTERNATIONAL REGULATIONS OF GENETICALLY MODIFIED FOOD AND THEIR EFFECTS ON DEVELOPING COUNTRIES.** By Guillaume P. Gruere (International Food Policy Research Institute, February 2006). This paper reviews current trade-related regulations of genetically modified (GM) food and discusses their effects on developing countries. There is a large heterogeneity in current import approval and marketing policies of GM food worldwide. At the international level, the harmonization efforts are led by the Codex Alimentarius Commission, the Cartagena Protocol on Biosafety and the World Trade Organization. While internationally harmonized guidelines for safety approval have been finalized, the paper shows that there is no clear consensus on labeling regulations for GM food, and there is an increasing risk of conflicts among international agreements. With a focus on Japan and the EU, it also shows that the effects of international and domestic trade related regulations critically depend on the type of traded products and their intended use: food and unprocessed products are subject to more stringent regulations than animal feed and processed products and identifies the main spillover effects of national and international regulations on developing countries' policy making. To access this paper, visit <http://www.ifpri.org/divs/eptd/dp/eptdp147.asp>

**DNA FOR PEACE: RECONCILING BIODEVELOPMENT AND BIOSECURITY.** By the Canadian Program on Genomics and Global Health and the University of Toronto Joint Centre for Bioethics, February 2006. This report calls for a global network of scientists to both promote biotechnology research to fight disease, hunger and poverty, especially in the developing world, and to keep vigil against the misuse of biological science. The authors say that promoting the positive uses of biotechnology will help fight bioterrorism by building a global network of experts who can spot attempts to misuse the science. They stress the potential of such approaches as molecular diagnostics, recombinant drugs, new drug and vaccine delivery systems, bioremediation to clean up pollution, sequencing pathogen genomes to find disease control, female-controlled protection against sexually-transmitted diseases, bioinformatics, nutritionally enriched genetically modified crops and combination chemistry. To access this paper, visit

[http://www.utoronto.ca/jcb/home/documents/DNA\\_Peace.pdf](http://www.utoronto.ca/jcb/home/documents/DNA_Peace.pdf)

**THE RELATIONSHIP BETWEEN THE TRIPS AGREEMENT AND THE CONVENTION ON BIOLOGICAL DIVERSITY.** By the WTO Secretariat (IP/C/W/368/Rev.1), February 2006. In an update to its much shorter 2002 paper, this document produced by the WTO Secretariat reviews the relationship between WTO rules on intellectual property rights and the Convention on Biological Diversity (CBD) and different opinions and positions. The paper reflects upon the past eight years of discussion on the issue within the WTO and is divided into three major sections: general views on the relationship between the TRIPS agreement and the CBD; patentability of generic resources and the CBD; and the TRIPS agreement and prior informed consent/benefit sharing. To access this paper, visit [http://www.wto.org/english/tratop\\_e/trips\\_e/ipcw368\\_e.doc](http://www.wto.org/english/tratop_e/trips_e/ipcw368_e.doc)

**STATEMENT OF SUSTAINABLE FISHERIES AND TRADE.** By the National Federation of Fisheries Cooperative Associations (JF Zengyoren) -- Japan. This paper, submitted as a civil society document to the WTO, urges WTO Members to acknowledge that sustainability is the basis of fisheries and that trade liberalisation of fish and fishery products, currently being negotiated at the WTO, should pay due respect to the conservation and management of fish stocks; to review the impacts on fishery resources caused by trade in fish and fish species and, if appropriate, establish a mechanism for conducting environmental impact assessments before taking measures to liberalize trade in fish and fishery products; and requests them to ensure that excessive liberalization of trade should not pose any threat to the culture and traditional value of fisheries and fishing communities. To access this paper, visit [http://www.wto.org/english/forums\\_e/ngo\\_e/posp57\\_sustfish\\_e.doc](http://www.wto.org/english/forums_e/ngo_e/posp57_sustfish_e.doc)

**THE IMPACT OF REACH ON THE ENVIRONMENT AND HUMAN HEALTH.** By the European Commission, 15 February 2006. The latest study on the draft REACH legislation (Registration, Evaluation and Authorisation of Chemicals) assesses the potential benefits of REACH for the environment and humans who are exposed to chemicals via the environment. This study comes as a contrast to other more economic studies done on the impacts of REACH. The study concludes that the draft REACH legislation on chemicals could save the EU billions of euros in water treatment and other environmental costs such as sewage treatment. To access this study, visit [http://www.europa.eu.int/comm/environment/chemicals/pdf/impact\\_on\\_environment\\_report.pdf](http://www.europa.eu.int/comm/environment/chemicals/pdf/impact_on_environment_report.pdf)

**NATURAL RESOURCES HIGHLIGHTS #2.** By id21 of the Institute for Development Studies, University of Sussex, February 2006. Natural Resource highlights is published annually by id21 to help communicate

international development research to policymakers and practitioners worldwide, on agriculture, conservation, fisheries, forestry, land rural development, and water. Issues covered include tribal rights and conservation practice, environmental management and the millennium development goals, fisheries, community forest management and timber trade and other relevant topics. To access these briefings, visit <http://www.id21.org/publications/index.html>

### ELECTRONIC RESOURCE

THE NATURE VALUATION AND FINANCING NETWORK. Coordinated by Wageningen University, the aim of the network is to stimulate the development and exchange of practical tools for proper valuation of the goods and services provided by ecosystems, so that decisions concerning economic development are made with the full understanding of all the costs and benefits involved. The site offers important features such as a publication database which gives the users the opportunity to both download and upload information, a case study database allowing users to scroll through ongoing case studies, discussion platforms where users can communicate through an online platform and

national platforms, specifically tailored to a certain country. To access this resource, visit <http://topshare.wur.nl/naturevaluation>

### VACANCY

DIRECTOR OF RESEARCH AND TRAINING, AFRICAN TECHNOLOGY POLICY STUDIES NETWORK. ATPS is seeking an African professional with a doctoral degree interested in providing overall intellectual and administrative leadership to the development and implementation of research, capacity building, and policy advocacy programmes. The position is based in Nairobi, Kenya and would be reporting to the executive director of the network. Interested and qualified candidates should send a cover letter of interest and their CV to [hr@atpsnet.org](mailto:hr@atpsnet.org) no later than 31 March 2006. For more information, visit [www.scidev.net/misc/ATPS\\_vacancy.pdf](http://www.scidev.net/misc/ATPS_vacancy.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>. This edition of BRIDGES Trade BioRes was edited by Sarah Mohan, [smohan@ictsd.ch](mailto:smohan@ictsd.ch). The Managing Editor is Heike Baumüller, [hbaumuller@ictsd.ch](mailto:hbaumuller@ictsd.ch). Contributors to this issue were Kathryn Bacharach, Trineesh Biswas, Marie Chamay, Heike Baumüller, Ruth Fend and Sarah Mohan. 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. ISSN 1682-0843

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