



# Bridges Trade BioRes

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

Issue: 22 June 2007

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## Trade in Endangered Species

### CITES: COMMERCIALLY VALUABLE SPECIES IN THE BALANCE

Tensions between economic and environmental interests came to the fore at a recent wildlife meeting, pitting those in favour of strict conservation measures through trade bans against those supporting “sustainable trade,” which could bring significant benefits back to the communities playing a stewardship role for endangered species.

Meeting every three years, the Conference of the Parties of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) convened for the fourteenth time in The Hague, the Netherlands, from 3-15 June. Participants discussed, among other issues, a strategic plan for the future, as well as individual plant and animal species proposed for inclusion into the CITES appendices (meaning their trade would be either banned or restricted and closely monitored).

### CITES old-timers: elephants and tigers

The fate of ivory, the highest-profile issue of the meeting, was settled through a compromise that allows for a one-off sale of legal stockpiled ivory from four southern African countries to Japan, followed by a nine-year moratorium on any sales, allowing for a “resting period.” Botswana, Namibia, South Africa and Zimbabwe argued that their elephant populations were healthy and growing and said they would use the trade revenues to strengthen conservation programmes. Countries such as Kenya, struggling to stem poaching, had opposed any trade and called for a 20-year moratorium, arguing that legal trade opens doors for the illegal trade.



International Centre for Trade  
and Sustainable Development



Another flagship CITES issue, tiger trade, was held at bay. While there is an ongoing push in China for the legalisation of trade in tiger parts from animals bred in captivity (see Bridges Trade BioRes, 20 March 2007, <http://www.ictsd.org/biores/07-03-30/inbrief.htm#2>), the meeting adopted a decision specifically urging China to end its breeding programme and intensify efforts to stem illegal trade. Many participants voiced concerns regarding

### **The way of the future: timber and marine resources**

High-value timber and marine resources have increasingly featured on the CITES agenda in recent years. However, to the disappointment of conservationists, many of the species proposed for inclusion in the CITES appendices at COP-14 were left unregulated. A new ministerial segment of the COP focused on this growing area of concern, however, and observers commented that trade in endangered timber and marine species will not disappear -- rather, those species will likely continue to reoccur on the agenda and become increasingly important with time.

In terms of specifics, Brazilwood -- which is used to make musical instruments -- was included in Appendix II at the meeting, meaning trade will be restricted and tightly controlled. Spanish cedar and rosewood remain uncontrolled however, mainly because their Latin American range states opposed trade restrictions (see related story, this issue).

In terms of valuable marine species, measures were taken to protect European eel and sawfish, while two threatened shark species, spiny dogfish and the porbeagle shark, as well as pink and red corals were left out of the CITES appendices. "In general, the progress on conservation of marine species is being outpaced by the depletion of marine species," commented Sonja Fordham of the Shark Alliance, adding that "now we're dealing with commercially valuable shark species, and it's even more of an uphill battle."

### **Work cut out for the coming years**

Many participants at COP-14 noted a politicisation of the CITES process. Jochen Flasbarth, who headed up the EU delegation, said this was due to the growing economic importance of the species dealt with. "If you look for the real problems of biological diversity around the world, it's clear that they lie in the forests and the marine environment,

the ongoing decline in the number of remaining tigers in the wild -- noting that their severely threatened status depended on a number of factors, especially the loss of key habitat, an issue beyond the scope of CITES. Indeed, habitat loss, climate change and other factors often posed complex, interlinked threats to species included in the CITES appendices.

and as soon as you interfere in these areas you are confronted with huge economic interests," he said.

As such, the meeting struggled with finding the right balance between conservation and wider sustainable development goals. The "Strategic Vision" that the meeting adopted for further CITES activities leaned towards the conservation objective, while also taking the wider agenda on board. According to CITES Secretary-General Willem Wijnstekers, "Humanity's appetite for wild plants and animals and for wildlife products will clearly expand over the coming decades. We need to think creatively about how to manage the wildlife trade if we are to meet human needs while conserving vulnerable species."

He added that "Finding the right balance will require a healthy respect for science, market dynamics and the needs of people who rely on wildlife for their livelihoods."

### **Background**

CITES was adopted in 1973 to ensure the long-term survival of plant and animal species potentially threatened by international trade. Its 171 member countries regulate international trade in wild animal and plants covered by CITES via a permit system that differentiates among species listed in Annex I (species threatened with extinction), Annex II (potentially endangered species) and Annex III (unilaterally protected species). The convention requires all parties to refuse import of specimens of CITES-listed species, as well as any export or re-export of such specimens to countries that do not meet the implementation requirements of CITES and are engaged in significant amounts of international trade in endangered species. CITES also includes provisions affecting non-parties. In particular, non-parties are required to provide similar documentation (e.g. export permits) to that required of parties (Article X).

### Additional resources

The COP-14 official documents are available at <http://www.cites.org/eng/cop/index.shtml>

For daily reporting and a summary of the meeting, see IISD's Earth Negotiations Bulletin at <http://www.iisd.ca/cites/cop14/>

ICTSD reporting; Vol. 21 No. 61, EARTH NEGOTIATIONS BULLETIN, 18 June 2007; "CITES Decisions Map the Future of Wildlife Trade," ENS, 15 June 2007; "New Trends at Wildlife Trade Conference," GUARDIAN UNLIMITED, 16 June 2007; "Cash row at wildlife trade forum," BBC, 16 June 2007.

### WILDLIFE CONVENTION TENTATIVELY BRANCHES OUT TO TIMBER

Only one timber species won additional trade protections at a recent international wildlife meeting that considered trade restrictions on a wide range of species of plants and animals. Brazilwood earned the added trade restrictions, while proposals to strengthen protection of three other species were withdrawn in the face of strong opposition. However, meeting participants called for stricter enforcement of previously imposed trade restrictions on mahogany, and officially acknowledged their commitment to working with a partner international organisation to encourage sustainable forest management around the globe.

The triennial meeting of the Convention on International Trade in Endangered Species (CITES) brought together delegates from 171 member nations in The Hague, the Netherlands from 3-15 June (see related story, this issue).

The consideration of timber species marks a relatively recent shift for CITES, which in the past has tended to shy away from regulating trade in commercially valuable species, including timber, focusing instead on more 'traditional' endangered species such as the tiger and elephant. But trade in timber species has garnered greater attention recently, in CITES as well as in other international fora, as the global community has been awakened to the devastating effects -- both economic and environmental -- of illegal logging, as well as to the importance of forests as tools to mitigate global climate change.

### Brazilwood wins CITES protection

Brazilwood -- a tropical tree that is used to produce violin bows -- was the only timber species to win tighter protection at the convention. Centuries of deforestation, much of which has been driven by expanding cropland, have nearly wiped out the species, which grows only in Brazil.

Under the new provisions, the tree will be listed in CITES' Appendix II, a designation that indicates that trade in the species, while not completely banned, will be tightly controlled. Brazil, which gets its name from the tree, put forward the proposal, which included a special exemption for trade in finished products such as bows for stringed musical instruments.

Fernando Coimbra, head of the Brazilian delegation, emphasised that, while the proposal will ensure the species' continued protection, it will not limit the ability of its wood to "be used to delight us in the hands of inspired musicians and orchestras across the world."

### Other timber species rebuffed

Despite the efforts of European delegates, other timber species did not win similar increased protections at the wildlife meeting. In the face of strong opposition from Latin American countries, the EU withdrew its proposals to regulate trade in Spanish cedar and two species of rosewood, which it claimed were necessary to protect the tree species from the excessive logging -- some of it illegal -- that has caused the trees' numbers to dwindle. Delegates from Central and South American 'range states', those states where the trees grow, criticised the proposals on the grounds that there was not sufficient evidence to prove that the trees were endangered.

Ramon Carrillo Arelano of the Mexican delegation said that the species in question are not threatened in his country, but that greater protections were not out of the question. "We need to collect data... If it proves that the trees are in danger, then we would support a listing," he said.

But Edgardo Leguia of the Peruvian delegation expressed deeper reservations about a CITES listing of cedar, saying that such a designation would in fact "encourage logging" because it "could make people think that cedar is a higher value tree."

Instead of leaving the issue at a complete impasse, delegates agreed to establish a working group composed of officials from range states to consider alternative ways to protect the trees.

European delegates expressed some optimism at the fact that their proposals had not been defeated outright. "A bad signal would have been if the whole issue had crashed here with a negative vote," said Jochen Flasbarth, the German official who presented the European proposals. "The range states want to be in the driving seat and that is fine with the EU," he added.

Environmentalists were less impressed. Bernardo Ortiz, director of the wildlife watchdog group TRAFFIC South America, criticised the convention's lack of progress on timber: "By delaying listing in Appendix II, governments are just jeopardising the future of another tree species."

### **Peru chastised on mahogany trade**

At past CITES meetings, environmentalists successfully lobbied for Appendix-II listings of ramin and mahogany, two commercially valuable timber species that had been logged nearly to the point of extinction (see Bridges Trade BioRes, 21 October 2004, <http://www.ictsd.org/biores/04-10-21/story1.htm> and Bridges Trade BioRes, 21 November 2002, <http://www.ictsd.org/biores/02-11-21/story1.htm>). Both of those listings were considered significant victories for conservationists, who had been fighting for the added protections for the species for several years.

Yet since the listings went into effect, there has been some question over the extent to which the tighter restrictions have in fact been enforced. Indeed, Peru received harsh criticism at this month's meeting for its lax implementation of CITES regulations on trade in mahogany, which have been in place since 2003. The Andean nation, the world's largest mahogany exporter, was accused of setting unsustainable export quotas, failing to control illegal logging on public lands, and neglecting to shield its indigenous populations from threats posed by timber poachers. Indeed, local tribesmen have been the victims of dozens of violent encounters with illegal loggers in recent years.

Threatened with a potential revocation of its right to trade in the species, Peru agreed to lower its export quota by more than half, so that the country

will now export no more than 5,000 cubic metres of mahogany, or roughly 1,200 trees, per year.

Despite the apparent cooperation on the part of Peru, environmentalists remained wary of the country's assurances. "There have been problems of verification," said Cliona O'Brien of the World Wildlife Fund for Nature. "We need to keep a very close eye over the next year."

### **A strong partnership with the ITTO**

In an effort to improve the enforcement of its trade restrictions, CITES has agreed on the need to build on the convention's partnership with the International Tropical Timber Organisation (ITTO), a UN-backed intergovernmental organisation that works to promote responsible forest management around the globe (see Bridges Trade BioRes, 25 May 2007, <http://www.ictsd.org/biores/07-05-25/story1.htm>). Together, CITES and the ITTO have worked to help build the capacity of range states to conduct sustainable timber management and rein in illegal logging within their borders.

In a sign of their continued commitment to this partnership, CITES delegates agreed to a US proposal to draw up an official memorandum of understanding cementing the relationship between the two organisations. Moreover, at a side event to the CITES meeting, officials from the two groups met to assess the state of their current collaboration and to consider possible new ways to assist timber-producing countries in the future.

ICTSD reporting; Vol. 21 No. 61, EARTH NEGOTIATIONS BULLETIN, 18 June 2007; "Cedar, rosewood fail to win protection at UN talks," REUTERS, 8 June 2007; "CITES endorses plan to save brazilwood," ASSOCIATED PRESS, 7 June 2007; "CITES ablaze over timber," WORLDWIRE, 7 June 2007; "UN convention reaches compromise on mahogany," WORLDWIRE, 4 June 2007; "Take a bow; endangered species meeting slaps trade regulations on tree used by violinists," ASSOCIATED PRESS, 7 June 2007; "Illegal loggers threaten our survival, say Peru's Indians," ASSOCIATED PRESS, 5 June 2007.

## Sustainable Agriculture

### GLOBAL ORGANIC MARKET ON THE RISE - WILL DEVELOPING COUNTRIES BENEFIT?

The EU has recently introduced a uniform labelling scheme for organically produced foods, and East Africa has adopted a common organic standard for the region. Meanwhile, a debate centred in the UK continues on the environmental impacts of air-freighted agricultural products, pitting those concerned about “food miles” -- the carbon footprint of air-freighted foods -- against those prioritising “fair miles,” i.e. the development opportunities provided through sales of air-freighted agricultural niche products.

#### EU scheme to simplify market entry

The EU organic market has long contained a patchwork of different private and national schemes. On 12 June, the EU Agriculture Council adopted a new regulation on organic production and labelling that will apply both internally and to imports. The scheme brings uniformity to a rapidly expanding commercial area, while not preventing the parallel use of national or industry-wide labels -- which may be more stringent. Exporters that seek to enter the EU market must adhere to the same criteria to label their products as organic. The label also includes information on where the product is from.

Under the new rules, 95 percent of the product must be organically produced. In terms of genetically modified (GM) content, the rules allow for the presence of 0.9 percent accidental GM material. Consumers and green activists had opposed this, pushing for a zero-tolerance policy. The gold standard used in private schemes is a 0.1 percent threshold, which is the lowest GM level possible to detect.

#### New organic standard launched in East Africa

Meanwhile, Tanzania's Premier, Edward Lowassa launched a new organic standard for East Africa in Dar es Salaam in late May. The standard has been developed by a coalition including UN organisations and the International Federation of Organic Agriculture Movements (IFOAM). In addition to the EU, the region is now the second in the world to have adopted a uniform standard. The East African countries are seeking to join this globally growing valuable niche market. “We have

to push for more education and sensitisation to our farmers to realise that organic farming makes good economic sense,” said Lowassa, adding that “Organic agriculture is a vital business and wealth creation opportunity that contributes to poverty reduction.”

Angela Caudle, IFOAM Executive Director, agreed that “East African producers are poised to take advantage of the rapidly growing organic markets worldwide,” and Herve Bouagnimbeck, IFOAM Africa Office Coordinator, added that “The coalescence of public and private entities to systematically develop organic agriculture in East Africa is a sustainable model of development for the world to behold and replicate.”

In addition to gaining recognition for their certified organic products through the development of a robust regional label, the East African countries hope to gain clout in international standard-setting bodies on organic issues. While many developing countries see organic standards as an opportunity, they often face difficulties in achieving conformity with such standards, especially if they are developed without developing country participation (see Bridges Trade BioRes, 11 May 2007, <http://www.ictsd.org/biores/07-05-11/inbrief.htm#2>).

#### Debate continues over food miles and organic ag

Meanwhile, a debate raging on the carbon footprint of imported foods may present problems to schemes such as the East Africa Organic Standard. The concept of “food miles,” i.e. the impact of transporting food from the producer to the consumer, has prompted campaigns for buying local while leaving fresh produce or cut flowers flown in from developing countries out of the shopping bag. Air freighted products have the biggest impact: carbon emissions from air freighting are between 40 and 200 times greater than those of goods shipped by sea or road.

The Soil Association, the largest organic group in the UK, is considering whether to stop certifying airlifted products as organic due to their climate impact, or to use special labels or carbon offsetting schemes for such products. Anna Bradley, chair of the Soil Association Standards Board said that “As awareness of climate change has grown, concerns have been raised about the damage caused to the environment by air freight.” However, she added that “when reducing our impact on the world’s

climate we must carefully consider the social and economic benefits of air freight for international development and the growth of the organic market as a whole.”

Bill Vorley of the International Institute for Environment and Development (IIED) in the UK has cautioned against the rejection of food imports from developing countries based on climate concerns. He has stressed that the economic and social benefits of these exports are significant to the producers -- often in countries that will be most harshly affected by climate change without having contributed to its causes -- and said developed-country consumers “should focus their behaviour change on the remaining 99.9 percent of their climate-change footprint, by reducing things such as energy use and leisure flights.”

#### **Additional resources**

The new East African Organic Standard is available at [http://www.ifoam.org/partners/projects/osea/pdf/EAOS%20final%20draft%202015%20Jan%202007\\_26th%20January.doc](http://www.ifoam.org/partners/projects/osea/pdf/EAOS%20final%20draft%202015%20Jan%202007_26th%20January.doc).

“Accidental GMO content permitted in organic food,” EURACTIV.COM, 13 June 2007; “Ministers open door for GMOs in organic food,” FOE, GREENPEACE, EEB RELEASE, 12 June 2007; “EU unifies rules for organic food labeling,” ASSOCIATED PRESS, 12 June 2007; “Air-Freighted Produce May Lose UK Organic Status,” REUTERS, 30 May 2007; “Politicians and consumers could harm poorer nations with token reactions to ‘food miles’ concerns,” IIED RELEASE, 16 January 2007; “Are arguments about travel miles false science?” NEW ZEALAND HERALD, 14 June 2007; “Do food miles go the distance on emissions?” AP-FOODTECHNOLOGY.COM, 14 June 2007; “East Africa: Organic Products Get Standards Mark,” ALLAFRICA.COM, 4 June 2007.

#### **Environment at the WTO**

##### **MEMBERS REMAIN UNDECIDED ON KEY FISHERIES DISCIPLINES**

WTO Members clashed over the shape of future rules on fisheries subsidy spending during a 14 June meeting of the Negotiating Group on Rules.

In particular, a new proposal from Japan, Korea, and Taiwan was criticised by countries that argued that far broader restrictions on subsidy payments would be necessary in order to counteract the rapid depletion of marine fish stocks.

Delegates had a similarly mixed reaction to a new paper from the African, Caribbean, and Pacific (ACP) states focusing on access fees and the industry's economic impact in the developing world.

##### **Japan, Korea, Taiwan proposal called insufficient**

The Japan-led proposal appealed to Members to prohibit specific types of subsidy payments as opposed to the blanket ban with some exceptions supported by countries including the US, New Zealand, and Brazil (see Bridges Weekly, 6 June 2007, <http://www.ictsd.org/weekly/07-06-06/wtoinbrief.htm#1>).

Japan, Korea, and Taiwan argued that this ‘bottom-up’ or ‘positive list’ framework would be enough to sufficiently lessen overfishing, and would be more workable than sweeping eliminations. Korea contended that delegates’ priority was to reach consensus on fisheries disciplines, and that this proposal represented the strongest compromise. Taiwan echoed this sentiment, praising the paper for striking the right balance.

Countries including Australia, Chile, New Zealand, and the US contested this supposed ‘balance’ and reiterated their calls for more extensive disciplines. New Zealand asserted that the Asian nations’ approach, which would permit some subsidies for building and purchasing fishing vessels, did not go far enough and failed to “follow the momentum of the negotiations.” It further argued that Japan’s exemption for payments to small-scale fisheries amounted to a “get out of jail free” card given that 90 percent of the country’s fishing fleet was accounted for by ships of less than five gross tonnes and thus likely to fall under this categorisation. Taking a similar view, the US said the proposal contained too many loopholes enabling circumvention.

Both New Zealand and the US are members of the ‘Friends of Fish’ group, a loose coalition of countries that have long supported a blanket ban with a list of specific negotiated exceptions.

Some delegates fell between the two groups. Notably Norway, which has co-sponsored papers

with the 'Friends of Fish' before, and the EU, which is not a member of the group, expressed support for the positive list approach but hesitation about other aspects of the proposal. Norway welcomed the proposal but expressed concern that it contained too many exemptions. The EU applauded the proposal, but criticised it for being insufficiently developed.

### Defining subsidies divides Members

Fisheries conservation aside, access fees have been another pressing concern for many delegations. These are payments that a government offers another nation - typically a small coastal state - in exchange for the right to fish in that nation's waters. The access-granting state receiving the payment generally lacks the capacity or resources to capitalise on its fish stocks.

Heeding a call from rules group Chair Ambassador Guillermo Valles Galmes (Uruguay), to increase discussions on this issue, the ACP group earlier this month distributed a communication on the importance of access fees to developing nations (see Bridges Weekly, 13 June 2007, <http://www.ictsd.org/weekly/07-06-13/story6.htm>).

At the recent meeting, the Solomon Islands presented the proposal on behalf of the group. It reiterated the ACP bloc's call for government-to-industry access payments to be shielded from new rules, just like government-to-government fees. While the latter are not widely considered to artificially lower the cost of fishing, some countries argue that government-to-industry fees are de facto subsidies, since remote governments often sell access rights to private fishing fleets below cost - i.e., for less than the amount of access fees paid to the coastal nation.

The ACP group wants all access fees to be exempt from WTO challenge, noting that such payments account for 25 percent of total government revenues in several Pacific island countries. Several members of the bloc spoke in favour of the proposal, including coastal countries Mauritius, Barbados, Fiji, Cuba, Egypt, and Cote d'Ivoire. The EU likewise expressed full support for the ACP position.

Raising the issue of balance once again, India said the most important objective would be to optimise revenue protection and marine conservation.

The US and New Zealand opposed the paper, calling attention to sustainability concerns. New Zealand cited an independent study that demonstrated how the transfer of rights from governments to private industry at subsidised rates has led to overfishing; it argued, therefore, that such transfers should be banned. If these fees were permitted, it continued, the coastal nations would have to cope with the subsequent ecological -- and economic -- effects. Thailand, Chile, Australia, and Costa Rica backed this point of view, and noted their support for disciplines on the transfer of access rights.

Group urges special treatment for developing countries, LDCs, and small, vulnerable economies

While not officially on the agenda at the recent meeting, delegates briefly and informally addressed a paper circulated on 6 June by a group of eleven small, vulnerable economies (SVEs), which included Nicaragua, Barbados, Cuba, Fiji, and the Solomon Islands. The document urges Members to insert flexibilities, technical assistance, and capacity building in any fisheries subsidies rules. They argue that this would boost opportunities for growth in the fisheries sector in developing countries, as well as safeguard the crucial revenue-generating function that the industry currently fulfils.

In the paper, the SVEs outline principles to guide the creation of special and differential treatment (S&DT) provisions. They pointed to the sector's socio-economic importance to poorer nations, where it aids employment, livelihood security, income, and nutrition, and said that this could be compromised without carefully-crafted disciplines.

The text argues that since developing countries have a limited capacity to implement effective management structures, or initiate research or analysis, making S&DT conditional on management capacity would penalise them, especially SVEs and least-developed countries. Therefore, any such connections in new fisheries subsidies disciplines should provide for developed countries and international organisations to provide them technical and financial assistance to strengthen their capacity and meet such standards.

Another element of future disciplines addressed in the paper, is the definition of artisanal and small scale fisheries. The SVEs proposed that both be well-defined and clearly distinct based on their different economic roles, and recommended that

any definitions should be based principally on the sectors' economic impact.

The SVEs paid heed to the environmental concerns behind recent proposals from the US and Brazil calling for wide-ranging prohibitions on subsidies in order to halt overfishing. However, they argued that "small, vulnerable economies, LDCs, and some other developing countries have had such a minimum impact on over fishing and overcapacity that the proposed restrictions on these countries would be unduly punitive."

### Looking ahead

Much of the focus of the next rules meeting, scheduled for the week of 9 July, will be on establishing disciplines for developing countries that will balance conservation and economic concerns. The paper distributed by the group of SVEs will also be formally on the agenda.

Sources report that the Chair will not put down draft agreement text before the upcoming meeting, and it is unclear whether such a text might appear before the WTO's August holiday. One delegate said that the "one certainty is that [a] rules [text] will not be out" before texts on industrial market access and agriculture.

ICTSD reporting.

### INDIA, ARGENTINA TABLE NEW PROPOSAL ON ENVIRONMENTAL GOODS IN DOHA NEGOTIATIONS

With their eyes on the ongoing push for a breakthrough in the Doha Round talks, WTO delegates met to discuss the trade and environment negotiations from 11-12 June.

Progress has been slow in talks on expedited trade liberalisation for environmental goods and services, as well as on the WTO's relationship with multilateral environmental agreements (MEAs). However, the pace of negotiations is expected to pick up if Members manage to break the current deadlock on trade in agricultural and industrial goods. A breakthrough in those areas could set the stage for a conclusion of the Doha Round by early next year.

### Environmental goods unresolved

Broadly speaking, developed countries would like WTO Members to agree to a 'list' of specific environmental goods whose tariffs would be lowered at an accelerated rate. Yet many developing countries are sceptical of this approach, fearing that such a list would mainly feature goods of export interest to developed countries. An alternative 'project' approach, suggested by India, would temporarily lower import duties on environmental goods and services that are used for approved environmental projects. Supporters claim that this strategy would help ensure that the imported products are used solely for environmental purposes.

During the recent meeting, India and Argentina made a joint submission [JOB (07/77)] outlining a multi-step plan to lower tariffs on environmental goods and services that incorporated aspects of both the 'list' and 'project' approaches.

Under this proposal, Members would first identify and agree to a list of approved environmental activities, which might include air pollution control, water and wastewater management, soil and soil conservation, solid waste management, environmental monitoring and analysis, energy saving management, and renewable energy. All of these sectors have featured prominently in the talks thus far.

Next, each government would develop a list of public and private entities that carry out the accepted activities within its borders, and, following negotiations, formally submit the list to the WTO. Those companies and government agencies would then be allowed to pay reduced tariffs on all goods and services used for the environmental activity in question. Audit systems would ensure that the imported goods would not be used for other purposes, while periodic negotiations would serve to update each country's list of eligible public and private entities.

To account for the 'special and differential' needs of poorer nations, India and Argentina proposed that, while developed countries could offer duty-free access for environmental goods, developing countries could offer less substantial tariff reductions. Least-developed countries would be free to decide individually on concessions or preferences.



Argentina had earlier proposed a compromise that would have temporarily lowered tariffs on environmental goods listed as necessary for environmental projects.

The new paper called for the WTO Secretariat to boost monitoring and reporting on Members' technology transfer activities, arguing that in order for the Doha Round to achieve a truly environmentally friendly outcome, developing countries must gain unrestricted access to alternate and clean environmental technologies.

With regard to another obstacle to commerce, the proposal suggested that domestic regulatory requirements could serve as non-tariff barriers to trade in environmental technologies and other areas. The paper thus recommended that Members consider relaxing their domestic regulations to the extent necessary for the agreed environmental activities to be carried out effectively.

Argentina and India noted that, unlike a simple list of environmental goods, their approach covered both goods and services, ensured that the reduced-tariff items were used for environmental purposes alone, and addressed key areas of concern to developing countries

### Proposal meets mixed response

One trade source told Bridges that the joint paper was an attempt by India and Argentina to address reservations that other Members had expressed about the transparency, predictability, and operational aspects of the 'project' approach.

Nevertheless, the proposal met with a mixed response. Egypt and Ecuador, for instance, welcomed it, while 'list' proponents - notably a coalition of developed countries that call themselves the 'friends of environmental goods' -- were generally critical. Many developing countries that are otherwise supportive of the 'project' approach also raised questions of a more technical nature.

Supporters of the 'list' method questioned the criteria that would be used to identify the entities that receive favourable tariff treatment. Would they be domestic companies alone, or would multinationals be eligible as well? Would it be consistent with the 'national treatment' principle, which requires that nations treat imported goods in the same way as like or competing domestic goods? What legal issues might arise? One issue raised by China and others was the number of entities that would be involved. Would the number and types of

entities eligible for liberalised imports of environmental goods and services be negotiated at the multilateral level, or would it be for the national authorities to take a decision and then notify the WTO? The 'friends' said that the proposal would involve too much 'bureaucracy'.

One trade source noted that there could potentially be thousands of entities within a single country. China said that its expanding economy was creating many such entities every year. Would an ever-changing list be enforceable in the context of the WTO rules-based system? The capacity of developing countries to implement the approach was also questioned.

Brazil, the world's largest exporter of ethanol, once again demanded that biofuels be included in any classification of environmental goods. However, sources reported that discussion of the issue did not 'take off' during the meeting, although they expected Brazil to raise the issue again.

If there is indeed a breakthrough in the overall negotiations before the WTO's August holiday, Members will have only a few months in which to finalise agreements on several other issues in the talks, including the environment mandate. In this scenario, sources suggest that some developing countries might be willing to consider a substantially shortened list, even if they are otherwise sceptical of the approach.

Discussions at the meeting on information exchange between MEA secretariats and WTO committees, along with the criteria for granting MEAs observer status, focused on a draft text circulated by the chair. The text proposed measures such as more frequent information exchange sessions with MEAs, possibly using the internet. The text also suggested possible criteria to judge an MEA's relevance for observership status.

One trade delegate noted that there was general agreement on the issue of information exchange, and that most Members appreciated the document produced by the chair. The observership issue, in contrast, remained contentious, with most Members disagreeing with the EU's suggestion to automatically grant the status to MEAs that met certain criteria.

One developing country delegate told Bridges that the mandate on observership simply called on Members to develop criteria that each WTO committee could use when considering applications

from MEAs for such status. Any automatic grant of Membership, even ad hoc, was beyond the scope of Paragraph 31 (ii) of the Doha Declaration, which sets out the mandate on the issue.

The Chair has reportedly called for further informal consultations on observership in order to iron out differences standing in the way of an agreement on the issue, which is widely considered a 'likely deliverable' within the trade and environment mandate.

The next Committee on Trade and Environment Special Session is due for 17-18 July.

ICTSD reporting.

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### In Brief

#### **BRAZIL LOSES USED TYRES DISPUTE**

Brazil has lost a WTO challenge against its import restrictions on retreaded tyres. The EU had contended that the import limitations were motivated by a desire to protect the local tyre industry rather than by an attempt to pursue genuine public health objectives. The dispute settlement panel's report, released on 12 June, confirmed a confidential interim ruling (see BRIDGES Weekly, 14 March 2007, <http://www.ictsd.org/weekly/07-03-14/story2.htm>).

Despite the panel's call for it to change its policies, the Brazilian government welcomed the decision. Officials noted that the panel had accepted the health- and environment-related justifications for restrictions on the import and stockpiling of used and retreaded tyres, objecting only to the way in which the measures were applied.

Indeed, some trade lawyers expressed surprise at the extent to which the panel agreed with Brasilia's arguments and left the door open for it to maintain many of the limitations with only minor modifications.

The case, which represents the first-ever challenge against trade restrictions imposed by a developing country for health and environmental reasons, has been closely watched by environmental groups.

For a full report on the panel ruling, see Bridges Weekly at <http://www.ictsd.org/weekly/07-06-20/story3.htm>.

The 245-page WTO report (WT/DS332/R) is available on <http://docsonline.wto.org/>

ICTSD reporting; "Panel Faults Brazil in Tyres Dispute," BRIDGES Monthly Review 11(4), June 2007 (forthcoming).

#### **WHALE CONSERVATION SCORES A DOUBLE VICTORY**

Acting independently but within two weeks of one another, two international governing bodies held firm in their support of a worldwide moratorium on whaling.

In separate actions, both the International Whaling Commission (IWC) and the Convention on International Trade in Endangered Species of Fauna and Flora (CITES) rejected requests from Japan and other pro-whaling nations to challenge the IWC's international ban on commercial whaling, which has been in effect since 1986.

Japan, which has long lobbied for an end to the moratorium, requested at last month's annual IWC meeting in Anchorage, Alaska permission for several of its coastal communities to hunt the marine mammals, but withdrew the proposal when it became apparent that it would not garner enough votes for passage (see Bridges Trade BioRes, 8 June 2007, <http://www.ictsd.org/biores/07-06-08/story2.htm>). In another blow to the pro-whalers, the IWC adopted a symbolic resolution reaffirming the commission's support of the two-decade-old whaling ban. Angered by what it called the commission's "double standard" and lack of sincerity, Japan threatened to withdraw from the IWC and establish its own international whaling forum.

Shifting strategies, Japan and its pro-whaling allies, which include Brazil, Iceland, and Norway, took their case to CITES, whose 171 member nations met in the Netherlands from 3-15 June (see related story, this issue). In a bold move, Japan asked the convention to review the status of all 13 whale species that are currently listed on Appendix I, meaning that all trade in those species is prohibited. A CITES determination that the whale stocks were healthy could result in a lifting of the ban of trade in whale parts, a move that would amount to an approval of commercial whaling itself.

However, CITES delegates rejected Japan's proposal by a wide margin. Further affirming the

convention's anti-whaling stance, delegates adopted an Australian amendment stating that the convention should never review the listing of whale species so long as the IWC moratorium remains in effect.

The double victory for whale conservation garnered strong praise from environmental groups.

"Both the IWC and CITES have now spoken in favour of whale protection and conservation," said Kitty Block of The Humane Society International. "It is clear that there is no international will to resume commercial whaling or international trade in their parts." "It's a one-two punch for the whales," added Patrick Ramage of the International Fund for Animal Welfare.

"Japan loses CITES bid on whales," REUTERS, 6 June 2007; "Protections for Elephants, Whales, Tigers, Emerge From Conservation Forum," EARTHTIMES.ORG, 15 June 2007; "U.N. Conference Closes With Mixed Results for Endangered Species," PRESSZOOM, 15 June 2007; "Cash row at wildlife trade forum," BBC NEWS, 16 June 2007; "Japanese whale request rejected," BBC NEWS, 6 June 2007.

## **REPORT: COCOA TRADE FUELLING ARMED CONFLICT IN CÔTE D'IVOIRE**

An investigation by London-based advocacy group Global Witness found that USD 118 million worth of profits from Côte d'Ivoire's cocoa trade has been used to help fund the civil war that has ravaged the country for the past five years.

Valuable resources such as oil, gold, and 'blood diamonds' have long been used to finance conflicts throughout Africa, Global Witness said, and now 'conflict cocoa' in Côte d'Ivoire is serving a similar purpose.

Representing over a third of the total value of Ivorian exports, cocoa is the primary economic resource in the West African state, which produces 40 percent of the world's cocoa supply.

The Global Witness report, released on 8 June, charged that international cocoa-exporting companies have diverted significant funds to help finance armed forces representing both the Ivorian government and the Forces Nouvelles (FN), the rebel group that controls the northern part of the country.

Global Witness called on the UN Security Council to threaten sanctions against companies that funnel cocoa profits to armed groups, and said that the Ivorian government should make its finances more transparent. The report also recommended that international cocoa companies more closely audit their finances and monitor their supply chains.

"There is a high chance that your chocolate bar contains cocoa from Côte d'Ivoire and may have funded the conflict there," said Patrick Alley of Global Witness. "The chocolate industry should clean up its act and ensure that it only sells conflict-free chocolate." He stopped short, however, of recommending measures similar to the Kimberley Process Certification Scheme for Rough Diamonds that excludes conflict diamonds from legal international markets through a series of certification requirements and trade restrictions, and which is covered by a special waiver at the WTO (see Bridges Trade BioRes, 1 December 2006, <http://www.ictsd.org/biores/06-12-01/inbrief.htm#2>).

## **Additional resources**

The report, entitled "Hot Chocolate - How Cocoa fuelled the conflict in Côte d'Ivoire" is available at [http://www.globalwitness.org/media\\_library\\_detail.php/552/en/hot\\_chocolate\\_how\\_cocoa\\_fuelled\\_the\\_conflict\\_in\\_co](http://www.globalwitness.org/media_library_detail.php/552/en/hot_chocolate_how_cocoa_fuelled_the_conflict_in_co).

"Cocoa seen funding Ivory Coast conflict," UPI, 8 June 2007; "Report warns of 'conflict cocoa,'" BBC NEWS, 8 June 2007; "Global Witness report calls on chocolate industry to clean up its act," GLOBAL WITNESS, 8 June 2007; "Africa: Ivory Coast: Cocoa Fueled Civil War," THE NEW YORK TIMES, 9 June 2007.

## **'DISCLOSURE GROUP' GAINS GROUND AT WTO TRIPS COUNCIL**

At a recent meeting of the WTO Council on Trade-related Intellectual Property Rights (TRIPS), Members continued discussions on how best to achieve the objectives of biodiversity conservation and intellectual property protection without reaching agreement. However, a number of countries joined the so called "Disclosure Group", which has proposed making mandatory disclosure requirements part of WTO rules.

The misappropriation of genetic resources and traditional knowledge (TK) through patents (“bio-piracy”) has been a source of major concern to a large number of Members, particularly several developing countries. For this reason, a group of developing countries (Brazil, China, Colombia, Cuba, India, Pakistan, Peru, Thailand, Tanzania, Ecuador, and South Africa -- the “Disclosure Group”) last summer proposed amending the TRIPS Agreement to require patent applications to include disclosure of the origin of genetic resources and associated traditional knowledge as well as evidence of prior informed consent and benefit sharing (IP/C/W/474; see BRIDGES Trade BioRes, 16 June 2006, <http://www.ictsd.org/biores/06-06-16/story3.htm>). They argue that such requirements are necessary to support patent-related obligations that arise from the Convention on Biological Diversity (CBD).

These countries have since repeated their call for making mandatory disclosure requirements part of WTO rules, calling for text-based negotiations to develop a specific amendment. They have been opposed by Members such as Australia, Canada, and New Zealand, which argue that such negotiations would be premature and that even disclosure requirements might not prevent ‘bad patents’ from being granted.

At the latest TRIPS Council meeting on 5 June, the “Disclosure Group” expanded considerably, with Venezuela, the members of the African Group and the members of the Group of Least-Developed Countries (LDCs) announcing their support for the proposal.

Apart from that, the discussion followed a familiar pattern. Australia, Canada, and New Zealand said that more facts-based discussions on concrete cases of misappropriation were necessary. Japan and the US underlined their opposition to any TRIPS amendment on disclosure, saying that there is no contradiction between the WTO agreement and the CBD.

Norway supported the Disclosure Group’s call for text-based negotiations, pointing to its own similar proposal for an amendment (IP/W/473). Instead of patent revocation, the Norwegians would sanction patent applicants that fail to meet disclosure requirements outside the patent system. Several countries in the Disclosure Group welcomed the Norwegian approach as a step in the right direction.

Finally, the EU reiterated its call for disclosure requirements to be negotiated outside the WTO, at the World Intellectual Property Organisation.

Brazil said that Members’ political will to engage in negotiations on disclosure as part of the Doha Round negotiations was growing. According to the Brazilian delegate, technical discussions would be pursued in informal consultations rather than at the meetings of the TRIPS Council.

The new chair of the TRIPS Council, Ambassador Yonov Frederick Agah (Nigeria) will consult with Members on whether to grant the CBD Secretariat observer status at the WTO, after Brazil expressed support for doing so but the US indicated its opposition.

For full coverage of the TRIPS Council, see Bridges Weekly at <http://www.ictsd.org/weekly/07-06-13/story4.htm>

ICTSD reporting.

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## Events & Resources

### EVENTS

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

### Coming up in the next two weeks

25-26 June, London, UK: CLIMATE CHANGE: POLITICS VERSUS ECONOMICS. Climate change is global, both in cause and consequence, and the response requires international action. The difficulty is that environmentalists, scientists, economists, foreign policy and security experts and investors all speak different languages and have different understandings of how best to tackle the issue. The aim of this conference, which is being organised by Chathamhouse House London, is to bring together well-respected representatives from each of these fields to discuss the connections and debate whether it is international politics or economics or a mixture of both that will deliver a step-change in the global response to climate change. For information on the conference contact [conferences@chathamhouse.org.uk](mailto:conferences@chathamhouse.org.uk).

25-26 June, Macau, China: 8th IEEM INTELLECTUAL PROPERTY SEMINAR ON INTERNATIONAL INTELLECTUAL PROPERTY LAW AND PHARMACEUTICALS. This seminar, hosted by the Institute of European Studies of Macau (IEEM), will feature lectures on the pharmaceutical industry in Asia,

antitrust laws, and the effects of medicinal patents on public health in developing countries. For more information contact Beatrice Lam at [beatrice@ieem.org.mo](mailto:beatrice@ieem.org.mo). internet: <http://www.ieem.org.mo/courses/ipl/index.html>.

25-27 June, Stanford, California: INTERNATIONAL ENERGY WORKSHOP (IEW). IEW is a network of global energy experts that meet annually to discuss a wide range of topics, with particular emphasis on global as well as regional energy issues. The annual IEW meetings focus on energy assessments and try to understand the reasons for diverging views of development in the energy sector. For more information contact John Weyant at [weyant@leland.stanford.edu](mailto:weyant@leland.stanford.edu). internet: [http://www.internationalenergyworkshop.org/Workshop\\_2007.html](http://www.internationalenergyworkshop.org/Workshop_2007.html).

26 June 2007, Berlin, Germany: DESERTIFICATION AND SECURITY. Desertification affects about 30 percent of the world's land surface area and 1.2 billion people in at least 100 states. The Federal Foreign Office and the Federal Ministry of Economic Cooperation and Development together with the UNCCD Secretariat are organising this conference to explore the role of resource and land management in current conflicts. Conference participants will identify opportunities and challenges for adapted policy design, with a focus on practical experiences in environmental integrated conflict prevention. For further information on the conference, contact Stefan Drescher at [404-hosp2@diplo.de](mailto:404-hosp2@diplo.de). internet: <http://www.eliamep.gr/eliamep/content/home/events/2007/en/>.

26-29 June 2007, Stockholm, Sweden: THIRD INTERNATIONAL MEETING ON SUSTAINABLE CONSUMPTION AND PRODUCTION. Participants at this meeting, which is jointly organised by the UN Department of Economic and Social Affairs and the UN Environment Programme, will report and share progress on national and regional activities related to sustainable consumption and production with an eye toward advancing the work of the Marrakech Process on sustainable consumption and production that was launched in Marrakech, Morocco in June 2003. Participants will include experts from government agencies and international organisations concerned with policies to promote sustainable consumption and production, as well as a select group of experts from industry, NGOs, academia, local authorities, and other major groups. internet: <http://www.un.org/esa/sustdev/sdissues/consumption/Marrakech/conprod10Ystockholm.htm>.

2-6 July, Paris, France: 12TH MEETING OF THE CBD SUBSIDIARY BODY ON SCIENTIFIC, TECHNICAL, AND TECHNOLOGICAL ADVICE. Delegates to this meeting, organised by the Convention on Biological Diversity Secretariat, will consider proposals for the integration of climate change activities within the Convention's programmes of work, as well as

new and emerging issues relating to the conservation and sustainable use of biodiversity. internet: <http://www.biodiv.org/meetings/default.shtml>.

2-7 July, Rome, Italy: CODEX ALIMENTARIUS COMMISSION MEETING. This meeting, jointly hosted by the World Health Organisation and the UN Food and Agriculture Organisation, will consider proposed draft standards, the implementation of standards assessments, as well as relations between the Codex Alimentarius Commission and other international organisations. For more information contact the WHO/FAO office at +39 06 57051, or email at [codex@fao.org](mailto:codex@fao.org). internet: <http://www.codexalimentarius.net/web/current.jsp?lang=en>.

3-12 July, Geneva, Switzerland: 11TH SESSION OF THE WIPO INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE. This meeting, organised by the World Intellectual Property Organisation, will be the Committee's final working session before it reports to the WIPO Assemblies meeting in late 2007. For more information contact the IGC Secretariat at +41-22-338-8161 or email [grtkf@wipo.int](mailto:grtkf@wipo.int). internet: <http://www.wipo.int/tk/en/>.

### Other upcoming events

26-29 July, Ravello, Italy: 11th INTERNATIONAL CONFERENCE ON AGRICULTURAL BIOTECHNOLOGIES: NEW FRONTIERS AND PRODUCTS - ECONOMICS, POLICIES AND SCIENCE. Topics that will be discussed at this conference include the impact of agricultural biotechnology on international trade, biotechnology and developing countries, and regulation of biotechnology. The conference is being organised by the International Consortium on Agricultural Biotechnology Research (ICABR), Catholic University of Leuven, CEIS-University of Rome, Rutgers University, and the Economic Growth Center, Yale University. internet: <http://www.economia.uniroma2.it/conferenze/icabr2007/>.

3-14 September, Madrid, Spain: EIGHTH SESSION OF THE CONFERENCE OF THE PARTIES TO THE UN CONVENTION TO COMBAT DESERTIFICATION (COP-8). COP-8 of the CCD will consider the following agenda items: programme and budget for the biennium 2008-2009; review of the implementation of the Convention; review of the report of the Committee on Science and Technology; review of activities for promotion of relationships with other relevant organizations; follow-up to the World Summit on Sustainable Development; Regional Coordination Units; and review of the 2006 International Year of Deserts and Desertification activities. internet: <http://www.unccd.int>.

29 October to 1 November, Sydney, Australia: 18TH CONSUMERS INTERNATIONAL WORLD CONGRESS. Consumer demands for corporate transparency, accountability, and responsibility have never been so pressing. This event, hosted by Consumers International, will focus on four key areas within an accountability theme: the impact of consumption on our planet, marketing, credit and debt, and what we eat. The programme has been developed with a view to providing delegates the opportunity to hear from experts, engage in debates, and attend workshops showcasing the work of consumer organisations around the world. internet: [http://www.confco.com.au/consumers\\_english/?NodeID=96538&int1stParentNodeID=89647&int2ndParentNodeID=95043?NodeID=96538&int1stParentNodeID=89645&int2ndParentNodeID=89645](http://www.confco.com.au/consumers_english/?NodeID=96538&int1stParentNodeID=89647&int2ndParentNodeID=95043?NodeID=96538&int1stParentNodeID=89645&int2ndParentNodeID=89645).

## 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 Malena Sell at [msell@ictsd.ch](mailto:msell@ictsd.ch).

UPHOLDING THE LAW: THE CHALLENGE OF EFFECTIVE ENFORCEMENT. By the Environmental Investigation Agency, June 2007. Effective implementation and enforcement of the Convention on International Trade in Endangered Species (CITES) is critical to the success of every aspect and objective of the Convention. This briefing paper calls upon parties to CITES to acknowledge that environmental crime, including wildlife crime, is a form of serious transnational organised crime and to adopt appropriately stringent measures to tackle it effectively. To this end, the authors offer a number of specific policy recommendations for CITES delegates. The paper is available at <http://www.eia-international.org/cgi/reports/reports.cgi?t=template&a=139>.

FAO BIOTECHNOLOGY GLOSSARY ON CD-ROM. By the UN Food and Agriculture Organisation, June 2007. The FAO has released a CD-ROM containing the Arabic, English, French, and Spanish versions of the FAO Glossary of Biotechnology for Food and Agriculture, with cross-referencing among the four languages. The glossary provides definitions of over 3,000 terms and acronyms that are used regularly in biotechnology and related fields. To request a copy of the CD-ROM, contact [sandra.tardioli@fao.org](mailto:sandra.tardioli@fao.org). The glossary is also available online at [http://www.fao.org/biotech/index\\_glossary.asp](http://www.fao.org/biotech/index_glossary.asp).

BIOTECHNOLOGY IN CROP PRODUCTION AND THE BIOSAFETY PROTOCOL -- IMPLICATIONS FOR CEREAL TRADE. By the UN Food and Agriculture Organisation, 2007. This paper, which was prepared for a joint meeting of the Intergovernmental Group on Grains and the Intergovernmental Group on Rice, describes international legal instruments that regulate or offer

guidelines on genetically modified crops and highlights challenges and implications for the global trade in cereal crops. The paper maintains that the adoption of the Cartagena Protocol on Biosafety has created a strong demand in many developing countries for establishing effective biosafety systems and concludes that there is a need to provide long-term, continuous technical and financial support to allow the full development of national capabilities in this sector. The paper is available online at <ftp://ftp.fao.org/docrep/fao/meeting/011/J9312E.pdf>.

A REVIEW OF INTERNATIONAL LABELLING POLICIES OF GENETICALLY MODIFIED FOOD TO EVALUATE INDIA'S PROPOSED RULE. By G.P. Gruère and S.R. Rao (AgBioForum 10(1), 2007). This paper evaluates India's proposed mandatory labelling rule through the lens of a review of existing international labelling policies for genetically modified (GM) food and associated relevant international agreements. According to the analysis presented, existing evidence from developed countries shows that mandatory labelling regulations have resulted in no additional consumer choice or information. The authors maintain that India's proposed labelling rules would be among the most stringent in the world and could result in low consumer benefits at a high cost both domestically and internationally. The article is available at: <http://www.agbioforum.org/v10n1/v10n1a06-gruere.htm>.

IN THE BLACK: THE GROWTH OF THE LOW CARBON ECONOMY. By the Climate Group, 2007. This report describes the growing number of companies worldwide that are implementing low-carbon solutions such as renewables, hybrid cars, and carbon markets. This report also documents the rapid growth experienced by companies that provide low-carbon products and services. The authors maintain that, particularly in the past year, action on climate change around the world has increased dramatically, and that this shift has both created jobs and added value to the economy. The report is available at <http://theclimategroup.org/index.php/resources/>.

RISK, GENETICALLY MODIFIED FOOD AND THE US/EU DIVIDE. By Dave Toke (International Journal of Green Economics 1:3-4, 2007). Recent developments on genetically modified (GM) food illustrate some key differences between the EU and the US on environmental issues. These differences have paralleled the apparently stronger influence of environmentalists since 1990 on a range of issues in the EU, compared to the US. This paper presents a theoretical analysis of regulatory frameworks in the EU and the US in an attempt to explain such differences. To access the paper, visit [http://www.inderscience.com/search/index.php?action=record&rec\\_id=13069&prevQuery=&ps=10&m=or](http://www.inderscience.com/search/index.php?action=record&rec_id=13069&prevQuery=&ps=10&m=or).

ENVIRONMENTAL POLICY IMPLICATIONS OF INVESTOR-STATE ARBITRATION UNDER

NAFTA CHAPTER 11. By Sanford E. Gaines (International Environmental Agreements 13:2, 2007). Chapter 11 of the North American Free Trade Agreement requires governments to treat foreign investors the same as domestic investors, to afford them international standards of due process of law, and to compensate investors for any actions that expropriate their investments. It further allows foreign investors to submit compensation claims to international arbitration. To the alarm of the environmental community, four of the early Chapter 11 claims involved challenges to

government measures that were, or appeared to be, environmental protection measures. This paper takes analyses the circumstances of these four claims to determine whether the claimants avoided bona fide environmental protection measures and concludes that environmentalists have little ground for alarm, and much reason to be encouraged, about how Chapter 11 has influenced environmental protection. To access the paper visit <http://www.riener.com/viewbook.cfm?BOOKID=1310>.

*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 Malena Sell, [msell@ictsd.ch](mailto:msell@ictsd.ch). Contributors to this issue were Paige McClanahan, Malena Sell, Knirre Sogaard, Mahesh Sugathan, Nicholas Tyabji and Caitlin Zaino. 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 Balxert, 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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