



# Bridges Trade BioRes

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

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<b>Climate and Atmosphere .....</b>	<b>1</b>
ENVIRONMENTAL GROUPS PUSH FOR RULES ON EMISSIONS FROM SHIPPING .....	
PARTIES AGREE TO SPEED UP ACTION AT MONTREAL PROTOCOL 20TH ANNIVERSARY .....	
<b>Negotiations at the WTO .....</b>	<b>5</b>
BRAZIL SUBMISSION CAUSES STIR AT INFORMAL ENVIRONMENT SESSION .....	
FISHERIES NEGOTIATIONS ADVANCE, BUT HELD BACK BY TALKS ON AG, INDUSTRIAL PRODUCTS .....	
<b>In Brief.....</b>	<b>8</b>
<b>Events &amp; Resources .....</b>	<b>12</b>

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## **Climate and Atmosphere**

### **US SAYS EUROPEAN AVIATION EMISSIONS TRADING SCHEME TO END UP AS WTO DISPUTE**

The EU and US have recently clashed over the legality of including international aviation in the European emissions trading scheme.

The EU, which is a major champion of legally-binding measures to address climate change, has set up an emissions trading scheme as one of the main measures to reach its commitment reductions under the Kyoto Protocol. The scheme currently covers industry, with aviation set to be included, potentially as early as 2010. The US opposes a scheme under which its airlines would have to

pay up when landing and departing from Europe. This schism caused tension at a recent meeting of the International Civil Aviation Organisation (ICAO), which ended in acrimony with Europe filing a reservation allowing it to side-step a resolution calling for mutual agreement from third parties with regard to regional emissions trading schemes.

### **Tri-annual ICAO meeting addresses global warming**

Meeting in Montreal from 18-28 September, the ICAO Assembly addressed, among other, issues related to climate change. The Assembly, while falling short of adopting global guidelines to limit greenhouse gas emissions from the aviation sector, decided to establish a working group on aviation and climate change. This group will be charged with looking at, among other, voluntary measures, possibilities for technological advances in aircraft and ground-based equipment, more efficient operational systems, improvements in air traffic management, positive economic incentives, and market-based measures to achieve reductions in emission of greenhouse gases.

At its last meeting in 2004, the Assembly had issued a resolution supporting regional emissions trading schemes. At the 2007 Assembly, however, participants drafted a resolution saying that regional emissions trading schemes should be based on 'mutual consent' when involving aircraft from third parties. In practice, this would require negotiating separate agreements with all third parties.

### **EU to push ahead with emissions trading**

The European group filed a "reservation" against the ICAO resolution, meaning they are ready to go ahead with including aviation in their emissions trading scheme. "Whilst Europe is committed to

multilateral action to address the effects of aviation emissions, mutual agreement is not a pre-condition for the implementation of market-based measures," according to the written reservation of the group.

The forty-two states of the EU and the European Civil Aviation Conference, ECAC, further said that "the programme put forward for agreement at this Assembly is unambitious, piecemeal and lacking in credibility on market-based measures (both greenhouse gas emissions charges and emissions trading)." The statement asserted that the regional emissions trading scheme was "fully consistent with ... international obligations, in particular the key principles of sovereignty and non-discrimination. Europe intends to pursue these policies and adhere to these principles."

### US hints at trade dispute

Referring to the differences over the reach of the European emissions trading scheme, C. Boyden Gray, US ambassador to the EU, said "The Europeans are confident of their legal authority and people on the other side are equally confident of their position. It sounds like a lawsuit to me. I don't see how it's going to get resolved politically."

According to Grey, the EU should focus on stemming emissions from its transportation system, "before sort of distracting everybody with airlines, which is a pretty small fraction, at the moment, of the transportation sector."

### Airline industry groups diverge over scheme

The airline industry has supported a global approach to emission reductions; Global airlines group IATA has called for a voluntary but global emissions trading scheme. According to David Henderson of the Association of European Airlines, "Air-emissions trading is better than a fuel tax. We can support an aircraft-emissions scheme provided it is a well-designed scheme that treats everybody equally. What we don't want is a scheme that has only a tiny impact on global emissions and damages the competitiveness of European airlines."

Following the ICAO meeting, James May of the Air Transport Association of America, on the other hand, said "The European States have indicated their intent to unilaterally impose such measures on the airlines from other countries, contrary to the will of every other country in the world and contrary to international law. If they persist, there will no doubt be a legal battle."

### Green groups slam ICAO

Environmental groups, on the other hand, came out strongly against the ICAO. João Vieira of Transport and Environment, a Brussels based environmental group, said "After a shameful decade of obstruction and inaction ICAO must now be stripped of its environmental responsibilities. The EU has recognised that it must now take the lead in cutting emissions from the most polluting form of transport on the planet."

"After 10 years of posturing, this assembly's clear failure sounds the death knell for any ICAO role in environmental protection," added Dr. Werner Reh, aviation expert for Friends of the Earth Germany. "ICAO chooses to ignore the very significant growth in greenhouse gas emissions by airlines and the clear need for taxes, emission charges or emission trading schemes."

The Kyoto Protocol recognised the International Civil Aviation Organisation (ICAO) as the forum that should be taking the lead in developing action to stem global greenhouse gas emissions from aviation.

### Background

The aviation sector contributes around two percent of global carbon dioxide emissions. However, when indirect effects from other pollutants as well as cloud formation are added, aviation contributes up to nine percent of radiative forcing, or global warming effect. Aviation is also one of the fastest-growing sectors. Emissions have doubled since 1990 and are projected to further grow by 3.5 percent annually.

The aviation industry is heavily subsidised by the public sector, starting with development and manufacture. Major disputes at the WTO have involved such subsidies, pitting Brazil and Canada against each other over support to Embraer and Bombardier, and the US currently challenging subsidies paid to Europe's Airbus, and Europe simultaneously going after subsidies paid to US manufacturer Boeing. Airports are also subsidised, while international tickets and jet fuel are exempt from taxes.

While the bulk of internationally traded goods are transported by water, roads and rail, aviation also plays an important role. Currently, organic and environmental groups are considering whether to start labelling products based on their carbon

footprint, which would particularly target air-freighted goods. Meanwhile, others have warned against punishing air-freighted products from developing countries, as this could counteract important trade-led development opportunities for countries vulnerable to the effects of climate change (see Bridges Trade BioRes, 22 June 2007, <http://www.ictsd.org/biores/07-06-22/story3.htm>).

"US envoy: EU risks new trans-Atlantic trade fight by including airlines in emissions program," AP, 25 September 2007; "EU Clashes With US Over Airline Emissions Trade," REUTERS, 24 September 2007; "EU emissions trading plan set for takeoff despite transatlantic rift," EUROPEAN FEDERATION FOR TRANSPORT AND ENVIRONMENT RELEASE, 28 September 2007; "Aviation Industry Rejects Europe's Climate Emissions Trading System," ENS, 2 October 2007.

## ENVIRONMENTAL GROUPS PUSH FOR RULES ON EMISSIONS FROM SHIPPING

On 3 October, the California Attorney General Jerry Brown and a coalition of environmental groups simultaneously petitioned the US Environmental Protection Agency (EPA) to take action to regulate emissions from marine shipping causing climate change.

The environmental groups Earthjustice, the Center for Biological Diversity, Friends of the Earth and Oceana said that "the sheer number of these ships, coupled with operating practices that use fuel inefficiently and poor government oversight, results in carbon dioxide emissions" equal to "the emissions of 130 million to 195 million cars."

The petitions came in the wake of a US Supreme Court ruling in April this year, which confirmed that the EPA has the jurisdiction to regulate in the area of climate change. The current petitions are the first to be filed after the Supreme Court decision, and would affect global shipping operations. Even though potential EPA rules would apply to US territorial waters only, they would apply to all vessels operating there, regardless of their country of origin or country of flag. Tough rules in the US would likely also lead the country to push for tightened rules at the international level through the International Maritime Organisation (IMO).

## Petition calls for efficiency, cleaner fuels

The petition filed by the four environmental groups asked the EPA to act by "(1) requiring marine shipping vessels to meet emissions standards by operating in a fuel-efficient manner, using cleaner fuels, and/or employing technical controls, so as to reduce emissions of carbon dioxide, nitrous oxide, and black carbon, and (2) controlling the manufacture and sale of fuels used in marine shipping vessels by imposing fuel standards to reduce emission products that contribute to global warming."

By applying to all vessels in US water, the rules would avoid putting a disproportionate burden on US ships.

"If the US is to do its part in reducing the threat of global climate disruption, then EPA must limit the global warming emissions from ships that enter the ports of the United States," commented California Attorney General Jerry Brown. Danielle Fugere of Friends of the Earth noted that "Slower speeds, cleaner fuels, better ships - the steps that the shipping industry must take are clear. It's up to the EPA to ensure these steps are taken."

Representatives of the shipping industry called for a global approach. "We would prefer to see these issues resolved at the international level," said T.L. Garrett, vice president of the Pacific Merchant Shipping Association. "Then everyone's on a level playing field. We think it's the most efficient way of advancing these environmental initiatives." Joe Angelo, deputy managing director of Intertanko, a group representing independent tanker operators, agreed that the best approach was "to reduce emissions worldwide - universally - not just unilateral action in the United States or the European Union."

The EPA will have to provide a response to the petition within six month's time.

## Shipping - a major source of pollution

According to the petition by the environmental groups, marine vessels produce close to three percent of the world's greenhouse gases. The worldwide fleet of 90,000 ships transports 90 percent of the world's goods, and only six countries emit greater amounts of greenhouse gases. Shipping has grown by three percent annually on average over the last three decades, and shipping emissions

are projected to grow by more than 70 percent by 2020, as global trade expands.

The petition for regulatory action on greenhouse gas emissions from ships came as a meeting of 16 major economies organised by US president Bush in Washington focused on voluntary measures to address global climate change.

#### **Additional resources**

To view the petition by the environmental groups, visit [http://www.oceana.org/fileadmin/oceana/uploads/Climate\\_Change/Marine\\_GHG\\_Petition\\_FINAL.pdf](http://www.oceana.org/fileadmin/oceana/uploads/Climate_Change/Marine_GHG_Petition_FINAL.pdf)

“EPA Asked to Regulate Ship Emissions,” AP, 3 October 2007; “Environmental Advocates Urge The EPA To Reduce Global Warming Pollution From Ships,” OCEANA RELEASE, 3 October 2007; “E.P.A. Is Petitioned to Limit Ship Emissions,” NEW YORK TIMES, 3 October 2007; “Shipping emissions are vastly underestimated,” THE TIMES, 4 October 2007.

### **PARTIES AGREE TO SPEED UP ACTION AT MONTREAL PROTOCOL 20TH ANNIVERSARY**

At the latest global gathering to address ozone depletion, delegates agreed to accelerate the phase-out of hydrochloroflourocarbons (HCFCs), an ozone-depleting substance with powerful global warming potential.

Calling the decision “historic,” UN Environmental Programme Executive Director, Achim Steiner, said it was “perhaps, the most important breakthrough in international environmental negotiations for at least five or six years.”

Intergovernmental and nongovernmental organisations, UN agencies, academia, civil society, and industry, along with the 190 nations (plus the European Commission), composed the more than 900 parties that attended the nineteenth meeting of the Parties of the Montreal Protocol on Substances that Deplete the Ozone Layer (MOP-19) from 17-21 September.

The decision marks a considerable hastening of the previously agreed phase-out of HCFCs, moving the process up by 10 years. Under the previous agreement, developed countries were to have ceased using HCFCs by 2030 and developing countries by 2040. Developing countries will seek financial

assistance for the process from the Multilateral Fund.

NGO’s such as Greenpeace, while lauding the success and ambition of MOP-19, warned the body to carefully consider which substitutes for HCFCs to utilise, as many have just as great a potential to contribute to ozone depletion and global warming, reminding the body that HCFCs were originally chosen as a temporary substitute to the more harmful CFCs (chloroflourocarbons).

#### **Other decisions concerning ODS**

Accelerating HCFC phase-out was not the only accomplishment of the meeting. As discussions closed, MOP-19 adopted 29 decisions regarding essential-use nominations and related issues borne from the Technology and Economic Assistance Panel (TEAP), critical-use nominations for methyl bromide, monitoring transboundary movements and illegal trade in ozone-depleting substances (ODS) and budgets.

Numerous states called for a better framework for addressing illegal trade in ODS. Gabon, Tanzania, Senegal, South Africa, and Samoa, all highlighted a need for help in tackling illegal trade. Portugal, speaking for the EU, pledged EU assistance for developing countries, along with aid in other areas, such as controlling new substances and managing ODS banks. Kyrgyzstan underlined the problems illegal trade poses for transitional economies. The Republic of Korea called for the implementation of licensing systems, while Malaysia endorsed the development of a tracking system for ODS.

The delegates also looked at voluntary domestic options for combating illegal trade. The European Commission, along with several others, called for a decision referring to prior informed consent, while the US, Australia and others stated that illegal trade was best tackled at the national level via the implementation of licensing systems.

In its final decision on the issue of illegal transboundary trade of ODS, MOP-19 acknowledged the need for better monitoring systems as well as the benefits of transparency and urged parties to implement and enforce their import and export licensing systems. The body also asked its members, particularly those with firmly established monitoring mechanisms in place, to further bolster their prevention framework by establishing domestic information-sharing and internal checks.

## Celebrating 20 years of success and looking to the future

MOP-19 closed with its Montreal Declaration, which commemorated the “landmark agreement” on the phase-out of HCFCs along with MOP’s 20th anniversary, which it celebrated just prior to the commencement of the meeting. Recognising the significant contributions of science and international cooperation, the parties reaffirmed their commitment to remain vigilant in the protection of the ozone layer and to the complete phase-out of all ODS, but to do so in a way that is eco-friendly and addresses other important issues, such as climate change.

“We’ve got a good framework in place, we’re putting more meat on the bone every day and we’re excited about it and we’re going to move full steam ahead,” stated Canadian Environmental Minister John Baird.

“Summary of the Nineteenth Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer,” EARTH NEGOTIATIONS BULLETIN, 24 September 2007; “UN Speeds up HCFC phaseout,” BANGKOK POST, 22 September 2007; “Combating Climate Change Given Big Confidence in Canada,” UNEP, 22 September 2007.

## Negotiations at the WTO

### BRAZIL SUBMISSION CAUSES STIR AT INFORMAL ENVIRONMENT SESSION

A new Brazilian proposal - which supports the concept of agricultural environmental goods and introduces the idea of a request-offer process within the Doha Round negotiations on environmental goods and services - has captured the interest of delegates.

Brazil created a flutter at an informal meeting of the WTO Committee on Trade and Environment (CTE) special (negotiating) session on 2 October with its submission on ‘Environmental Goods for Development’ (JOB (07/146). The paper further develops issues contained in an earlier Brazilian submission (TN/TE/W/59, available at <http://docsonline.wto.org>). According to the paper, trade liberalisation in the area of environmental goods should provide developing countries with export opportunities in their areas of competitive advantages. They should be encouraged to establish

industries that do not replicate developed-countries patterns of energy consumption and resource depletion, and should be allowed to develop the capacity required to generate solutions adapted to local necessities and conditions.

### Biofuels, organic ag on the EGS agenda

According to the Brazilian submission, the development concerns of most developing countries would be best addressed through improved market access for agricultural environmental goods - something not reflected in the current ‘list’ approach to environmental goods. The paper provides the first explicit link between the development dimension of the negotiations and agricultural environmental goods following the inclusion of non-industrial environmental goods in the ‘July Framework’ of 2005.

In its submission, Brazil also said biofuels were ‘essentially an environmental good.’ The response was mixed; several developed country delegates were less than enthusiastic, and Canada raised environmental concerns related to biofuel production.

While the Brazilian submission did not specifically propose designating organic products as environmental goods, it did so indirectly by referring to the mandate to deal with non-tariff barriers, noting that products such as biofuels and organically-produced foods faced important obstacles related to technical regulations and conformity evaluation procedures. According to trade sources, Brazil suggested that one of the results of the CTE’s work should be a request to the relevant Codex Alimentarius Committee to develop standards for organically produced foods. Such global standards would help trigger the growth of a potentially large agricultural sector, which is currently held back by non-tariff barriers. Such an approach would lead to a triple win through “the elimination or reduction of trade restrictions and distortions [which] would benefit trade, the environment and development.” The Codex Alimentarius is recognised by the WTO Agreement on Sanitary and Phytosanitary Standards (SPS) as the international standard-setting body in the area of food and agriculture.

The implications of including organic products concerned some delegates, with one trade negotiator noting that a discussion of organics would open the door to a discussion on process and production methods (PPMs) - something most

Members want to avoid. Another delegate added that it would be difficult to categorise organic and non-organic products under different codes for customs purposes.

### **Request-offer approach and tech transfer**

According sources, the Brazilian proposal broke new ground by suggesting an alternative approach to the 'list' and 'integrated' approaches for liberalising environmental goods currently on the table. The proposal suggested utilising a straightforward 'request-offer' approach to conclude specific product commitments. Each country could propose slashing tariffs for those agricultural and non-agricultural goods it felt would bring environmental benefits, while allowing other countries to make sure the liberalisation would not compromise their own efforts to develop industries - including industries producing environmental goods. Each country could also propose environmental goods it was ready to open its borders to.

Reportedly, most developed countries were supportive of the 'request-offer' approach. Some developing country delegates felt that the request-offer process would be cumbersome and time consuming.

The proposal further supported improved access to new and clean environmental technologies, especially for developing and least-developed countries. In order to facilitate such access, the proposal suggested that a mechanism to evaluate the transfer of clean technology following the EGS negotiations should be established.

More formal responses to the Brazilian submission are expected at the next session of the CTE, scheduled for 1-2 November. In the meantime, delegations are reflecting on the proposal, engaging capital-based experts.

ICTSD reporting.

### **FISHERIES NEGOTIATIONS ADVANCE, BUT HELD BACK BY TALKS ON AG, INDUSTRIAL PRODUCTS**

The Doha Round negotiations on rules governing fisheries subsidies are showing signs of progress, with the chair of the talks describing two new

proposals as "quite helpful" to his to produce draft negotiating texts to present to WTO Members.

Nevertheless, Chair Ambassador Guillermo Valles Galmés (Uruguay) told a 28 September meeting of the TO Negotiating Group on Rules - which covers fisheries negotiations - that he would issue texts only after the chairs of the agriculture and industrial goods committees provide their new texts. Rules negotiating texts would also have to address industrial subsidies and contentious talks on anti-dumping rules.

Some delegates considered the mention of a draft agreement as a sign that the rules negotiations might be able to move forward despite the deadlock on the central issues of agriculture and non-agricultural market access (NAMA), i.e. industrial goods.

With breakthroughs on agriculture and NAMA looking increasingly unlikely before late autumn or the end of the year - if at all - governments would have to be well-placed to wrap up talks in areas such as rules and trade facilitation in order to finalise a Doha Round package before the 2008 US election campaign is in full swing.

One of the new fisheries papers is a joint submission by Argentina and Brazil (TN/RL/GEN/151, available at <http://docsonline.wto.org>), which sets out draft provisions for 'special and differential treatment' (S&DT) for developing countries in future WTO rules on fisheries subsidies. The Indonesian paper (TN/RL/GEN/150/Rev.1), which addresses most issues in the talks, also includes potential rules for S&DT.

Both proposals were discussed during the rules group's meeting from 24-28 September. Valles Galmés commended the two documents for generating valuable discussions on the "critical issue" of S&DT. Differences on the issue, which will determine the extent to which developing countries will be allowed to subsidise their fisheries sectors in ways denied to industrialised nations, have bedevilled the negotiations as of late.

### **Indonesia revises position, not just proposal**

Indonesia's text is a substantially changed version of a full-fledged draft fisheries agreement it tabled in July, reworked, in its own description, to make "enforcement and interpretation easier."

In the revised proposal, Indonesia says that it seeks to unite the two principal approaches under consideration for disciplining fisheries subsidies: the 'top-down' general prohibition on payments with negotiated exceptions, and the 'bottom-up' methodology, which would only ban specific kinds of subsidies. Unlike the earlier version, the paper's provisions stop short of a blanket ban on fisheries subsidies, but simply make them 'actionable' - i.e., subject to challenge at the WTO.

Indonesia argues that for the sake of consistency, fisheries subsidy disciplines should be similar to the current Agreement on Subsidies and Countervailing Measures (ASCM), which bans subsidies for export performance and import substitution, and makes the rest 'actionable,' prohibited only when they are deemed to harm other countries' trade interests. Thus, it calls for prohibiting fisheries subsidies only if they would hurt other countries as defined by the existing ASCM, or if it provokes adverse effects to fisheries resources. The proposal says that alleged injury to marine resources resulting from fishery activity would be evaluated in light of criteria including catch volumes, regional and national management schemes, and fishing access right payments. Subsidies that boost a country's capacity to produce fish products would be deemed to cause "serious prejudice," and would thus be prohibited.

### Heavy criticism greets Indonesian proposal

Many delegations were critical of the Indonesian proposal, especially for its failure to include a general prohibition on fisheries subsidies. New Zealand critiqued Indonesia for eliminating the "backbone" of the negotiations. Other advocates of broad prohibitions such as the US and Brazil, expressed extreme disappointment with the proposal, calling it less ambitious than the others on the table and a major step backward for the negotiations. Chile echoed this, arguing that Indonesia failed to conform to the Hong Kong Ministerial Declaration's mandate for "the prohibition of certain forms of fisheries subsidies that contribute to overcapacity and over-fishing."

The Indonesian paper also set out S&DT exemptions for developing countries. For instance, subsidies for artisanal fishing would be allowed, based on proximity to the shore and vessel size. Likewise, assistance is permitted to 'small-scale fisheries' within territorial waters for gear, fuel, and the construction, repair, or modernisation of boats less than 20 metres in length. Further carve-outs would allow developing countries to fund fishing

vessels for the exploitation of fisheries within their own exclusive economic zones and fishing rights held on the high seas or elsewhere under regional arrangements.

Norway, though it has argued against a general prohibition, was quite critical of the Indonesian proposal, saying it would weaken current disciplines and allow a complete carve-out for developing countries. On the other hand, Fiji, speaking on behalf of the group of African, Caribbean, and Pacific (ACP) countries, said that the provisions on small-scale fishing were too restrictive.

The Japanese delegation, a stalwart supporter of the 'bottom-up' approach, said that while it appreciated Indonesia's efforts to bridge gaps, certain elements of the proposal still needed clarifying. Korea and Taiwan, two other staunch opponents of blanket bans on fisheries opponents, also sought further clarification.

Courtney Sakai, campaign director for marine activist group Oceana, criticised Indonesia's revised proposal for going back on the general prohibition. Indonesia "really misses the mark," she told Bridges.

Sources report that Indonesia may table yet another revision of its proposal in the near future.

### Brazil-Argentina paper receives warmer welcome

The Brazil-Argentinean paper received a much warmer reception. The joint sponsors, both of which support a broad prohibition on fisheries subsidies with limited exceptions, said the new proposal represented a convergence between their earlier individual submissions. Brazil underlined the importance of allowing developing countries to, under specific conditions, develop their fisheries resources.

In short, the proposal would allow developing countries to subsidise the construction and repair of fishing vessels and support fishing fleets with fuel or ice, so long as these only exploit non-endangered species in national waters. Similar assistance would be allowed if used to help fill fishing quotas agreed within a regional fisheries management organisation based on international standards. Subsidies that bolster the subsistence and livelihood of fishermen and their families would also be permitted.

China, Thailand, India, Costa Rica, and Chile were among several delegations to acknowledge general agreement with the paper.

The EU noted its accordance with the proposal, although they called for additional clarifications of the provisions to prevent abuse by developing countries. In a similar vein, Australia and New Zealand said they supported the paper, but expressed concern about possible circumvention. New Zealand stressed that developing countries should not be given blank cheques.

The US said the paper was "very valuable," but expressed regret over its omission of special treatment for small and vulnerable economies.

As for the sceptics of the top-down approach to disciplining fisheries subsidy spending, Norway objected to allowing developing countries to subsidise fishing vessels for use in the high seas, while Japan expressed similar reservations about permitting them to subsidise large fishing vessels.

Oceana's Sakai, for her part, welcomed the paper from Brazil and Argentina, saying it "provides a real, workable approach that can potentially accommodate the interests of developing Members in promoting a vibrant fishing sector, while providing for conservation and sustainability."

During the discussions last week, the chair had praised delegations for expressing the desire to bridge gaps. At the 'wrap-up' meeting on 28 September, Valles Galmés said that despite the disagreements and criticism, the discussions on Indonesia's paper demonstrated that there was near-consensus at least on the prohibition of measures that promote overcapacity and over-fishing. He said that Members would need to agree on the extent to which S&DT for developing countries should cover fishing outside their territorial waters.

Government payments to boost the size and capacity of fishing fleets have been blamed for contributing to the dramatic depletion of global marine fish stocks. Some claim that the fisheries subsidies negotiations have the potential to be the Doha Round's single greatest contribution to the environment.

The next meeting of the rules negotiating group is scheduled to start on 15 October.

ICTSD reporting; "Developing Countries Propose WTO Fisheries Deal," REUTERS, 26 September 2007.

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## In Brief

### **CANADA LAUNCHES TRADE DISPUTE OVER EUROPEAN SEAL PRODUCTS BAN**

Canada is taking a strong stance against European countries that have enacted or are planning to enact import bans with regard to Canadian seal products.

The Canadian government issued a statement at the end of July on its intention to challenge Belgium at the WTO over a ban on the importation and marketing of seal products, in force since April this year (see Bridges Trade BioRes, 7 September 2007, <http://www.ictsd.org/biores/07-09-07/inbrief.htm#2>). Ottawa proceeded to officially lodge a complaint at the WTO targeting Belgium and the Netherlands on 25 September (WT/DS369/1, available at <http://docsonline.wto.org>), claiming legislation in the two countries contravenes rules under the WTO General Agreement on Tariffs and Trade (GATT) and the Agreement on Technical Barriers to Trade (TBT). Imports of seal products have been banned in the US since the 1970s. A representative of International Trade Canada told BioRes that this ban - which Canada is not challenging - is different, as it targets all marine mammals, not just seals.

Animal right groups worldwide strongly oppose the annual North-Eastern Canadian seal hunt, which they claim is cruel and unsustainable. Belgium is the first country to impose a full ban, soon to be followed by the Netherlands. Similar legislation is under consideration in Germany, Austria, France and the UK. Belgium itself does not import any seal products, while several other European countries do. Norway, which is not a member of the EU, is the main importer of Canadian seal pelts and other products. The European Parliament has also called for a Europe-wide ban; the European Commission has so far not moved to propose legislation on the issue, but is undertaking studies on the topic, and products from baby seals are outlawed. Trade analysts speculated that Canada moved on the issue in order to pre-empt an EU-wide ban, which Greenland also strongly opposes.



"We don't believe there is any basis from the point of view of science or conservation to justify banning imports of seal products," commented Francois Jubinville, a spokesperson for Canada's minister of international trade. "The seal hunt is a very important source of revenue for some communities in eastern Canada," he added, noting that Canada exports C\$5.4 million of seal products to the EU annually.

Livelihoods in the areas of Newfoundland and Labrador are suffering the consequences of the collapse of the cod fishery in the mid-nineties, which has never recovered. While seal products such as pelts bring in C\$33 million in annual revenues, the Humane Society of Canada claims that the government subsidises the seal hunt to the tune of C\$20 million each year. This year, 270,000 seals will be killed. According to Ottawa, the healthy seal population amounts to 5.5 million animals.

If the consultations now requested do not lead to a mutually-accepted solution, Canada has the right to call for the establishment of a dispute settlement panel after 60 days.

"Canada Files WTO Case Against EU on Seal-Product Ban," BLOOMBERG, 26 September 2007; "Canada Files WTO Complaint Over Bans on Seal Products," WALL STREET JOURNAL, 26 September 2007; "Canada files WTO complaint over European trade restrictions on seal products," THE CANADIAN PRESS, 26 September 2007; "Canada launches trade dispute with EU over seals," REUTERS, 26 September 2006.

## BIOFUELS TO BLAME FOR RISING FOOD PRICES?

The biofuels industry is finding itself in trouble due to rising food costs. The EU recently suspended its agricultural "set-aside" programme - a policy that requires European farmers to set aside ten percent of their land due to massive overproduction 15 years ago - for at least year, sparking concerns among environmentalists over negative impacts on biodiversity.

Rising costs of food, especially corn and wheat products, have fuelled the public's growing criticism of the biofuels industry. Food prices in the US were 3.6 percent higher in August than a year before, a significant increase from the expected 2.7 percent inflation adjustment. The price of cereal in the EU has also risen due to the shortages caused by poor

harvests in 2006 and 2007. Italians have complained at the cost of pasta, while the French are worried about the increased price of a baguette.

Developing nations will likely be much more hard-hit. In a warning issued in early September, Jacques Diouf, Director-General of the UN's Food and Agriculture Organisation, said dramatic increases in prices for basic food imports such as wheat, corn and milk had the "potential for social tension, leading to social reactions and eventually even political problems." Diouf went on to note that food represents up to 65 percent of consumer spending in developing countries, while it only accounts for about 10-20 percent of spending in industrialised countries.

US government officials and the European Commission alike have argued that the increase in prices has been overstated. Some analysts have suggested that producers instead have used the situation as a means to hike prices. The European Commission has argued that only four percent of a loaf was composed of wheat.

"When we break down what is happening with food prices, we do see a complex set of factors at work. It's not quite a simple equation of rising ethanol demand equals higher food prices," acting US Agriculture Secretary Chuck Conner noted at a food policy conference. "It's important to look at the big picture," Brent Searle of Oregon Department of Agriculture Searle said. "A lot of these fuel-versus-feed arguments do not stack up...Ethanol from corn is transitory [as second generation biofuel technology will rely on agricultural waste and by-products]. My concern is we don't kill the good to try to achieve the perfect."

"Don't Blame Ethanol for Food Prices - USDA's Conner," REUTERS, 2 October 2007; "European Union scraps limits on grain production in response to wheat price crisis; Eu biofuel of 10% energy use by 2020 seen as more threat than benefit," FINFACTS, 14 September 2007; "Growing Biofuels: The Sustainability Opportunity," by Patrick Mazza, 3 October 2007; "Record rise in wheat price prompts UN official to warn that surge in food prices may trigger social unrest in developing countries," FINFACTS, 7 September 2007.

## WIPO EXTENDS MANDATE FOR COMMITTEE ON GENETIC RESOURCES, TK

As expected, the General Assembly of the World Intellectual Property Organisation (WIPO) - meeting from 24 September to 3 October in Geneva - agreed to extend the mandate of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) for an additional two years.

“Members States have reaffirmed their commitment to forging ahead with efforts to reach international consensus on the protection of traditional knowledge, genetic resources and folklore” said the Director General of WIPO, Kamil Idris. In his view “the challenge now is to capitalise on this work in the form of concrete, tangible outcomes at the international level.” The mandate excludes no outcome of the discussions, including the possible development of an international legally-binding document.

The IGC had failed to reach consensus on how to how to protect traditional knowledge, genetic resources and folklore from misappropriation (see Bridges Weekly, 18 July 2007, <http://www.ictsd.org/weekly/07-07-18/inbrief.htm#2>).

The ICG was established in October 2000 by the WIPO General Assembly in order to develop a shared international understanding of how best to protect traditional knowledge and traditional cultural expressions against misappropriation and misuse. Two concerns lay at the foundation of the establishment of the committee: first, that the existing intellectual property legislative framework offered inadequate protection for traditional knowledge; and second, that it had contributed to the misappropriation of traditional knowledge. Views on how to facilitate the protection of traditional knowledge differ greatly, with some preferring to incorporate the its protection within the existing framework of intellectual property rights (IPRs), and others supporting the establishment of a new binding legislation to protect against the misappropriation of genetic material, including associated traditional knowledge.

The highlight of this year’s WIPO General Assembly was the adoption of a ‘development agenda,’ which includes reform proposals aimed at placing development concerns at the heart of the

institution’s work (see Bridges Weekly, 3 October 2007, <http://www.ictsd.org/weekly/07-10-03/story1.htm>).

ICTSD reporting: “WIPO Member State Extend International Work on Protection of Traditional Knowledge, Genetic Resources and Folklore,” WIPO RELEASE, 2 October 2007.

## FURTHER ‘RUBBER STAMP’ GMO APPROVALS IN THE PIPELINE IN EUROPE

Reflecting wide-spread mistrust of genetically engineered farm and food products in Europe, EU agriculture ministers failed once again on 26 September to muster the qualified majority required for the authorisation of three strains of genetically modified (GM) maize found safe by the European Food Safety Authority. Austria, Malta, Poland, Hungary, Slovenia, Greece, Latvia, Lithuania and Luxembourg reportedly voted against the authorisations, while France and Italy abstained, ensuring a deadlock. Britain, Germany, the Netherlands and Sweden voted in favour of the approval of the three GMOs for processing, food and feed uses. The approval request excluded cultivation.

The continued stalemate means that the final decision will be taken by the European Commission later this year. The Commissions is expected to issue a “rubberstamp” authorisation in accordance with EU legal procedures. In practice, this means that a ten-year default approval for the three strains of maize will be issued within the next few weeks. So far, every EU-wide GMO marketing authorisation granted since the approval process resumed in 2004 has been made by the Commission after member states failed to reach a decision. Luxembourg, Greece and Austria have been among those consistently voting against GMO approvals.

In addition to the GM maize approvals, the EU Commission is also expected to authorise a GM potato developed by German chemicals group BASF. The application has triggered controversy among European consumers. If the Commission approves it, the biotech potato, engineered to yield high amounts of starch, will be the first biotech product to be passed since 1998 that is designed to be cultivated in Europe. It is not intended for human consumption but rather for use in industries such as paper-making. BASF has made a separate EU application for the same potato under a

different legal process to use its pulp, known commercially as Amflora, as animal feed.

In related news, the European Court of Justice (ECJ) on 13 September overturned a blanket ban on the cultivation of GMOs in Upper Austria. The decision dealt a blow to the region, which sees itself as a pioneer of GM-free farming, with broad popular support. The European Commission had already condemned the ban in 2003, and again in 2005. The ECJ noted that Austria had not been able to refute the Commission's argument that the ban could not be justified by new and 'uniquely local' scientific evidence. It also ruled that governments had no right to deprive individual farmers of the choice to grow biotech crops approved for commercial cultivation in the EU. With the ECJ's rejection of Austria's appeal, the region has exhausted all legal avenues to keep its total cultivation prohibition in place. However, uncontested precautionary legislation in Upper Austria will continue to make it difficult for farmers to get permission to use GM seeds and plants.

"No GM Free Zone", WIENER ZEITUNG, 13 September 2007; "EU Ministers Deadlocked on Three GMO Maize Approvals", PLANET ARK, 27 September 2007; "EU Environment Chief Faces GMO Hot Potato", PLANET ARK, 4 October 2007; "Biotech Maize Blocked in EU", CHECKBIOTECH.ORG, 27 September 2007.

## **INDIA FAST-TRACKS IMPORTS OF NON-LIVING GM MATERIAL**

India has recently decided to relax the approval process for non-living genetically modified (GM) products.

The Indian Ministry of Environment and Forests issued a notification on 11 September that exempts foodstuffs that are not Living Modified Organisms (LMOs) from the existing approval process for GMOs. Until present, producers and importers had to go through the Genetic Engineering Approval Committee (GEAC), which was set up by the Ministry of Environment and Forests as an inter-ministerial body to regulate the research, testing and commercial release of GM crops, food and organisms.

This move has important implications for the food processing industry, which uses components and additives containing GM corn (such as malt, corn

syrup and cereal) and soy (such as soy sauce and tofu), as it opens the door to new imports.

Under the Cartagena Protocol on Biosafety, an LMO is "living" when it is a biological entity capable of "transferring or replicating genetic material." As a result, genetically modified seeds, cuttings and tissue cultures, for example, are living parts of plants. On the other hand, non-living products derived from or containing GMOs, such as milled maize and soybean derivatives used in many foods and non-foods are not LMOs.

According to a GEAC member, the mandate of the committee is "environmental safety," and since non-living products are not capable of replicating, it "does not fall in its purview."

Suman Sahai of Gene Campaign said, however, that the amendment to the rules introduces "a new set of laxity in the system and violates our own laws," as the new Food Safety and Standards Act stipulates that all genetically modified food must be labelled. Sahai added that "this will mean that there will be no traceability and in case there is a problem, there is no way liability can be fixed. This is not desirable at all."

"Doors Opened for Processed GM Foods to Enter Indian Market", CHECKBIOTECH.ORG, 26 September 2007; "New GEAC Notification Exempting GM Food from Regulatory Approval will make India a Dumping Ground for GM Foods", ORISSA COALITION FOR FOOD SAFETY & SOVEREIGNTY, 27 September 2007.

## **GREENPEACE REPORTS ILLEGAL FISHING BY EUROPEANS IN WESTERN AND CENTRAL PACIFIC**

Greenpeace has linked illegal fishing vessels in the Western and Central Pacific, which are endangering the already critical fish stocks in the area, to European fishing firms.

The environmental watchdog reports that several large European firms, including Albacora, Calvopescas, and Conservas Garavilla, had vessels licensed to fish in the Eastern Pacific. The ships were sent west to illegally fish in the Western and Central Pacific Ocean (WCPO) - often under the flags of convenience. The 'pirate' vessels were found fishing off the shores of the island nations of Kiribati and the Cook Islands. These nations, as well as the other numerous tiny Pacific nations in

the region, rely heavily on fishing as a source of income and nourishment.

Greenpeace urged the tiny Pacific nations to band together to negotiate better conservation practices and improve enforcement. However, this may prove difficult, as illegal and legal stocks often are mixed, making traceability highly challenging.

The ongoing decline in fish stocks globally has triggered negotiations at the WTO to cut subsidies that lead to unsustainable fishing practices (see related story, this issue).

ICTSD reporting: "European Fishing Pirates Hit Pacific: Greenpeace," PLANET ARK, 26 September 2007; "Fishy Business: Stolen Pacific tuna in the European market," GREENPEACE, 25 September 2007; "Robbing from the Poor, Stealing from the Planet," ENVIRONMENTAL JUSTICE FOUNDATION.

## 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

8-9 October, Montreal, Canada: FIFTH MEETING OF THE AD HOC OPEN-ENDED WORKING GROUP ON ACCESS AND BENEFIT-SHARING OF THE CONVENTION ON BIOLOGICAL DIVERSITY (CBD). Internet: <http://www.cbd.int/doc/meeting.aspx?mtg=ABSWG-05>

8-9 October, Paris, France: SUSTAINABLE DEVELOPMENT EXPERTS: ANNUAL OECD MEETING. The purpose of this meeting is to discuss how to promote sustainable consumption and production, how to overcome obstacles to implementing national sustainable development strategies, and how to formulate sustainable and coherent development policies. Developing ways to further mainstream sustainable development perspectives in OECD studies and country reviews will also be discussed.

9-10 October, Brussels, Belgium: THE THIRD ANNUAL EUROPEAN ENERGY CONFERENCE 2007. This conference is built on the motivation to create a forum for honest ideas exchange between stakeholders from across the EU and beyond and policy-makers from

member state and EU-level. Internet: <http://guest.cvent.com/EVENTS/Info/Summary.aspx?e=455c0ca8-3464-4a45-9181-2c24fb62ff74>

10-12 October, Belgrade, Serbia: SIXTH MINISTERIAL CONFERENCE: ENVIRONMENT FOR EUROPE. This Conference is the sixth "Environment for Europe" meeting and is part of a process that forms a unique partnership of the Member States within the UNECE region, organizations of the UN system represented in the region, other intergovernmental organizations, regional environment centres, non-governmental organizations and other major groups. Internet: <http://www.unece.org/env/efe/wgso/Belgrade/welcom e.html>

15-16 October, Geneva, Switzerland: WORKSHOP ON TRANSPARENCY. The WTO Secretariat is organizing a special workshop on the transparency provisions of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). The purpose of the workshop is to enhance the implementation of transparency obligations and to identify best practices for drawing benefits from a transparent system. Internet: [http://www.wto.org/english/tratop\\_e/sps\\_e/wkshop\\_o ct07\\_e.htm](http://www.wto.org/english/tratop_e/sps_e/wkshop_o ct07_e.htm)

15-16 October, Stratford-upon-Avon, UK: SUSTAINABILITY IN FOOD AND AGRICULTURE: THE ROLE OF THE PRIVATE SECTOR AND GOVERNMENT. Organised by the International Food & Agricultural Trade Policy Council (IPC). Recognizing that agriculture and food security face a range of pressing challenges from increasing population growth to global warming, IPC will bring together international food and agricultural trade experts, environmental experts, farm leaders, government officials, and agribusiness and food retail executives to discuss how the private sector and governments can best address these sustainability challenges. The seminar will also discuss the role of trade in the sustainability debate. internet: [http://www.agritrade.org/events/sustainability\\_agricultu re.html](http://www.agritrade.org/events/sustainability_agricultu re.html)

15-19 October, Montreal, Canada: FIFTH MEETING OF THE AD HOC OPEN-ENDED WORKING GROUP ON ARTICLE 8(j) AND RELATED PROVISIONS. Internet: <http://www.cbd.int/doc/meeting.aspx?mtg=WG8J-05>

16-20 October, Santiago del Tenerife, Canary Islands, Spain: CMS SCIENTIFIC SYMPOSIUM, WHALE-WATCHING SYMPOSIUM AND MEETING TO DEVELOP AN AGREEMENT AND ACTION PLAN FOR THE CONSERVATION AND MANAGEMENT OF SMALL CETACEANS IN TROPICAL WEST AFRICA. This meeting is organised by the Secretariat of the Convention on Migratory Species. Internet: <http://www.cms.int/news/events.htm>

18-19 October, UN Headquarters, New York, USA: EXPERT GROUP MEETING: INNOVATIVE FINANCE FOR SUSTAINABLE DEVELOPMENT. The UN Commission on Sustainable Development (CSD) will be holding its 16th session in the first half of 2008, focusing on policy options and practical measures to address challenges in the areas of agriculture, desertification, drought, rural development, including a special focus on Africa. To inform the discussions, the Division for Sustainable Development, which acts as Secretariat to the Commission, will organise this meeting, with a particular focus on the themes of CSD-16. Internet: <http://www.un.org/esa/sustdev/sdissues/finance/egm2007/index.htm>

### Other upcoming meetings

22-25 October, Addis Ababa, Ethiopia: CSD REGIONAL IMPLEMENTATION MEETING (RIM) FOR AFRICA. This meeting will be organized by the UN Economic Commission for Africa (UNECA). Participants will prepare for the 16th session of the UN Commission on Sustainable Development (CSD-16), which will focus on agriculture, rural development, land, drought, desertification and Africa. Internet: [http://www.unece.org/eca\\_programmes/sdd/default.htm](http://www.unece.org/eca_programmes/sdd/default.htm)

27-31 October, El-Minia, Egypt: THE 8TH AFRICAN CROP SCIENCE SOCIETY CONFERENCE. General topics at the conference, which is jointly organised by the African Crop Science Society (ACSS) and the Faculty of Agriculture at Egypt's Minia University, will include crop improvement and physiology, post harvest handling and food sciences, crop protection, rural socio-economics, agricultural extension and education, agricultural economics, crop genetics and biotechnology, integration of livestock in crop production, and soils and agricultural engineering sciences.

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.

29 October to 2 November, Trondheim, Norway: FIFTH TRONDHEIM CONFERENCE ON BIODIVERSITY. Hosted by the Norwegian Government in cooperation with UNEP, this conference aims to provide input to the CBD and its preparations for the ninth Conference of the Parties (COP-9), to be held in Germany in 2008. Its key objectives will be to: illustrate the role of biodiversity in poverty alleviation

and in reaching the Millennium Development Goals, demonstrate the critical role of biodiversity and ecosystems in securing sustainable development, consider progress on the 2010 target on reduced loss of biodiversity, identify and consider possible efforts towards 2010 and beyond, present and consider difficult trade-offs, and provide insights and inspiration for implementation of the CBD Strategic Plan. Internet: <http://www.trondheimconference.org/>

### RESOURCES

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

UNDP-GEF INTERNATIONAL WATERS PROGRAMME - DELIVERING RESULTS. UNDP-GEF, June 2007. This publication highlights the results delivered to date by the UN Development Programme-Global Environment Facility's (UNDP-GEF) International Waters programme, which for 15 years has assisted over 100 countries to identify, prioritise and address key transboundary environmental and water resources issues. The publication includes cases on development and implementation of river and lake action plans and water management projects. It is available at [http://www.undp.org/gef/05/documents/publications/IW\\_deliveringresults.pdf](http://www.undp.org/gef/05/documents/publications/IW_deliveringresults.pdf)

DESIGNERS, VISIONARIES AND OTHER STORIES. By Jonathan Chapman and Nick Gant, University of Brighton, August 2007. The book examines the complex and crucial debates surrounding sustainable design to deliver a manifesto for change, at a time of looming ecological crisis, mounting environmental legislation and limited progress. This is a book about sustainable design, by the leading sustainable design thinkers, for creative practitioners, professionals, students and academics. The authors present alternative understandings of sustainable design. This work provides the reader with a resource of future visions, critical propositions, creative ideas and design strategies for working towards a sustainable tomorrow. For more information see <http://shop.earthscan.co.uk/ProductDetails/mcs/productID/766/>

CHANGES IN THE GOVERNANCE OF GLOBAL VALUE CHAINS OF FRESH FRUITS AND VEGETABLES: OPPORTUNITIES AND CHALLENGES FOR PRODUCERS IN SUB-SAHARAN AFRICA. South Centre, September 2007. This paper, investigates, compiles and analyses evidence on the nature of changes in the global governance of fresh fruits and vegetables value-chain and the underlying causes of the changes. In doing so, the paper also identifies opportunities and challenges arising from the change in the value-chain governance and the determinant of success and failure in the new modus

operandi associated with the changes. To access the paper visit  
<http://www.southcentre.org/publications/researchpapers/ResearchPapers12.pdf>

SUSTAINABLE RESOURCE USE. By Silva Larson and Alex Smajgl. Australian Commonwealth Scientific and Industrial Research Organisation, July 2007. The book

examines how institutional dynamics impact the sustainable management and use of resources, as well as common and private property rights in several regions of the world. It features research and opinions of various authors in economics and institutional change. For more details see  
<http://shop.earthscan.co.uk/ProductDetails/mcs/productID/788/>

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