



Bridges Trade BioRes

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

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Trade in Endangered Species

CITES-SANCTIONED IVORY AUCTIONS UNDERWAY IN SOUTHERN AFRICA

A controversial auction of some 108 tonnes of legal ivory to China and Japan is currently

underway in southern Africa. The long-delayed sales of stockpiled ivory in Botswana, Namibia, South Africa and Zimbabwe are being conducted over two weeks under close supervision of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

CITES says that the four African countries have been approved to export their stockpiles because they have been able to establish that elephant populations are now under control and being monitored in an acceptable manner.

Proceeds from the auctions are required to be used to fund future conservation initiatives targeting threatened elephant habitat, and community development projects in areas where elephant populations have been interfering with local farming.

The auctions are being organised by the governments of the respective African countries and only authorised Chinese and Japanese merchants are permitted to bid. Under the agreement, the ivory is not permitted to be re-exported, even after processing. CITES says it will be working with governments, Interpol and several NGOs to ensure this is the case.

CITES calls the exceptional sale "an African solution to an African problem," in reference to the problems associated with conservation initiatives that do not take the unique circumstances in different parts of the world into account. "While richer countries can often afford to promote conservation through strict protection, many poorer nations must do so in ways that benefit local communities and bring in much-needed cash for conservation," CITES Secretary-General Willem Wijnstekers has said in the past.

Scheme could boost poaching, critics say

Critics fear that the exclusive auction to Japan and China, two of the world's largest ivory markets,

has the potential to trigger a bidding war between the two countries. This frenzy, they argue, could inadvertently drive up black market prices and thus create more incentive for poaching.

"We are deeply concerned that these sales will open the floodgates to additional illegal trade" says Will Travers, of the UK-based wildlife advocacy organisation Born Free. "For many of the most vulnerable elephant populations across Africa, any increased poaching pressure will almost certainly result in localised extinction in the near future."

Other critics point out that the legal sales could boost poaching and illegal trade by making it difficult to distinguish between legal and illegal ivory in the marketplace and drawing attention to the fact that there is still demand for the controversial good. "What's important for poachers is to know that there is a market," Michael Wamithi, elephant programme director at the International Fund for Animal Welfare (IFAW), said in a recent interview with Reuters.

But CITES representatives disagree with the activists. They say that their close monitoring of elephant numbers in the four sanctioned countries, combined with the potential for increased wildlife protection provided by the proceeds of the auctions will, in fact, decrease poaching. "Some NGOs are saying that this will increase poaching because demand will be stimulated," says Juan-Carlos Vasquez of CITES. "But we don't have any evidence to indicate that this is the case."

Moreover, the unexpectedly low prices fetched at the 28 October auction in Botswana suggest that a bidding war between the two Asian markets is unlikely. Prior to the Botswana auction, the first sanctioned auction of its kind since 1999, experts were predicting prices as high as US\$300 per kilo, not the US\$164 average that was ultimately realised.

Background

While CITES banned all ivory sales in 1989, members agreed in 1997 to allow Botswana, Namibia and Zimbabwe to hold a one-time sale of 50 tonnes of stockpiled ivory to Japan in 1999. Like the current auction, all of the proceeds -

some US\$5 million - were required to be used for elephant conservation activities.

Three years later - at 12th Meeting of the Conference of the Parties to the Convention in Santiago, Chile - CITES members approved the current sale, in principle, provided participating countries submitted satisfactory data for long-term monitoring. At this November 2002 Conference, several African countries further proposed that this future sale be followed by annual quotas, but the requests were withdrawn before it could be put to a vote.

CITES had initially pegged 2004 as the earliest possible date for establishing baseline data for their long-term monitoring systems. But when the CITES Standing Committee met in April of that year, they ruled that the auctions could not go ahead because the countries in question - South Africa, Namibia, and Botswana - had not provided acceptable statistics. Furthermore, Botswana and Namibia had not yet reported on how the proceeds of the 1999 auction had been spent (see Bridges Trade Biores, 2 April 2004, <http://ictsd.net/i/news/biores/9223/>).

The Standing Committee again pushed back the date of the auction at a conference in October 2006, citing insufficient monitoring data. However, at a June 2007 meeting in The Hague, The Netherlands, auctions in Botswana, Namibia, and South Africa were finally approved, with Japan as the sole purchaser (see Bridges Trade BioRes, 8 June 2007, <http://ictsd.net/i/news/biores/9449/>).

Zimbabwe - which was initially denied approval due to 'political' reasons rather than monitoring reasons, according to CITES - was later added to the list of sanctioned countries in 2007. The agreement permitted the countries to auction off stockpiles that had been properly registered by 31 January 2007. This amounts to 43,682.91 kg for Botswana, 9,209.68 kg for Namibia, 51,121.8 kg for South Africa and 3,755.55 kg for Zimbabwe.

Latecomer China

The move to approve traders from China, a well-known destination for black market wildlife goods, is a departure from the auction held in

1999, when Japanese merchants were the sole purchasers. The move was met with criticism by some environmental groups, who argue that Chinese wildlife trade controls are not rigorous enough. Nevertheless, CITES approved China in July 2008 in light of the significant progress made in the past six years.

"Having reviewed China's ivory controls and markets on a number of occasions, CITES verifications determined that China's enforcement score was 63 percent in 2008 compared to 6 percent in 2002," CITES said in a press release. "In spite of remaining a potential destination for illegal ivory, like other countries, China has now reached the required verification standards established by CITES."

Online auction site to ban ivory sales

The timing of the auctions is noteworthy, given a recent announcement by online auction house eBay that it will implement a total ban on the sale of ivory products as of 1 January 2009. The decision came shortly before the release of the results of an investigation by an animal welfare advocacy group, which uncovered an array of elephant ivory for sale on the site. eBay says that because the complex rules governing trade in ivory products make it too difficult to accurately differentiate between legal and illegal goods it will no longer allow raw or processed ivory to be listed.

Unlike elephant populations in other parts of the world, elephants in southern Africa are listed under Appendix II of the CITES Convention, which permits trade under a tightly regulated permit system. Other elephant populations are listed under Appendix I, which prohibits commercial trade of any kind.

According to the 2007 CITES agreement setting out the terms for the current auctions in southern Africa, further sales from these four countries will not be considered during a period of nine years. This 'resting period' will begin at the completion of the transactions. Dates for next week's auctions in South Africa and Zimbabwe have not yet been released.

ICTSD Reporting; "eBay Bans Ivory Trading to Protect Endangered Elephants," ENVIRONMENTAL NEWS SERVICE, 22 October 2008; "Rare Sale Of Ivory To Be Held Under UN Auspices," REUTERS, 28 October 2008; "Low Ivory Prices At First Legal Auction In 9 Years," REUTERS, 29 October 2008; "Ivory auction opens amid concerns," BBC NEWS, 28 October 2008.

Forests

EU TACKLES ILLEGAL LOGGING, BUT ENVIRONMENTALISTS WANT MORE

The EU's Environment Commissioner has announced two new initiatives to combat illegal logging and deforestation, but environmental groups quickly slammed the measures for not going far enough to address the problems.

Nearly one fifth of the timber that enters the European market comes from illegal sources, according to the European Commission (EC). Hotspots of the illicit activity include Central Africa, Brazil and Indonesia, although illegal logging has also been documented in EU countries such as Bulgaria, Romania and Slovakia. Globally, the practice deprives timber-producing countries of between US\$ 13 billion and US\$ 20 billion each year in lost taxes and stumpage fees - set amounts charged to companies that harvest timber on public land.

Total loss of forest cover, from both legal and illegal activities, causes close to 20 percent of greenhouse gas emissions worldwide, according to the EC. Roughly 13 million hectares of forest - an area nearly the size of Greece - are lost each year around the globe.

But the EU has said it aims to cut tropical deforestation in half by 2020, and to completely stop the loss of global forest cover by 2030.

The new measures - announced on 17 October by EU Environment Commissioner Stavros Dimas - include a potential new EU law on forests and a policy paper on deforestation. The rules would oblige European timber traders to 'seek sufficient

guarantees' that the products they sell have been harvested in line with the domestic laws of the country from which the timber originated. The legislation would not require traders to establish the legality of their timber beyond a reasonable doubt, only "to their best ability."

The legislation would also increase incentives for legal and sustainable forest management, especially in developing countries looking to gain greater access to the large European market.

Dimas further called for the creation of a Global Forest Carbon Mechanism that would reward developing countries for reducing deforestation within their borders. The commissioner also urged the EU to provide 'an appropriate level of funding' to fight global loss of forest cover.

"Forests are home to half of all known species. When forests disappear, so does a vast array of plants and species, with disastrous and irreversible consequences," Dimas said.

"Developed and developing nations must unite to protect the world's remaining forests. We must also send a firm message to timber suppliers that illegal timber or timber products will not be tolerated on the EU market," he said.

But environmental NGOs said that the two proposals do not go far enough.

"By failing to ban illegal timber outright and not tackling major causes of deforestation like biofuels, the EU is making a mockery of its own attempts to combat climate change," Owen Espley of Friends of Earth said on Friday. The group called on the EU to take measures to reduce consumer demand for products like biofuels and soy for animal feed, the production of which often leads to forest clearing in tropical regions.

Greenpeace likewise said on Friday that the EU proposal "falls far short of the resolute response needed to tackle the climate and biodiversity crisis." Instead of simply encouraging timber traders to seek out verifications of legality for the goods they buy and sell, the EU "should ensure that operators are required by law to provide reliable proof of the legality of their products," Greenpeace said in a statement.

But the EU claimed that verifying the legality of all timber imports would be a "difficult if not, in many cases, impossible task," and that requiring all of the bloc's 27 member states to enact legislation on the matter might stretch the limits of the Commission's powers.

"Europe is generally reluctant to act beyond its jurisdiction or to pass judgement on other countries' legal frameworks unless there is an immediate threat to the well-being of its population, such as in the case of food safety or terrorism," the Commission said.

Greenpeace also faulted the EU for focussing solely on legality and failing to call for sustainability standards in the timber trade. Such an omission, the campaigners argue, means that the legislation would be blind to the rights of indigenous people and would ignore regional and international environmental laws.

But the Commission held that legality is in many cases an important step towards sustainability, and that omitting sustainability standards avoids "placing an unnecessary burden on the operators and on enforcement authorities."

In other efforts to combat illegal logging, the EU is negotiating a series of forest trade deals called Voluntary Partnership Agreements, or VPAs, with several forested developing countries.

Those pacts would require the EU's partner countries to establish transparent licensing schemes for EU-bound timber exports that certify that all of the exported goods have been legally harvested. More broadly, the deals are intended to promote better enforcement of forest law and greater involvement of civil society and the private sector.

But only one such agreement - with Ghana - has been finalised since the VPA initiative was launched in 2003 (see Bridges Trade BioRes, 19 September 2008, <http://ictsd.net/i/news/biores/29586/>).

Negotiations are ongoing with Cameroon, Indonesia, the Republic of Congo (Brazzaville), and Malaysia. A number of other timber-

producing nations have also reportedly expressed interest in concluding a VPA with the EU.

ICTSD reporting.

Intellectual Property

WIPO COMMITTEE ON TRADITIONAL KNOWLEDGE FAILS TO AGREE ON COURSE OF FUTURE WORK

Despite intense negotiations that carried on late into the evening of 17 October, the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) failed to agree on modalities for future work. Initially, countries seemed willing to work out an intersessional mechanism to facilitate progress on a range of issues on which they have had long-standing disagreements. However, notwithstanding the close involvement of WIPO's new Director General Francis Gurry, strong differences among member states resulted in a deadlock.

The lack of outcome fostered a sense of frustration among many delegates who were eager to see progress at the level of the IGC's working methods in view of the limited advancement in its substantive work after thirteen sessions.

Gurry expressed his disappointment at the outcome, but suggested that "the failure to close a deal on Friday night was a measure of the political significance of what is on the table: potentially, a major normative shift in the intellectual property system." He noted that there was increasing political will to find a substantive and credible basis for systematic recognition, within the law of intellectual property, of the rights of indigenous peoples and local communities.

Ambassador Rigoberto Gauto, the new committee chair from Paraguay, said efforts would be continued in the coming weeks to try to overcome differences among member states.

Competing proposals on the way forward

During the first few days in the full plenary meetings, most members restated their well known positions on the issues at hand. While all agreed on the importance of protecting traditional knowledge and folklore/traditional cultural expressions (TCEs) as well as addressing the misappropriation of genetic resources, views diverged on the best ways to achieve this. Most developing countries favoured international legally binding measures, while developed countries emphasised the need for further analysis and expressed a preference for non-binding measures, in particular at the national level. Many countries also commented on the gap analyses, prepared by the Secretariat, which contrast the current international legal framework with specific examples of gaps in protection and practical considerations of how these gaps might best be addressed.

But the plenary session rapidly gave way to numerous informal meetings, led by the Chair, with heads of regional groups, which made efforts to find a way to move forward.

Consultations centred on competing proposals one submitted by the African Group at the start of the session, which was later revised, and another one by France on behalf of the European Union.

The revised African proposal outlined the work to be carried out by three taskforce groups on TCEs, traditional knowledge and genetic resources. It suggested that the task force groups on TCEs and traditional knowledge should address the definitions and subject matter of protection, exceptions and limitations and duration, prior informed consent and moral/economic rights to knowledge, beneficiaries, and sui generis options for protection.

The African proposal further suggested that the taskforce group on genetic resources should examine the development of disclosure requirements and alternative proposals for dealing with the relationship between IP and genetic resources as requested by the Convention on Biological Diversity. The genetic resources group would also tackle the development of guidelines

and procedures for dealing effectively with the intellectual property aspects of access and benefit sharing arrangements. The African proposal stressed that the work of this taskforce group must be carried out "without prejudice to work in other international fora."

The three taskforce groups would provide legal and technical advice including, where appropriate, "options and scenarios for the consideration of the Committee" on all of these issues without prejudice to the outcome.

The African proposal specified the number of experts or observers to be included in each taskforce group: i.e 27 experts to be nominated by member governments, 10 by observers of which 7 were to be from indigenous and local communities.

The proposal by the African group was supported by several other developing countries, including the Asian group, the Least-Developed Country (LDC) group and several Central and Latin American countries, as they called for small intersessional expert group meetings.

On the other hand the submission by France, made on behalf of the EU, proposed that three informal working groups be incorporated into the next IGC sessions, as opposed to the suggestion by the African Group of meeting prior to the IGC. The proposal suggested that these working group meetings should be held during the first three days of the next IGC, leaving the plenary to meet on the two final days. According to the proposal, these three groups would be open to all members, but would not have decision-making power merely reporting to the IGC plenary. They would initially on definitions, beneficiaries, and objectives for TKs and TCEs, as well as disclosure of origin for genetic resources. The submission also introduced the idea of an internet portal for electronic correspondence on these issues, and the establishment of a consultative group to advise the chair. This is unlike the revised African text proposals which call for working group meetings to be held prior to the next IGC session.

Several developed countries expressed concern about the financial implications of additional

meetings. Some members viewed such protests as furtive means of opposing intersessional work.

The chair then advanced his own text, proposing one morning for general business during the upcoming 2009 IGC plenary, to be followed by three and a half days of expert working groups open to all members would that would run in parallel and would be chaired by individuals with expertise in the relevant subject matter. The groups would be expected to report to the plenary on 13 March 2009 for their work to be noted by the Committee.

Agreement elusive

In regard to the possibility of concurrent meetings, some delegates fear that some small countries may not have the capacity to source experts to attend the simultaneous sessions. Furthermore, some expressed doubt as to whether it would be possible to ensure substantive work from the expert groups without duplicating efforts made in previous IGC meetings.

As the meeting was drawing to a close, a final attempt was made to propose the following compromise: the next meeting of the IGC should be replaced with an "Extraordinary Expert Session of the Committee." That session would allow three consecutive meetings of the working groups, running for two days each; the chair would determine the composition of the groups following consultation with the committee. According to the text, the meeting would be attended by several experts determined according to an equitable formula that would take into account the number of countries in each regional group. All other interested member states and accredited observers to the committee would be allowed to attend the meeting as observers. But several members were not keen on having a regular meeting of the IGC replaced.

Members of the African Group were particularly disheartened by the outcome in view of the efforts and proposals they had made. An African group delegate complained about the lack of "flexibility" shown by developed countries which "in reality opposed any effective intersessional mechanism which would inject momentum in the work of the IGC and contribute to progress in substantive

discussions." He pointed that the open-ended nature of the working groups suggested in some proposals "would considerably reduce their effectiveness and would replicate the IGC format which had shown its limits."

But a developed country delegate argued that, while they supported efforts to accelerate the work of the Committee, they believed that any modalities reached should not prejudice the outcome of its deliberations either in form or in substance.

Brazil, for its part, was supportive of the African group proposal and of an effective intersessional mechanism to accelerate the work of the IGC, a Brazilian delegate said. In consultations, he mentioned that his country had stressed the importance it attached to the careful drafting of the terms of reference of the expert working group on genetic resources so as to ensure that its work is without prejudice to the progress achieved in other fora on this matter and more particularly at the WTO. In July, more than one hundred countries, Brazil among them, submitted draft modalities (TN/C/W/52) on the key parameters for negotiating final draft legal texts with respect to a number TRIPS issues including disclosure of origin of genetic resources in patent applications.

Despite this setback, many are still hopeful that a successful agreement may be reached through the continuation of informal consultations before it reconvenes in March 2009. The committee has two more meetings to fulfil in its remaining mandate (2008-2009).

ICTSD reporting. "WIPO Poised To Move To Talks On Potential Traditional Knowledge "Treaty," IP-Watch, October 17, 2008; "WIPO Committee On Traditional Knowledge And Folklore Running In Place," IP-Watch, 16 October 2008,

In Brief

GLOBAL TRADE CONTRIBUTES TO NATURAL RESOURCES OVERDRAFT, POLLUTION: REPORTS

Two new reports by environmental groups highlight the burden human consumption is putting on global natural resources and the pollution legacy left behind. Both reports stress that industrialised countries with high consumption levels directly draw on resources and pollute the environment in developing countries through their imports.

Environmental organisations the World Wide Fund for Nature (WWF), the Zoological Society of London and the Global Footprint Network released their Living Planet Report on 29 October. According to the report - which contains both an index of the state of the planet's ecosystems and the ecological footprint quantifying the extent of human demand on these ecosystems - three quarters of the world's population is using more resources than is sustainable, putting them into "ecological debt." They are over-drafting both local and, through their imports, global, forest, agricultural, water and clean air resources. In fact, by 2030 we would need two planets, not just one, to support current consumption, says the report.

Chief Emeka Anyaoku of WWF commented that "The events in the last few months have served to show us how it's foolish in the extreme to live beyond our means. Devastating though the financial credit crunch has been, it's nothing as compared to the ecological recession that we are facing." Reckless consumption of natural resources today is severely threatening our future prosperity, he said.

According to the report, the US and China have the largest footprints on a global scale, while per capita footprints are highest in the US, Australia, UAE, Kuwait and Denmark. The role played by imports is illustrated by the fact that, for example, 62 percent of the water footprint in the UK stems from use abroad to produce goods for UK consumers, including beef, sugar, and cotton shirts.

Meanwhile, New York-based Blacksmith Institute and Green Cross International released their annual list of the world's 10 worst pollution problems on 22 October. The list, compiled using figures from data base of 600 top polluted sites, contains problems of contamination by, among other, mining residues, radioactivity and industrial waste. The report says that the pollution has severe health implications for all populations, but children and women of childbearing age in particular.

Richard Fuller, founder of the Blacksmith Institute, commented that rich countries are partially responsible for these human health disasters since they import raw materials and goods while leaving behind the pollution. Among the world's top ten sources of pollution were lead acid batteries, for which developing countries serve as recipients of an international recycling trade.

While developed countries have for the most part cleaned up their act, Fuller said, "We have exported our industry overseas and yet there's no pollution controls in these places or the pollution controls are terribly inadequate."

However, other major contamination problems in developing countries, such as indoor air pollution, are not related to exported goods, and many goods also feed domestic markets, especially in rapidly growing developing countries, noted the report. Fuller said that "Our goal with the 2008 report is to increase awareness of the severe toll that pollution takes on human health and inspire the international community to act. Remediation is both possible and cost-effective."

Additional resources

The "Living Planet Report" is available online at http://www.panda.org/news_facts/publications/living_planet_report/index.cfm

The "World's Worst Polluted Places" list is available online at <http://www.worstpolluted.org>

ICTSD reporting; "Rich World Behind Much Of Global Pollution - Groups," REUTERS, 22 October 2008; "The World's Top 10 Worst Pollution Problems," SCIENTIFIC AMERICAN,

22 October 2008; "Earth on course for eco 'crunch'," BBC, 29 October 2008.

TWO MEN CONVICTED IN ABIDJAN TOXIC DUMPING SCANDAL

Two men have been convicted in connection to a devastating 2006 toxic waste dumping incident in Côte d'Ivoire that left 16 people dead and thousands sick. But the sentencing has been met with criticism by defence lawyers and many locals who contend that justice is yet to be served.

The official government investigation named Salomon Ugborugbo, the Nigerian owner of a company whose trucks collected the waste and dumped it at 14 sites in the Côte d'Ivoire city of Abidjan, as the 'principal' actor behind the tragedy. He was sentenced last week to 20 years in prison. Essouin Koua Desire, who according to the courts played a key role in securing a US\$ 20,000 waste disposal contract for Ugborugbo's company, was convicted of complicity in poisoning and sentenced to five years in jail.

No executives from Trafigura, the Dutch oil company that owned the waste and had it shipped it to Côte d'Ivoire, were present at the trial. The Dutch multinational reached a US\$ 200 million settlement with the Ivorian government in 2007 in return for indemnity against prosecution.

The absence of Trafigura in the case has many pointing to the difficulty in policing the global movement of hazardous waste. "They gave us a decision that has not hit the right people," said Denis Pipira, president of the association representing victims of the tragedy. "Mr. Salomon did not know this product was toxic. But Trafigura, who were exempted from the case, did know it was toxic," said Ugborugbo's defence lawyer, Diabate Bamba Oule.

Trafigura continues to deny any responsibility for the crisis, claiming that according to its own independent analysis the waste contained no hazardous elements. However, UN experts contend that the substance dumped in Abidjan

contained hydrogen sulphide, which in concentrated doses can kill humans.

While the Côte d'Ivoire case has come to a close, Trafigura faces several possible class action lawsuits in the Netherlands and in the UK.

According to a Basel Convention publication, the Abidjan incident falls within the regulations of a multitude of multilateral agreements including the Basel Convention, the Bamako Convention, MARPOL 73/78, the Rotterdam Convention, and the Stockholm Convention. However, the dumping case is often cited as a classic example showing the many loopholes that still exist in the toxic substance trade (see Bridges Monthly, September 2006, <http://ictsd.net/i/news/bridges/11704/>). "One of the important lessons from the situation in Abidjan is that we have a serious problem with enforcement," said Basel Convention Executive Secretary Sachiko Kuwabara-Yamamoto.

In response to the Abidjan crisis, the United Nations Environment Program and the Basel Convention member states have contributed to the creation of a 2 year program to assess the problems of hazardous waste detection and interception at 7 vulnerable ports in Africa and to find ways of building capacity at these ports, scheduled to be implemented in June 2008.

"Nigerian gets 20 years for Abidjan toxic waste dumping," ASSOCIATED PRESS 23 October 2008; "Lawyers blast verdict in Ivory Coast toxic waste case," AFP 23 October 2008

MEXICO REQUESTS CONSULTATION WITH US IN ONGOING TUNA DISPUTE

Mexico has filed a request for WTO consultations with the US over its refusal to allow the dolphin-safe label to be used on Mexican tuna products. In the request, filed on 24 October, Mexico claimed that the trade restrictions are illegal and discriminatory, and have resulted in a loss of more than a third of its tuna fleet due to its hampered ability to effectively market Mexican tuna in the US.

US law dictates that the label cannot be used on tuna caught in encircling - or 'purse-seine' - nets, which often trap dolphins along with the fish. Mexico, however, contends that its fishing practices are fully sustainable and comply with the guidelines accepted by the Inter-American Tropical Tuna Commission (IATTC), of which the US is a member. Furthermore, Mexico believes that the measures violate several WTO rules, including national treatment and most-favoured nation obligations, and create unnecessary obstacles to international trade.

This latest request revives a dispute dating from 1991, when Mexico first objected to the US embargo of Mexican tuna products under its Marine Mammal Protection Act (MMPA). At the time, the MMPA prohibited the importation of tuna harvested with purse-seine nets in the Eastern Tropical Pacific Ocean unless US officials established that the government of the exporting country regulated the taking of marine mammals in a manner similar to that of the US, and that the rate of capture of marine mammals was comparable to that of US vessels. The embargo was also applied to intermediary countries that handled the tuna between its shipment from Mexico to the US, especially during processing and canning.

When Mexico first requested a panel under the General Agreement on Tariffs and Trade in February 1991, the GATT ruled that while the US could not embargo Mexican tuna, it could, however, refuse to allow the application of the 'dolphin-safe' logo. The ruling on the dispute, which has become known as the 'product' versus 'process' issue, said that the US could only regulate the quality of imported products, and not the process used to create them. The labelling system, on the other hand, was judged to be a justifiable way to prevent deceptive advertising. But unlike the WTO, the GATT did not automatically accept a panel report after 60 days. After bilateral consultations with the US, Mexico chose not to pursue the case and the report was neither adopted nor did it become legally binding. Despite negotiations, the US did not lift the embargo until 1997.

According to a Mexican trade official, Mexico has tried various approaches to resolving the issue, but

has been unable to reach a satisfactory solution. If the matter is not resolved within 30 days, Mexico may request the establishment of an arbitration panel, the official said.

ICTSD Reporting.

OVERTURNING PANEL, APPELLATE BODY ISSUES MIXED RULING IN HORMONE DISPUTE

In the latest development in an ongoing transatlantic dispute over the European ban of imported hormone-treated beef, the WTO's Appellate Body issued a mixed ruling on 16 October that said that while Canada and the US can impose trade sanctions on the EU, Brussels can continue banning imports of hormone-treated beef from those countries.

Brussels, Ottawa and Washington had all appealed a March WTO panel ruling that found fault with the three parties in the dispute (see Bridges Trade BioRes 4 April 2008, <http://ictsd.net/i/news/biores/10503/>).

But the Appellate Body overturned the panel's ruling (see Bridges Trade BioRes 27 June 2008, <http://ictsd.net/i/environment/12327/>) that Canada and the US breached international trade rules by unilaterally deciding to retain sanctions against EU exports without initiating proper legal proceedings at the WTO.

US Trade Representative Susan Schwab welcomed the verdict and said that it meant there was no need for Washington to remove the sanctions.

"The Appellate Body's report confirms that WTO Members that are subject to additional duties for failing to bring themselves into compliance with the WTO's ruling and recommendations must do more than simply claim compliance in order to obtain relief from such duties," she said in a statement.

But the Appellate Body also ruled that the dispute panel had erred in ruling that a 2003 risk assessment by the EU did not bring the 27-nation

bloc into compliance with the WTO Agreement on Sanitary and Phytosanitary Measures, known as the SPS Agreement.

But while the Appellate Body faulted the panel for some of its conclusions, it said that it alone was unable to analyse whether the EU's risk assessment brought the European trading bloc into compliance with the SPS Agreement.

"This is an important decision," EU Trade spokesman Peter Power said. "The panel had no sound basis for questioning the WTO-legality of the new EU hormones directive. These clarifications will strengthen WTO Members' ability to protect citizens."

The Appellate Body concluded by recommending that the parties re-initiate WTO dispute settlement proceedings to resolve the existing disagreement over whether the EU measures now comply with WTO rules and whether the continued Canadian and US are still valid.

Brussels had sought an Appellate Body ruling, arguing that its ban on hormone treated beef was scientifically sound, and therefore legal, and that the WTO should have ordered the US and Canada to lift their sanctions. In their appeal, the Washington and Ottawa said it was not enough for the EU to argue that its new scientific study had justified the ban for the sanctions to be removed.

The dispute dates back to the 1980s, when the EU first banned the import of Canadian and US beef that had been treated with growth-promoting hormones. Two years after the dispute was brought to the WTO in 1996, the WTO Appellate Body found that the EU ban was not consistent with international trade law and authorised Canada and the US to impose sanctions of US\$ 125 million annually on various European exports.

But Canada and the US decided to retain trade sanctions on several EU products ranging from Roquefort cheese to Dijon mustard, on the grounds that the modifications to its ban that the EU made in 2003 were not sufficient to bring it into compliance with the 1998 WTO ruling. But the EU claimed the amended ban, based on a risk assessment, was in compliance with WTO

requirements and challenged the continued application of Canadian and US duties.

ICTSD reporting.

CERTIFICATION SCHEME TARGETS SOCIAL, ENVIRONMENTAL IMPACTS OF TRADE

A new rainforest conservation initiative is aiming to help curb the negative environmental and social impacts associated with the flower and chocolate trade by introducing a certification scheme. The programme, launched by US-based Rainforest Alliance, intends to appeal to purchasers' sense of benevolence when buying gifts for loved ones.

The organisation says that the liberal use of pesticides in Latin American flower farms, the source of 90 percent of cut ferns and flowers sold in the US, endangers the lives of workers and has a detrimental effect on local flora and fauna.

Certified flowers come from Latin American flower farms, primarily in Ecuador and Colombia, that observe the standards set by the Sustainable Agriculture Network, a coalition of tropical conservation advocacy groups. Certified farms are required to curb deforestation, protect soil and waterways and provide decent wages, housing, education and health care to workers and their families.

While the use of organic and fair trade certification schemes are already in widespread use globally, the new system brings the two elements together under one comprehensive approval system. "We take a whole rounded approach at the Rainforest Alliance," says spokesperson Abby Ray. "We look at how workers are treated - whether or not they're getting health care, education - we look at the environmental effects on the soil, the wildlife, waterways, and then we teach [communities] how to farm in ways that help them get better market price for their product."

At the WTO Committee on Sanitary and Phytosanitary Standards (SPS), Members are engaged in discussions on private sector standards and labels such as those managed by the

Rainforest Alliance (see Bridges Trade BioRes, 17 October 2008, <http://ictsd.net/i/news/biores/31313/>).

Some countries view these certification initiatives as a costly new form of non-tariff barriers keeping smaller producers or even developing countries as a whole out of lucrative Northern markets. These critics want governments to take responsibility for ensuring that such schemes do not operate in a discriminatory manner, while other countries feel that private sector standards and labels fall outside the remit of the WTO.

Use of the Rainforest Alliance logo has already been adopted by several large-scale US retailers. "Rainforest Alliance certified roses are available all across the US. They are the only roses that Costco are selling now," Ray says. In addition to discount heavyweight Costco, gourmet grocer Whole Foods has signed onto the project early.

The organisation has also moved ahead with the manufacture and marketing of its own certified chocolate. The Rainforest Alliance says that approved cocoa beans are grown exclusively on farms in Ecuador that, like approved flower farms, are regularly inspected to ensure compliance with advertised standards.

The Rainforest Alliance says its efforts have already conserved 1500 hectares of flower and fern farmland and over 40,000 hectares of cocoa farmland in Latin America.

ICTSD Reporting

Events & Resources

EVENTS

Coming up in the next two weeks

3-5 November, Paris, France. THE IMPORTANCE OF MILITARY ORGANISATIONS IN PROTECTING THE CLIMATE: 2008. This Institute for Governance and Sustainable Development workshop aims to summarise emerging and available climate protection technologies suitable for military and

civilian applications; focus on military-unique problems not solved by technology developed for civilian applications; and present case studies of military and commercial leadership to protect the climate. A conference report will be published with consensus findings, including proven strategies to reduce greenhouse gas emissions while improving military effectiveness. For further information, contact Veronique Millon, e-mail: vmillon@inece.org; internet: <http://www.igsd.org//conferences/Paris2008.php>

5-7 November, Maputo, Mozambique. ECOTOURISM AND PROTECTED AREAS: CONTRIBUTING TO COMMUNITY DEVELOPMENT AND CONSERVATION. This seminar will focus on the contribution of ecotourism to community development, poverty reduction, and financing of protected areas, as well as related social and environmental issues. For more information contact Helder Tomas, tel: +34-91-567-81-00; e-mail: caf@unwto.org; internet: <http://www.unwto.org/sdt/events/en/events.php>

6-7 November, Montreal, Canada. CBD EXPERT MEETING ON SOUTH-SOUTH COOPERATION ON BIODIVERSITY FOR DEVELOPMENT. This meeting, organised by the CBD Secretariat, will address a framework for a multi-year plan of action on biodiversity for development, as a complement to the Development Platform for the South launched by the G-77, and a process of South-South Cooperation leading to CBD COP 10. For further information, visit <http://www.cbd.int/doc/?meeting=EMSSC-01>

3-8 November, Yokohama, Japan. FOURTY-FOURTH SESSION OF THE INTERNATIONAL TROPICAL TIMBER COUNCIL. Major items on this session's agenda include consideration of a proposal to capture funds from carbon markets to promote the sustainable management of forests, and another to establish an ITTO Children's Environmental Education Programme. For further information, visit <http://www.iisd.ca/forestry/itto/ittc44>

7-10 November, Alexandria, Egypt. SUSTAINABLE DEVELOPMENT IN THE DRYLANDS - MEETING THE CHALLENGE OF GLOBAL CLIMATE CHANGE. This meeting - the Ninth International Conference On Dryland Development - will provide an opportunity to examine the probable impact of global climate change on the natural resources and agricultural productivity of dry area ecosystems and exchange information on possible ways to enhance the resilience of these systems through adaptation and mitigation strategies. For more information contact Mohan C. Saxena, tel: +202-35681581; email: M.Saxena@cgiar.org; internet: http://www.icarda.org/Announcement/2008/9th-IDDC/9th-IDDC_FirstAnn.htm

10 November, London, UK, MAKING TRADE WORK FOR DEVELOPMENT IN LATIN AMERICA. This conference will look at ways in which trade agreements can be used to enhance development and ensure that benefits from trade reach the poorest. For more information contact Chatham House Conferences, tel: +44 (0)20 7957 5753; fax: +44 (0)20 7321 2045; email: conferences@chathamhouse.org.uk; internet: <http://www.chathamhouse.org.uk/events/conferences/view/-/id/130/>

11 November, Brussels, Belgium. A GLOBAL CONTRACT BASED ON CLIMATE JUSTICE - THE NEED FOR A NEW APPROACH CONCERNING INTERNATIONAL RELATIONS. High-level speakers and delegates will discuss the social, environmental and economic impacts of climate change, the principle of climate justice, and how a Global Contract based on Climate Justice could look. Discussions will be based upon scientific research conducted by the Potsdam Institute for Climate Impact Research. The conference will close with a memorandum, including the collective knowledge of all participants. For more information contact Sarah Stamatou, tel: +43 1-253-63-5018; e-mail: info@global-contract.eu; internet: www.global-contract.eu

Other upcoming events

18-19 November, Bali, Indonesia. 6TH ROUNDTABLE (RT6) OF THE ROUNDTABLE ON SUSTAINABLE PALM

OIL(RSPO). The topic of this year's meeting is RSPO Certified Sustainable Palm Oil - The Gathering Momentum." As a main focus it will analyse the arrival of the first volumes of RSPO certified palm oil on the market in 2008 and discuss the next steps. Other important topics are the cooperation with governments and the role of smallholders. For more information contact Pt Pactonconvex Niagatama, tel: +62-21 5705800 ext. 214; e-mail: tiara_hsb@cbn.net.id; internet: http://www.rspo.org/The_6th_Annual_Roundtable_of_the_RSPO_-_5th_Annual_General_Assembly_of_Members.aspx

2-3 December, Puerto Vallarta, Mexico. NORTH AMERICAN WORKSHOP ON ENVIRONMENTAL SUSTAINABILITY AND COMPETITIVENESS. This workshop will identify areas of opportunity and priority for simultaneously enhancing environmental sustainability and competitiveness in the region. The event will include panel discussions with some of North America's top experts on environmental sustainability and competitiveness. For more information contact the Commission for Environmental Cooperation, tel: (+1) 514-350-4300; fax: (+1) 514-350-4314; e-mail: info@cec.org; internet: <http://www.cec.org>

21-23 January 2009, Bern, Switzerland. CONFERENCE ON THE INTERNATIONAL DIMENSIONS OF CLIMATE POLICIES. This conference will cover a broad spectrum of climate economic research issues and foster cross-disciplinary links. Each topic includes a keynote plenary lecture and numerous parallel sessions. It is open to all those interested. For more information contact Seraina Buob, tel: +41 31 631 45 09; e-mail: seraina.buob@vwi.unibe.ch; internet: http://www.nccr-climate.unibe.ch/conferences/climate_policies/

30-31 March 2009, London, UK. CORPORATE RESPONSIBILITY 2009: BUILDING A NEW CORPORATE AGENDA. This conference will bring together leading experts from business, civil society and government to discuss the corporate challenges that will shape the 21st century. In particular, it will explore the outlines of a new agenda for business and its stakeholders to respond to increasing natural resource constraints,

the need to promote human rights standards, and bring new technologies to market more quickly. For more information contact Chatham House conferences, tel: +44 (0)20 7957 5754; e-mail: conferences@chathamhouse.org.uk; internet: www.chathamhouse.org.uk

RESOURCES

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

ENVIRONMENTAL CRIME - A THREAT TO OUR FUTURE. Debbie Banks, Charlotte Davies, Justin Gosling, Julian Newman, Mary Rice, Jago Wadley, and Fionnuala Walravens. Environmental Investigation Agency (EIA), October 2008. In this new briefing paper, EIA calls on governments, police forces, customs, and United Nations agencies to recognise organised environmental-crime as a serious, time-critical problem, and work together to mount a substantial, committed, and sustained global response. The EIA, which has exposed environmental crime using undercover methods for more than 24 years, claims that environmental-crime networks are becoming more organised and sophisticated. These environmental crimes include the illegal trade in wildlife, smuggling of ozone-depleting and global-warming substances, illicit trade in hazardous waste, illegal fishing, illegal logging, and the associated trade in stolen timber. <http://www.eia-international.org/files/reports171-1.pdf>

LINKING EMISSIONS TRADING SCHEMES FOR INTERNATIONAL AVIATION AND MARITIME EMISSIONS. Erik Haites. Climate Strategies, October 2008. This working paper assesses potential links of trading schemes established for international aviation and maritime emissions. The paper calls attention to emissions caused by aviation and shipping and analyses possible policy solutions. It makes the case for a global emissions trading regime and makes recommendations on how this system could be instituted.

<http://www.joanneum.at/climate/linking>

PUBLISH OR PATENT? KNOWLEDGE DISSEMINATION IN AGRICULTURAL BIOTECHNOLOGY. An Michiels and Bonwoo Koo. International Food Policy Research Institute, September 2008. This paper discusses the recent trends in plant transformation research by examining patent and journal publication data during the last decade. The data analysis shows that there have been significant shifts toward applied research by developing countries and toward patenting as a means of knowledge dissemination during the past few decades, reflecting the increasing role of the private sector in developing countries in crop improvement research.

<http://www.ifpri.org/pubs/dp/ifpridp00795.asp>

THE BALI ACTION PLAN: KEY ISSUES IN THE CLIMATE NEGOTIATIONS: SUMMARY FOR POLICY MAKERS. Environment & Energy Group, September 2008. The summary is designed to provide policy makers with key background information - and important insights into current proposals under negotiation - on the four Bali Action Plan building blocks (i.e., mitigation, adaptation, technology, and finance) and land use, land-use change and forestry.

<http://www.undp.org/climatechange/documents.html>

SUSTAINABILITY PURCHASING TRENDS AND DRIVERS. Coro Strandberg and Amy Robinson. Sustainability Purchasing Network, November 2007. This paper documents the trends and drivers for sustainability purchasing, including green, ethical and social purchasing, globally and in Canada, and considers multi-lateral and regulatory developments that are advancing sustainability in the marketplace. Two case studies of firms integrating ethical and environmental performance standards in their procurement programs are provided as examples of sustainable purchasing in practice.

<http://www.corostrandberg.com/pdfs/SPN-IC-sustainabilityPurchasingTrendsUpdated%20Paper%20082.pdf>

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