



Bridges Trade BioRes

Biweekly news, events and resources at the intersection of trade and environment

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Note to Subscribers

Climate Change

Japan-Canada Climate-Related Case a First for WTO 1

IMO Adopts Mandatory Energy Efficiency Standards..... 3

Natural Resources

Tensions Build over Chinese Rare Earth Quotas 5

Fisheries

Brussels Unveils Long-Awaited Plan to Overhaul Fisheries. 6

Intellectual Property

WIPO Members Extend Mandate on TK, Genetic

Resources, Cultural Expressions..... 8

WIPO Meeting Tackles Climate-Friendly Technologies 10

Opinion

The Brazilian Forest Code: Exploitation and Preservation. 12

In Brief

WTO Sides with Mexico in Tuna-Dolphin Case: Sources .. 14

Australian Government to Tackle Carbon Emissions
with Tax on Polluters..... 15

Significance of Forests as Carbon Sinks
Underestimated, Study Shows 16

Peru's GMO Moratorium not WTO
Compatible: President..... 17

Tit-for-Tat in Ukraine-Moldova WTO Row? 18

US Ethanol Subsidies, Import Tariffs under Fire 19

Events and Resources

Events 20

Resources..... 22

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Excerpts from Bridges Trade BioRes may be used in other publications with appropriate citation. Comments and suggestions are welcomed and should be directed to the Editor or the Director. This edition of Bridges Trade BioRes was edited by Andrew Aziz, aaiz@ictsd.ch.

Contributors to this issue were Daniella Allam, Pratima Arapakota, Andrew Aziz, Sofia Baliño, Frank Grothaus, Kurt Heinze, Abigail Hunter, Joachim Monkelbaan, and Marie Wilke. The Director is Ricardo Meléndez-Ortiz. ISSN 1682-0843

NOTE TO SUBSCRIBERS

Dear BioRes Subscribers,

Please note that biweekly delivery of Bridges Trade BioRes will be suspended during the WTO's annual summer recess. The next issue – Volume 11, Number 15 – will be published on 5 September 2011. We would like to take this opportunity to thank our donors and subscribers for their continued support and regular feedback. Of course, we always welcome comments on how we can improve our publication.

- *The BioRes Team*

CLIMATE CHANGE

Japan-Canada Climate-Related Case a First for WTO

On Wednesday, 20 June, the WTO saw the start of the first climate change-related dispute in its history. After much expert discussion on the issue, the WTO might now be beholden to rule on the relationship between green energy support and national stimulus measures.

With the establishment of the panel to hear the case, the protracted disagreement between Japan and Canada over the Canadian province of Ontario's renewable energy support programme took another turn. The two countries have been at odds over Ontario's feed-in tariff (FIT) programme since last autumn.

The FIT mechanism guarantees renewable energy generators the purchase of their energy for a fixed price above market standards, along with grid access and long-term contracts. The programme aims at increasing the share of renewable energy in Ontario's electricity mix by insulating green energy

producers from risks, and facilitating investments that would otherwise be costly.

However, a local content provision in the programme that requires energy producers to source up to 60 percent of their inputs from Ontario is what caused Japan to bring the case to the WTO's attention. The "made in Ontario" requirement, Tokyo claims, is in violation of the national treatment provisions of the General Agreement on Tariffs and Trade (GATT), and the Agreement on Trade-Related Investment Measures (TRIMS), and is a "prohibited subsidy" under the WTO's Subsidies and Countervailing Measures (SCM) Agreement.

For the moment, the most interesting twist of the case could be the fact that Japan decided to bring the case, amongst others, under the SCM Agreement. This could illuminate the relationship between green energy support and the subsidies rules, which has remained largely unexplored until now.

"Subsidies rules might turn out to treat each national FIT programme differently - not only depending on its economic effect but more so depending on its design and the role of the government," a new ICTSD [study](#) finds. "Governments will need to decide whether they find these options supportive of climate change mitigation efforts or whether a renegotiation would be beneficial."

ICTSD, which authored the study, is also the publisher of Bridges Trade BioRes.

Last month, a similar conflict between China and the US came to a close before ever having reached the dispute panel stage. Beijing and Washington had argued over various support measures for wind turbine manufacturers in China.

On 7 June the US Trade Representative announced that China would be ending the funds and that it considered the matter settled. While Beijing's decision to end the subsidies was communicated to Washington, it was not part of a formal agreement between the two parties nor was it directly related to the dispute. Chinese industries and officials insist that the subsidies were removed

because they were no longer needed, not because they were in violation of international trade rules (see Bridges Trade BioRes, [13 June 2011](#)).

Possible NAFTA parallel case?

Ontario's FIT programme is also beginning to draw legal attention outside the global trade body. American renewable energy company Mesa Power Group, based in the US state of Texas and owned by billionaire T. Boone Pickens, announced on 14 July that it intends to file a complaint under the North American Free Trade Agreement (NAFTA).

The Mesa Power Group argues that the FIT violates NAFTA's provisions on government procurement. Mesa has complained that Ontario made "last-minute" changes to the rules for awarding power purchase agreements under the FIT provisions of its Green Energy Act, which was passed in 2009. It argues that this has pushed Mesa out of the competition, with the process violating NAFTA public procurement rules that mandate non-discriminatory tendering procedures.

A similar argument had also been made with regard to WTO rules on government procurement. These, however, are less comprehensive than the NAFTA counterparts and currently do not apply to all sub-federal entities in Canada. In fact, the Ontario Power Authority – the body responsible for the implementation of the programme – happens to be outside the realm of WTO rules on government procurement, experts have reported.

On 3 June, the Ontario Power Authority changed its rules to allow projects in a neighbouring transmission region to connect to the Bruce transmission area in western Ontario. This meant that approximately only 62 percent of FIT contracts announced in the latest round of FIT awards on 4 July went to Bruce-based projects – but not those belonging to the Mesa Power Group. Mesa lost contracts for two wind energy projects.

Cole Robertson, a Mesa Power executive, argued that "this clear favouritism disadvantaged Mesa, as well as other wind developers, and clearly violates

the spirit, goals, and objectives of the North American Free Trade Agreement,” according to Reuters.

Mesa is also challenging the local content requirements of FIT, as well as the “preferential treatment” given to certain investors, including, they argue, South Korea’s Samsung C&T Corporation. In January, Samsung committed to invest US\$6.7 billion to build four wind and solar energy clusters in Ontario. This agreement is the largest deal under the province’s green power plan.

Mesa has stated that it expects to file a formal notice of arbitration with NAFTA after 3 October.

Ontario’s FIT programme has also faced substantial pushback from the province’s opposition Progressive Conservative Party, which has promised to eliminate the programme if they win the provincial election on 6 October. While the ruling Liberal party argues that the programme is a green job creator, critics charge that it is an expensive experiment that is increasing costs for consumers.

On 1 June, Japan issued its first request for a panel, which the Dispute Settlement Body deferred at their 17 June meeting at Canada’s request. WTO rules permit targeted countries to refuse the first request for a dispute panel; however, a second request must automatically be granted (see Bridges Trade BioRes [27 June 2011](#)). The initial request for consultations between the two countries dates back to September 2010, with the US and EU joining the consultations shortly thereafter (see Bridges Trade BioRes, [24 September 2010](#)).

Australia, Chinese Taipei, Norway, China, the EU, Korea, Honduras, and the US have all joined the case as third-parties.

ICTSD Reporting; “Pickens issues NAFTA challenge to Canada over wind rules,” RECHARGE NEWS, 18 July 2011; “Boone Pickens challenges Canada on green power law,” REUTERS, 14 July 2011.

IMO Adopts Mandatory Energy Efficiency Standards

The Marine Environment Protection Committee (MEPC) of the UN International Maritime Organization (IMO) adopted mandatory measures to reduce emissions of greenhouse gases (GHGs) from international shipping, when it met recently at IMO headquarters in London. The 15 July decision marks the first ever mandatory global greenhouse gas reduction regime for an international industry sector.

Shipping currently represents about three percent of global emissions, while transporting approximately 85 percent of goods traded internationally. While shipping is a relatively efficient mode of transport, the size of the sector means that it emits high quantities of greenhouse gases.

The amendments to the International Convention for the Prevention of Pollution from Ships (MARPOL) add a new chapter on energy efficiency regulation for ships. The chapter makes the Energy Efficiency Design Index (EEDI) mandatory for new ships, and the Ship Energy Efficiency Management Plan (SEEMP) mandatory for all ships. The regulations are expected to enter into force on 1 January 2013.

The result shows a major turnaround since negotiations in October saw parties unable to reach consensus on whether the EEDI should be mandatory for both developed and developing countries. (See Bridges Trade BioRes, [11 October 2010](#)). The IMO and ICAO (International Civil Aviation Organization) have both been tasked by the UN Framework Convention on Climate Change (UNFCCC) with developing their own mechanisms for reducing carbon emissions. However, both the IMO and ICAO do not utilise the UNFCCC principle of common but differentiated responsibility, which places the greater part of the burden of emissions reductions on developed countries.

Instead, the IMO and ICAO require all shipping/aviation flag states to be treated the same according to the equal treatment principle.

As a result, some countries, such as China, asked at the October meeting that the EEDI be mandatory only for developed countries and voluntary for developing countries (see Bridges Trade BioRes, 11 October 2010).

Indeed, at last week's meeting Brazil, China, Saudi Arabia, and South Africa were able to obtain a six and a half year delay for implementing these regulations on those ships registered in developing nations, according to British newspaper the Guardian. That way, developing nations could have the time to acquire the necessary technologies to comply with the regulation.

In addition, the new chapter includes a regulation on technical assistance and technology transfer, especially for the benefit of developing countries, relating to the improvement of energy efficiency for ships.

The agreement from last week's meeting however was not reached by consensus, IMO Secretary-General Efthimios Mitropoulos noted. Despite this, he expressed the hope that forthcoming work on the subject "will enable all members to join in, so that the service to the environment the measures aim at will be complete." The EEDI is the first globally binding measure to improve energy efficiency of new ships and limit carbon emissions from international maritime transport. It is also a performance-based mechanism that allows the industry to choose the technology used in designing their ships, so long as they attain the required energy-efficiency level.

The new regulations apply to all ships that exceed 400 gross tonnage, and will require those ships built after 2013 to increase their efficiency by 10 percent, going up to 20 percent between 2020 and 2024 and 30 percent for those produced thereafter.

The EEDI will lead to less carbon emissions - approximately 25-30 percent reductions by 2030 compared to the Business as Usual (BAU) scenario. The EEDI will be applied to the largest segments of the world merchant fleet, and is expected to cover as much as 70 percent of emissions from new ships. The SEEMP establishes a mechanism for

operators to improve the energy efficiency of ships, such as by better managing the speed throughout a ship's voyage.

At the meeting, the MEPC also agreed upon a work plan to develop the EEDI framework for ship types and sizes and propulsion systems that are currently not covered by the EEDI, along with guidelines relating to both the EEDI and SEEMP.

Beyond efficiency measures

The European Commission congratulated the IMO and its 169 Member States on the adoption of the EEDI.

"This is a very important signal that the maritime community is taking seriously its role in global efforts to reduce greenhouse gas emissions. I want to thank the EU Member States for their efforts in making this happen and our international partners for joining us in finding global solutions to global problems," said Siim Kallas, Commission Vice-President responsible for Transport.

Climate Action Commissioner Connie Hedegaard also praised the agreement, adding that "I also hope this momentum will help the ongoing debate on further reducing emissions from international maritime transport."

While the EU lauded this development, the EU also urged the IMO to push forward toward agreeing on market-based measures to limit carbon emissions. In its recent [White Paper on Transport](#), the Commission proposed to reduce emissions from EU shipping by at least 40 percent by 2050 compared to 2005 levels.

The Clean Shipping Coalition, a global environmental organisation that includes members such as Washington-based green group Oceana and the Environmental Defense Fund, similarly [welcomed](#) the IMO decision, but like the EU urged the IMO to push for market-based and operational measures, such as emissions trading or mandatory cuts.

The coalition also criticised the maritime group for only applying the measures to new ships, not existing ones. Finally, the NGOs noted that the

six year waiver for developing countries could allow developed nations to avoid the regulations, by choosing to flag their ship in a developing nation.

In a statement, Bill Hemmings of Transport & Environment noted that “Adopting the EEDI is the right step but the long delay weakens its short-to medium-term impact significantly. If the IMO does not deliver action quickly now on existing ships, it will be up to the EU to take the lead at a regional level.”

The European Commission has suggested earlier that it intends to take unilateral action by including shipping in the EU ETS in case the IMO cannot take appropriate measures. Aviation will be included in the EU ETS from 2012, which has already caused substantial controversy (see Bridges Trade BioRes, [13 June 2011](#) and [27 June 2011](#)).

ICTSD reporting; “Maritime countries agree first ever shipping emissions regulation,” THE GUARDIAN, 18 July 2011.

NATURAL RESOURCES

Tensions Build over Chinese Rare Earth Quotas

China’s recent announcement that it would further tighten its rare earths export quotas came as a surprise to trading partners, as the move came on the heels of a WTO decision finding that similar restrictions on raw materials violate trade rules. Meanwhile, China is still debating whether to appeal the raw materials ruling, as the deadline for appeal is 2 September 2011.

Last week, Beijing notified the quotas that would apply during the second half of 2011. While the annual amount keeps up with last year’s numbers, a new product - ferro-alloys - has been added to the list, effectively tightening the quotas.

“This is highly-disappointing,” said the EU Trade Spokesperson John Clancy. “The EU continues to encourage the Chinese authorities to revisit their

export restriction policy to ensure there is full, fair predictable and non-discriminatory access to rare earth supplies as well as other raw materials for EU industries.”

Rare earths are elements needed in the high technology industry, such as for manufacturing wind turbines, mobile phones, or computers. China currently fulfils more than ninety percent of global demand for these elements; however, last year Beijing started to severely restrict its exports. The extraction of rare earth is highly complicated and polluting - one reason why most Western countries closed down their extraction plants in the nineties when China increased its production.

Possible WTO case in the making?

The announcement comes only weeks after the release of a new WTO panel report ruling against China on export restrictions for certain raw materials, a finding that had been celebrated by the EU and others (see Bridges Trade BioRes, [11 July 2011](#)).

EU Trade Commissioner Karel De Gucht had [called](#) it “a strong signal to refrain from imposing unfair restrictions to trade,” taking countries “one step closer to a level playing field for raw materials.” The case concerned another group of raw materials that had been subject to similar export restrictions. When acceding to the WTO, China had agreed to eliminate all quantitative export restrictions, including quotas, and to discipline its export duties.

Though the WTO has no precedence system, panel and Appellate Body reports are usually a good indicator of how the trade body might address certain questions in the future. Observers had hoped that the rejection of China’s export restrictions would induce Beijing to increase its rare earths exports.

Chinese Trade Minister Chen Deming, however, said China was “not worried” about a possible WTO case over rare earths.

Indeed, observers caution against dismissing China’s rare earth export restriction system too easily. In the raw materials case, China’s defence

on environmental grounds was rejected because, among other reasons, Beijing failed to prove that it had limited domestic production and consumption in addition to the export disciplines – which is a requirement under WTO law when using this type of defence. But as China is busy introducing stronger environmental consideration provisions into its legislation, it might be better prepared should the rare earths issue ever reach the global trade body.

Manufacturers looking elsewhere for rare earths

Meanwhile, manufacturers in Europe, Japan, and the US are preparing themselves for a lengthy diplomatic process by searching for alternative sources of rare earths. In bilateral talks in the German city of Hanover on Monday and Tuesday of this week, Russia agreed to allow Germany to access its rare earth deposits. Germany, as a high tech producer with no own rare earth sources, is highly dependent on generating access to other sources.

Russian Deputy Prime Minister Viktor Zubkov told reporters that “we are ready to grant an opportunity for German companies to actively participate in the extraction of rare earth metals, which are used in automotive and agricultural machinery production, so that they could build these enterprises in Russia.”

In addition, Australian national newspaper The Australian reports that Germany’s high-tech giant Siemens has signed a letter of intent with Australian miner Lynas to establish a joint magnet plant to supply European wind farms. Neodymium-based rare-earth magnets are needed in wind turbine generators and other energy-efficient drivers.

The joint venture could choose to establish a plant for rare earth extraction in Malaysia, as Lynas is already building a rare earths plant in the country.

ICTSD reporting; “Lynas, Siemens look at rare-earth venture,” THE AUSTRALIAN, 8 July 2011; “China holds firm on rare earth quota,” FINANCIAL TIMES, 14 July 2011; “Russia eyes

record German trade with gas, minerals,” REUTERS, 19 July 2011.

FISHERIES

Brussels Unveils Long-Awaited Plan to Overhaul Fisheries

Last week’s long awaited European Commission proposal to overhaul the bloc’s policy on fisheries is being criticised by environmentalists and some parliamentarians for failing to do enough to address sustainability issues. The Common Fisheries Policy (CFP) reform proposal – over a year in the making – contains provisions to reduce harvests of the most over-exploited stocks, stop discarding bycatch, and fix quotas for fish stocks on multi-year basis.

Brussels has acknowledged for years that the current system is unsustainable and had requested input from an array of stakeholders to help shape the new rules.

“The Commission underlines that our current policy does not work anymore,” said Fisheries Commissioner Maria Damanki at a 20 July press conference. “We cannot afford business as usual.”

An estimated 75 percent of EU stocks are currently overfished, according to Commission estimates, and one third of Europe’s fleet will become unviable in the future if overfishing continues. Stricter measures to prohibit overfishing have been blocked in the past, reportedly due to strong lobbying by the fisheries sector. The industry is responsible for much employment coastal countries.

Some Members of European Parliament (MEPs) and green groups immediately expressed concern that the proposal does not go far enough.

“After months of waiting, great excitement and anticipation for a radical package of true reform to the CFP, these proposals have turned out to be a disappointment,” said British MEP Struan

Stevenson, a deputy chair of parliament's fisheries committee.

Oceana Europe's executive director, Xavier Pastor, acknowledged that the proposals have "some positive" aspects but said that it will require stronger measures to ensure sustainability of fishing.

Two years in the making

The proposals are the result of an almost two year long process initiated in an April 2009 Commission Green Paper exposing existing loopholes and exposing the failures of the current CFP (see Bridges Trade BioRes, [1 May 2009](#)). Public consultations were held until the end of 2010 to gain insight from all stakeholders involved on reform recommendations. Negotiations will now begin in Brussels over the proposals will now begin.

The CFP proposals seek to promote environmental stewardship, economic viability and social equity in the EU's Fishery sector by focusing on three common themes: (1) sustainability; (2) efficiency; and (3) coherence. Without CFP reform, the Commission estimates that only 8 of Europe's 136 fisheries will be fished at sustainable levels within the next 10 years.

To address the issue of sustainability, the plan proposes that EU fleet adopt the principle of maximum sustainable yield (MSY) for fishery harvest by 2015. MSY was laid out in the UN Convention of the Law of the Sea (UNCLOS) and adopted by World Summit on Sustainable Development in 2002. Harvesting at MSY and not above will allow the EU fishing fleet to continue fishing during the transition period.

The reforms also address sustainability issues by proposing to eliminate the practice of discarding bycatch – non-target species caught unintentionally. The proposal aims to force the fishing industry to better target their catch.

If implemented, the bycatch proposal will be phased in over a realistic time period to allow the fishing industry to adjust the new regulations. Support for small-scale artisanal fisheries,

increased scientific information and development of a sustainable aquaculture sector would also be integral components of reformed CFP.

If the CFP reforms are approved, management plans spanning multiple years would replace the current single-stock based approach. These multi-annual plans would encourage longer political commitment from member states fostering sustainable exploitation of each fishery stock. Additionally, the longer term plans would bring the bulk of EU fish stocks within the context of multi-stock management plans as opposed to single-stock management plans as it currently done. It is estimated that this would further assist in the sustainable harvest of EU fishery resources. The multi-annual plans would be based on sound scientific advice using ecosystem and precautionary approaches as opposed to overly optimistic fish stock estimates.

Decentralising fishery management decisions from the highest level to a co-decision making process involving European Parliament and Council and fishery stakeholders seeks to maximise the benefits to all relevant parties. Technical issues – such as mesh size on fishing nets for a particular species - would not be made through the newly decentralised management body.

Transferable fishing concessions – or individual transferable quotas (ITQs) – would help establish a rights based mechanism for fishermen to have the legal right to fish up to a certain total allowable catch (TAC) for a specified time. ITQs would allow fishermen to either fish for the specified time or sell their rights to other fishermen within the same member state.

The proposal suggests that mechanisms be put in place to prevent the concentration of fishing activities into a small group of fishermen. Small scale artisanal fishermen with vessels under 12 metres that do not use trawling harvest measures would be exempt from ITQs.

Compulsory labelling of fishery products would also be incorporated into CFP under the plan to give EU consumers a choice concerning the fishery products they purchase. Included information would stipulate where the fish was

harvested, whether it been previously frozen, and what fishing method was used to harvest it.

Critics say more reforms necessary

The Commission proposals did not fully embrace the decentralised approach to fisheries management that the MEPs advocated in their 2010 contribution to the consultation process (see BioRes, [5 May 2010](#)). Yet most groups welcomed the changes in management the proposals made.

“Today we have seen proposals to decentralise decision making, ending discord among various stakeholders,” said Labour Europe’s agriculture and fisheries spokesperson, Brian Simpson. “This is a welcome new direction by the Commission. We must now look at the proposals in detail and see how they can be built upon through the coming months of negotiations.”

While the Commission’s proposals strengthen controls on overfishing, concerns still trouble environmentalists over the proposals’ “soft” approach to the difficult issue of reducing the size of European fishing fleets – the main driver of overfishing. With more than 80,000 EU-registered vessels competing for less fish under tighter quotas, disputes between nations such as Spain, France, and Britain are becoming more common.

“The best way to tackle the problem is to stop overfishing, slim down the fishing fleet,” Greenpeace fisheries campaigner Saskia Richartz told EurActiv.

The next step for legislators is convincing members that the proposal addresses the concerns of all parties.

“My difficulties now begin, because we have to persuade the member state governments and the sector,” said Damanaki,

More information

The European Commission Press Release can be found [here](#).

ICTSD Reporting. “Mixed response to planned revamp of EU fisheries policy,” THE

PARLIAMENT.COM, 14 July 2011; “EU proposes overhaul of failing fisheries policy,” EURACTIV, 14 July 2011.

INTELLECTUAL PROPERTY

WIPO Members Extend Mandate on TK, Genetic Resources, Cultural Expressions

Members of the committee that negotiates genetic resources and related subjects at the World Intellectual Property Organization (WIPO) have agreed to renew their mandate, which was about to expire this year.

The IGC’s decision will be submitted to WIPO’s General Assembly (GA) in late September for formal adoption. In its ten years history it is the first time that the IGC has been able to recommend a final decision to the WIPO GA, indicating a greater level of consensus than has been seen in previous years.

In addition to the extension, members decided to forward a draft decision prepared during last week’s meeting by “facilitators” nominated by the chair, as well as textual proposals introduced by a group of like-minded developing countries.

While all members had supported an extension there remained disagreement on the desired number of meetings during the next two years as well as the focus of future talks. Developing countries have argued in favour of additional IGC sessions and a strong focus on genetic resources (GR) – currently, the least advanced subject under the committee’s mandate.

“All three areas need to proceed in parallel,” a delegate speaking on behalf of a larger developing country group told BioRes. “As genetic resources is lagging behind, we need to intensify our efforts to move towards draft text that is equally matured as the one on traditional knowledge and traditional cultural expressions.”

A hotly debated issue that surfaced once again was the nature of the future instrument(s).

“There has been some discussion about international binding legal instruments and mention of a Diplomatic Conference,” Albert Tromposch from the US Patent and Trademark Office noted. “If we talk of a Diplomatic Conference, does that presuppose a binding legal instrument, or can it be convened to discuss an instrument other than a binding instrument?” Tromposch, on behalf of the US asked in plenary.

The current mandate of the IGC calls for “one or more instrument(s) ensuring the effective protection of GR, traditional knowledge (TK) and traditional cultural expressions (TCEs).” Whether the instrument(s) need to be legally binding treaties or could take the form of declarations has not yet been decided. A large number of developing countries have supported a legally binding treaty in the past, while some developed countries have also shown readiness to adopt one or more treaties. The US, however, has been less supportive, suggesting the matter be decided at a later stage.

WIPO Legal Counsel clarified that a Diplomatic Conference, in the organization’s experience, would only need to be convened for the adoption of a legally binding instrument, and that the General Assembly has adopted non-binding “Joint Recommendations” in the past.

The final decision reflects this discussion. It proposes four IGC meetings and calls upon the 2012 GA to “decide on convening a diplomatic conference” and “consider the need for additional meetings.” The first IGC in 2012 will last eight days and focus exclusively on GR. Members have called it a “well balanced compromise taking account of all interests.” In particular the focus on genetic resources has been welcomed by developing countries, as countries continue to debate “objectives and principles” with no obvious movement in either direction.

Developing countries push forward with draft proposals

A group of “like-minded developing countries” (LMC) spiced up last week’s meeting by introducing three draft texts on traditional cultural expressions (TCEs), traditional knowledge (TK) and GR. The proposals are the outcome of group consultations that were initiated by Indonesia on Bali in late June. As the Bali papers were introduced only half way through the Committee’s meeting, no substantive discussions took place on that basis. Some European officials, speaking informally, however, called the proposal “well balanced” and a “basis for future talks.”

In the LMC proposal on genetic resources, following previous positions, a strong focus rests on “mandatory disclosure requirement in intellectual property applications.” In addition, the proposal aims at establishing a clear link between the future instrument and the CBD. It calls upon “contracting parties” to “support the implementation of the Nagoya Protocol.”

As the United States have not ratified the CBD or the Nagoya Protocol, establishing a clear link between the two texts is considered particularly sensitive as other multilateral negotiations have shown. Just last week, members of the Food and Agriculture Organization (FAO) decided to ease language in a genetic resources related instrument when “noting the Nagoya Protocol” rather than “welcoming it” as previously proposed.

The LMC noted that a WIPO instrument on genetic resources can only be effective if it is systematically linked to the protection regime put in place by the Nagoya Protocol and if it enhances that system by introducing further elements – such as a mandatory disclosure requirement.

“Now, the next challenge is how to achieve that members stop debating the objectives and principles and start negotiating the substantive provisions,” an LMC delegate told BioRes. “Objectives and principles should react to what the agreement says, not the other way around.”

Members decided to forward the proposals as working documents to the next IGC which the LMC have valued as a great success.

The group consists of Algeria, Angola, Bangladesh, Colombia, Egypt, India, Indonesia, Malaysia, Myanmar, Namibia, Pakistan, Peru, South Africa, Tanzania, Thailand, and Zimbabwe.

“Facilitators” requested to clean text

Meanwhile the Committee’s Chair, Ambassador Philip Owade of Kenya, nominated five “facilitators” to assist in cleaning existing draft texts from duplications and repetitions and to informally consult with members on whether certain proposals could be eliminated. The facilitators’ documents still contain various alternatives and options. These are clustered among two different “policy approaches” – one being of rather abstract nature with a limited scope of protection and the other following a rights-based, prescriptive approach.

While all three texts were welcomed by members, the draft text on genetic resources prepared by the facilitators from India and Australia provoked discomfort among some members as they saw their proposals eliminated. Responding to Venezuela who had criticized the text as unbalanced, the US said that also some of its own positions had been eliminated but that it would take this as “an indication that its positions had not received sufficient support” and that this was an opportunity to revisit some proposals.

Indigenous peoples said they saw none of their positions reflected in the documents. Members agreed to forward the texts as working documents to the next IGC in addition to the draft articles that had been the basis of the facilitators’ work.

Strong [criticism by indigenous peoples groups](#) earlier this year, mainly over their inability to make proposals and participate in text drafting unless supported by a member states, appears to have been fruitful. The final decision to be adopted by the GA calls for on the Committee to review its procedures and for the Secretariat to prepare a study on current practices and possible options for eliciting a positive contribution.

The next WIPO GA, scheduled for 26 September-5 October 2011, is expected to adopt the decision as proposed by the IGC, opening space for the 20th IGC to take place in February 2012. It will be an extended IGC of eight days to focus exclusively on GR with the aim of speeding up talks to allow all three areas to proceed in parallel again.

ICTSD Reporting.

WIPO Meeting Tackles Climate-Friendly Technologies

The possibility of leveraging innovation and intellectual property to address the climate change challenge was the key focus of an 11-12 July World Intellectual Property Organization (WIPO) conference. However, the “Innovation and Climate Change” gathering saw developed and developing countries express contrasting views on the role of intellectual property in the diffusion of climate friendly technologies.

Intellectual property has been a notoriously divisive issue in negotiations at the UN Framework Convention on Climate Change (UNFCCC). Parties at the 2010 Cancun Conference agreed to the creation of a new Technology Mechanism to enhance the transfer of climate friendly technologies to developing countries, but did not succeed in reaching common ground on the issue of intellectual property (IP). The final Cancun Agreements did not include a mention of IP (see Bridges Cancun Update, [14 December 2010](#)).

Wanna Tanunchaiwatana, of the UNFCCC Secretariat, indicated that the Technology Mechanism is expected to be operational by 2012. She pointed to the disagreements on the role of intellectual property rights (IPRs) in the discussions on technology transfer, and highlighted the need for a better understanding of this complex issue.

On his part, WIPO Director-General Francis Gurry emphasised in his opening remarks that “if we are to overcome the challenge of human

induced climate change, intellectual property is by definition a way to address it in order to encourage innovation and provide a framework for which solutions can be achieved.”

The role of IPRs in climate friendly technologies

Discussions at the [Conference](#) were structured around a number of key themes, such as Innovation and Partnership Models, Real World Experiences of Technology Transfer, and Facilitating Finance to Accelerate Diffusion. These themes were first addressed in plenary and then during breakout sessions.

One of the most salient issues during the conference was how to enable a framework that fosters innovation in climate change and the role intellectual property rights play within that framework.

Carl Horton, Chief Intellectual Property Counsel of General Electric, and Matthew Bateson from the World Business Council for Sustainable Development both stressed the importance of IPRs in fostering a safe enabling environment for private investors in innovative technologies. Bateson argued that IPRs “enable businesses to mitigate risks,” while preventing the establishment of a price barrier for developing countries.

Both speakers stressed that climate change technology’s relationship to the patent system is vastly different from that of the pharmaceutical industry. “People tend to conflate the two,” said Bateson, “but the costs of a patent for climate change technologies is not a significant proportion of the total costs as opposed to the pharmaceutical industry.”

“No single patent can block an entire technology,” Horton added.

ICTSD Senior Fellow Pedro Roffe presented key findings of a [joint project](#) of the United Nations Environment Programme (UNEP), the European Patent Office (EPO), and ICTSD on trends in patent ownership and licensing of clean energy technologies.

Roffe indicated that it was “difficult to isolate IP issues from macroeconomic factors such as market size and local capabilities and other general framework conditions to enhance innovation and facilitate technology transfer.” However, Roffe also stressed the importance of ensuring that intellectual property is balanced and effectively achieves its intended objectives of both incentivising innovation and contributing to technology diffusion.

Ambassador Chandrashekhar Dasgupta from the Energy and Resources Institute (TERI) in New Delhi emphasised that, in the absence of strong commitments by developed countries to ambitious reductions in greenhouse gas emissions, there would be no boost in clean energy research and development and innovation.

He highlighted that IPRs “must be respected fully but permissible flexibilities such as compulsory licensing maybe be invoked as appropriate.” He added that these should be fully utilised to reduce manufacturing costs and to address anti-competitive practices.

Paolo Yu from the South Centre remarked that the subject of whether or not intellectual property is a barrier to transfer of climate friendly technologies should be examined. However, he noted that it is likely to be a barrier in the future, in light of the steep increase in patenting of climate change technologies.

Scaling up financing

The role of climate financing in facilitating the diffusion of climate change technologies was also featured at the conference.

Ari Huhtala, Senior Environmental Specialist at the World Bank, asserted that financing must be provided through multiple streams, and that “governments cannot be the sole funders of climate change technologies.”

Speakers from both the private and public sectors emphasised the importance of private investments in financing the diffusion of green technologies. The major question then became how to identify and best utilise these financial streams.

WIPO signals readiness to step up climate engagement

Several speakers from industrialised countries pointed to the usefulness of a greater role for WIPO in addressing the interface of IP and climate change matters. “WIPO has an important role to play in this context and should be more involved in UNFCCC negotiations,” remarked José Romero, Head of the Rio-Conventions Section of the Swiss government. This sentiment was echoed by Ambassador Luis Alfonso de Alba, Mexican Special Representative for Climate Change.

In this regard, Johannes Christian Wichard, WIPO Deputy Director General for Global Issues, brought the conference to a close by underlining that the event was a sign of solidarity with the UNFCCC climate negotiation process, and that WIPO would be ready to scale up its engagement in this area if it can make a useful contribution. “We are available,” he concluded.

ICTSD Reporting.

OPINION

The Brazilian Forest Code: Exploitation and Preservation

By Rafael Poço

Brazil has been experiencing a tense debate over environmental legislation. In addition to the historical weakness in surveillance, Brazil has recently witnessed misconduct by the government, which has relaxed and breached environmental standards for hasty approval of major projects - a fact worsened by the existence of large hydropower and sports events projects to be held in the upcoming years. In this context, dozens of bills aimed at weakening environmental protection in the country have been proposed.

One of the core initiatives in this direction is the current debate taking place at the National Congress for an overhaul of the Brazilian Forest

Code. On 24 May, the reform project was approved in the Chamber of Deputies and will now follow to the Senate; if approved, it will be finally be subjected to presidential sanction.

The Brazilian Forest Code was enacted in 1965 and amended a few times by presidential decrees. The legal text recognises the importance of the forests for the conservation of land and for setting parameters on environmental preservation.

There are two instruments of greatest relevance under the Code: the legal reserve and the permanent preservation areas. The legal reserve identifies a proportion of each rural property where vegetation must not be removed, but in which some productive activities are allowed, such as the extraction of wild resources and beekeeping. The second instrument, the permanent preservation areas (APPs), have the ultimate goal of protecting water resources, prohibiting any productive activity in riparian areas. Once the existence of APPs is justified by the need to preserve biodiversity, they must be covered by natural vegetation.

Brazilian agriculture

In order to understand the new proposals, it is necessary to understand land use in Brazil and the interests related to it. The country is a world leader producer and exporter of a large number of agricultural products, such as coffee, sugar, and ethanol from sugar cane. Additionally, since 2008, it has been on the top of the global ranking of beef exports – a trend which is expected to increase in upcoming years.

According to the National Council of Food and Nutritional Security (Consea), despite the growth in the household income both in rural and urban areas – which resulted in the increase of purchasing power and demand for food –, the growth of agricultural production for export is much higher than the production of food for domestic consumption.

Moreover, there is high concentration of land ownership in Brazil, which requires the distinction between family farming and the agribusiness production model. Family farming is responsible

for a large part of the country's food production, which is mostly destined to the internal market.

Family farming and environmental protection

Deputy Aldo Rebelo of the Communist Party of Brazil, rapporteur of the bill, and his supporters from the rural base, sought to spread an alarmist argument based on the false dichotomy that changes in the forest legislation are necessary in order to avoid food shortage in Brazil. This point of view is combined with a discourse of support for family farming. This attitude hindered more comprehensive and technical discussions on the issue.

The current Forest Code already encompasses differential treatment to family farmers. For instance, it allows the substitution of APPs by sustainable agriforestry activities practiced in small properties. The Code also allows for compensation for deforestation to be carried out in areas of Legal Reserve by the cultivation of exotic tree species. It also foresees technical support from the state environmental agency responsible for restoration of Legal Reserve. Even the latter protected areas can be used under the system of forest management, a potential incentive for employment and development of family farming.

Misleading text

The approved bill brings about structural changes in the law, since important modifications have been made to the text, either by full changes in sentences or substitution of key words. These amendments make the text more misleading and hinder its implementation – on these grounds, the project must be fully rejected.

Some examples of environmental shortcomings presented in the bill are worth highlighting. One of the misleading changes made in the text consists in the highly controversial creation of the "rural consolidated area". The parallel for that is found in "consolidated urban areas," understood as places where the restoration of natural vegetation is not possible. Once established, buildings and urban infrastructure are difficult to remove and, therefore, the solution is to

compensate by restoring forests elsewhere. However, this logic is not valid in the case of rural areas, where natural soil conditions constantly change, as illustrated by the periods between harvest seasons, when the land is available for new planting and or rehabilitation.

The text approved provides amnesty to illegal deforestation occurred until July 22, 2008. The stipulated date lacks any legal justification, according to the Legislative Advisory Body of the Chamber of Deputies. This means that after the creation of the Environmental Regulation Program by the federal, state or local governments, landowners who register their property and join the program will avoid sanctions stemming from violations committed until July 22, 2008, related to irregular clearing of vegetation in Legal Reserve, APPs and areas of restricted use. After meeting the requirements of the Environmental Regulation Program, fines will be forgiven and crimes are no longer punishable. The deadline for landowners to join the program can be extended indefinitely by an act of the executive power, which means, for instance, that governors of states can keep the fines and penalties for infractions permanently suspended.

Compensation and waiver from Legal Reserve

With regard to the Legal Reserve areas, the project brings the possibility of compensation of deforested areas through the acquisition of an equivalent preserved land, which can be located in another unit of the federation. Compensation can also be made through payments to the public treasury. This means that, under the new system, forests that should be protected may be removed in exchange for money.

One of the most problematic issues of the project is the waiver for the obligation to recover the Legal Reserve in properties of up to four "fiscal modules." Depending on the location of the land, a fiscal module comprises properties measuring up to 400 hectares. This criterion has no legal basis and, although rapporteur Rebelo argues that this is intended to enable the "survival" of small farmers, the reference to the size of the land – instead of the condition of the owner – would allow the

extension of the benefit to landowners who do not depend on agriculture for subsistence.

The discount of APPs for calculating the area of Legal Reserve - currently adopted in exceptional cases - becomes the rule (but only if it does not "require the conversion of new areas to alternative use of the land"). This will have direct effect on the rise of deforestation and, once again, puts landowners who maintain the Legal Reserve and the APP at a disadvantage.

Scientific studies indicate that the preservation of the areas of Legal Reserve as environmental service would enable growth in agricultural productivity, especially due to pollination.

The need for a democratic debate

It is of the utmost importance that a broad debate on the reform of the Brazilian environmental legislation takes place with massive popular participation and contributions from scientists and experts. Legislative reforms of such relevance – which involve the needs of the entire population and risks to the country's international reputation – cannot merely serve the interests of the private sector. This is especially true for large landowners, who are normally committed to old-fashioned production models, as demonstrated in the attitude of many during the congressional debates.

If approved as it stands, the project will put the protection of forests, biodiversity, and natural resources at greater risk. Additionally, Brazil will become an embarrassment on the international stage in 2012 when it hosts the United Nations Conference on Sustainable Development (Rio +20). By then, if the project is not rejected by the senators or president Dilma Rousseff, Brazil will have nothing to present but internal conflicts in which the interests of economic growth prevail at any cost, instead of a serious and consistent debate towards sustainability. Moreover, the incoherence between hosting an event at the global level to discuss issues that are not reconciled domestically will be strikingly evident.

The reform of the Forest Code calls for a broader debate on sustainable development in the sense of changing production and consumption patterns,

especially if one considers agricultural production and the new paradigm for food security in a global level. Meanwhile, we have to deal with specific and immediate interests, uncommitted to the welfare and socio-environmental balance, what forces us to take immediate measures and strive to achieve the "least worst case scenario" for the future.

Rafael Poço is Projects Counsellor at Vitae Civilis – Institute for Development, Environment, and Peace, a São Paulo-based NGO. The author is also a member of the Urban Ecology Group and the SOS Forest Coalition. This article was first published in Portuguese in [Pontes Bimestral](#).

IN BRIEF

WTO Sides with Mexico in Tuna-Dolphin Case: Sources

The WTO has sided with Mexico in the long-running US-Mexico tuna fish dispute, multiple sources have now confirmed. While the details of the report are not yet known, the ruling likely means the US may soon be required to change its policy on "dolphin-safe" labelling, thereby lifting an effective twenty year ban on Mexican yellow-fin tuna.

The dispute has been brewing since the early 1990s, when the US placed an embargo on Mexican tuna fish imports. At the centre of the issue were the purse sein nets used by Mexican fishermen, which the US argues could accidentally trap and kill Pacific Ocean dolphins.

In 1991, Mexico won a case against the embargo under the old General Agreement on Tariffs and Trade (GATT) dispute settlement procedure. The panel reporting to the GATT did not, however, rule against a US Department of Commerce policy to place dolphin-safe labelling on tuna products. Although Mexico can legally export tuna to the US, most American companies are unwilling to buy tuna that cannot bear the dolphin-safe logo on labels.

Mexico requested consultations with the US over the labelling issue in October 2008, claiming that the requirements break non-discrimination principles under the WTO's General Agreement on Tariffs and Trade and the WTO Agreement on Technical Barriers to Trade (see Bridges Trade BioRes, [31 October 2008](#)).

Mexico has argued that its fishing practices meet international standards for dolphin protection. The country meets regulations under the Agreement on the International Dolphin Conservation Program (AIDCP), a multilateral agreement that was signed by both Mexico and the US in 1999. Under the agreement, Mexico, like the US, requires onboard inspections of tuna vessels during fishing trips to enforce AIDCP standards (see Bridges Trade BioRes Review, [Spring 2010](#)).

Last Wednesday, Nkenge Harmon, spokesperson for the Office of the US Trade Representative, told the Wall Street Journal that "the United States will continue to vigorously pursue the objectives of the dolphin-safe labelling provisions," noting that the labelling rules protect dolphins and provide transparency to consumers.

Legal details about the WTO decision have not yet been released to the public, and the Dispute Settlement Panel's report has been labelled strictly confidential. However, Bruno Ferrari, Mexico's Secretary of the Economy, told Mexican press that the dispute is close to being resolved.

The WTO report is expected to be released at the end of September. After the report is circulated amongst WTO members, the US and Mexico each have 60 days to make final appeals.

ICTSD Reporting; "WTO sides with Mexico in tuna battle with US," WALL STREET JOURNAL, 20 July 2011.

Australian Government to Tackle Carbon Emissions with Tax on Polluters

Australian Prime Minister Julia Gillard released a plan on 10 July to tax Australia's worst carbon polluters, in a move aimed at reducing carbon pollution by five percent below 2000 levels by 2020 and by 80 percent below 2000 levels by 2050. Once implemented, the Clean Energy Agreement could be the largest emissions trading scheme in the world, outside of the European Union's Emissions Trading Scheme (ETS). The EU aims to reduce emissions by 21 percent below 2005 levels by 2020.

The Agreement was put together by the Multi-Party Climate Change Committee, a group comprised of leaders from the governing Labor Party, the Green Party, and two Independents.

Starting on 1 July 2012, five hundred of Australia's major polluters will be required to purchase a permit for every metric tonne of carbon pollution they produce. Carbon will be priced at A\$23 (US\$24.77) per metric tonne, rising 2.5 percent annually in real terms. For the first three years, the carbon price will be fixed like a tax. In 2015, Australia will introduce an emissions trading scheme, with carbon prices set by the market.

Australia's coal industry is expected to be among the hardest hit from the Clean Energy Agreement. Coal is Australia's largest export industry, earning A\$46 billion (US\$49 billion) in export earnings each year. Coal also accounts for 37 percent of the nation's emissions, and generates 80 percent of the country's electricity. Gillard is calling for the closure of 2000 megawatts of highly polluting electricity generation capacity by 2020, and the replacement of older coal-fired power stations with cleaner energy sources.

Gillard is offering a A\$1.3 billion (US\$1.39 billion) compensation package to help the worst polluting coal mines adapt to the new policies, as well as loan guarantees for electricity generators to help the industry refinance loans of between A\$9 billion and A\$10 billion (between US\$9.69 billion and US\$10.76 billion) over the next five years.

“Because something they used to do for free now costs money, [big polluters] will innovate, they will change, they will find a way of reducing that bill and in doing so they will reduce their carbon pollution,” noted Gillard at a [press conference](#).

Mitch Hooke, chief executive of the Minerals Council of Australia, argued that “the government and Greens are imposing costs that none of our international competitors face, and cannot be justified in transitioning the Australian industry to a low carbon future...it will simply export investment, jobs, global market share, and emissions offshore,” according to Reuters.

Coal prices are currently at a near record high, above US\$300 per metric tonne. The tax is projected to increase prices by an additional A\$1.80 (US\$1.92) per metric tonne, according to a statement by the Australian Coal Association cited by Reuters.

The increase in energy prices is expected to be shouldered by consumers. The Australian government has estimated that cost of living will increase by 0.7 percent in 2012-2013, with a rise in consumer prices that will amount to about A\$9.90 (US\$10.66) per week. However, modelling data also suggests that incomes and jobs are likely to increase in the coming years under the carbon price.

To compensate for the increased cost of living, the government will be increasing the tax-free income threshold from A\$6,000 (US\$6,460) per year to A\$18,200 (US\$ 19,594).

Gillard has noted that tax cuts will counter average additional costs of the energy package for six million households, and that four million low income households will receive a budget buffer, with payments being 20 percent higher than average extra costs under the carbon tax.

The Australian Competition and Consumer Commission will be monitoring companies to ensure that product prices are not falsely linked to the carbon tax to increase prices. Industries will be fined \$A1.1 million (US\$1.18 million) if they are caught attempting to profiteer, and individuals will

face maximum penalties of A\$220,000 (US\$236,856).

Despite the Treasury’s predictions of increased jobs and incomes, and Gillard’s assurances that the government will help consumers burden the extra cost, the Clean Energy Agreement has been scrutinised by voters, who are apprehensive about high energy costs and the implications of the carbon tax on Australia’s coal sector. Public support for Gillard and the Labor Party’s minority government is on the wane.

Australia’s next election can be called between now and November 2013, and Gillard argues that voters can make a decision about Clean Energy Agreement at the polls. “In 2013, people will have lived under the system...they will be able to decide,” Gillard stated in an interview with ABC Radio.

ICTSD Reporting; “Australia to tax country’s worst polluters,” ALJAZEERA, 10 July 2011; “Australian industries face \$1 million fine if they hike prices using carbon tax as excuse,” ASSOCIATED PRESS, 13 July 2011; “Australia carbon tax hits miners, airlines,” REUTERS, 11 July 2011; “Australian Government Sets a Price on Carbon Emissions,” ENVIRONMENT NEWS SERVICE, 11 July 2011; “RPT-Coal miners say Australia carbon tax treatment unfair,” REUTERS, 10 July 2011.

Significance of Forests as Carbon Sinks Underestimated, Study Shows

The world’s forests absorb much more carbon dioxide than previously thought, a study released by the American journal Science reported last week. According to the study, forests can absorb up to 2.2 billion tonnes of carbon dioxide (CO₂) each year – about one-third of the carbon dioxide released through the burning of fossil fuels or almost 10 per cent of the world’s total CO₂ emissions.

According to the International Energy Agency, total global CO₂ emissions reached a record high in 2010 at 27.8 billion tonnes.

The article provides an in-depth analysis of the distinct roles of boreal, temperate, and tropical forests in capturing CO₂ – the first of its kind. Tropical forests have the highest dynamic in absorbing greenhouse gas from the atmosphere – slightly more than temperate forests and more than twice as much as boreal forests.

“This analysis puts forests at even a higher level of importance in regulating atmospheric CO₂,” said Pep Canadell, co-author of the paper: [A Large and Persistent Carbon Sink in the World's Forests](#). A particularly remarkable finding is the large capacity of tropical forest re-growth which annually absorbs about 1.5 billion tonnes of carbon, however, is partially offset by shifts in tropical land use, such as clearing land for agriculture, causing emissions of 1.2 billion tonnes annually.

As stated by the study, overall emissions arising from deforestation are also much larger than assumed. On a more positive note this suggests that potential benefits from the UN's Reducing Emissions from Deforestation and forest Degradation (REDD) scheme are also much larger than previously anticipated.

The UN REDD Programme, established in response to the UNFCCC decision on REDD at COP 13 and the Bali Action Plan, is an effort to create a financial value for the carbon stored in forests, offering incentives for developing countries to reduce emissions from forested lands and invest in low-carbon paths to sustainable development. REDD+ goes beyond deforestation and forest degradation by including the role of conservation, sustainable management of forests and enhancement of forest carbon stocks.

“This is really a timely breakthrough with which we can now clearly demonstrate how forests and changes in landscape such as wildfire or forest re-growth impact the removal or release of atmospheric carbon dioxide,” stressed Canadell, who is also head of the Global Carbon Project based at the Commonwealth Scientific and Industrial Research Organization in Australia.

The findings of the study are indeed well timed since they cast a positive light on the UN REDD

programme in the context of the on-going international climate change negotiations.

The importance of REDD was already acknowledged in Article 6 of the Copenhagen Accord and gained increased prominence with the REDD+ Decision at the Cancun Conference as one of the few common denominators and areas with potential for progress (Bridges Trade BioRes, [14 December 2010](#)). With a view to Durban, the new scientific findings could give grounds for negotiators to reinforce attention on forests as carbon sinks and in particular on promoting tropical forest re-growth as a new investment opportunity.

ICTSD Reporting, “As ‘Sinks’ for Carbon, Forests Are Even Mightier Than Assumed”, THE NEW YORK TIMES, 15 July 2011; “Study Shows Forests Have Bigger Role In Slowing Climate Change”, PLANET ARK, 15 July 2011; The Green Economy, “World's forests acting as ‘carbon sinks’ – study”, THE GREEN ECONOMY, 15 July 2011; “Forests Play Dominant Role in Removing Atmospheric Carbon”, International Institute for Applied Systems Analysis (IIASA), 14 July, 2011; “Prospect of limiting the global increase in temperature to 2 degree Celsius is getting bleaker”, IEA, 30 May 2011.

Peru's GMO Moratorium not WTO Compatible: President

A ten-year moratorium on genetically modified organisms (GMOs) has been rejected by Alan García, Peru's outgoing president who says the move breaches the country's WTO commitments. The bill will now be sent back to Congress for reformation.

The legislation, which was approved by Peruvian Congress on 7 June, declared a ten-year moratorium on the entry of GMOs into Peru for cultivation, breeding, or as any other type of transgenic product.

García sent the legislation back to Congress saying that the moratorium is incompatible with

responsibilities Lima has under WTO agreements and that it could be harmful for research.

Congress will now have the opportunity to vote on the moratorium again either after making amendments or simply putting the bill to a vote again as is. However, with the body currently on summer recess, a special session would have to be called for any action to take place before the newly elected Congress comes to power on 28 July.

For years Peru has maintained an almost zero tolerance policy on the cultivation, development, and importation of GMOs while all Latin American nations surrounding have begun to rapidly develop and grow GM crops. After nine years of discussions, García signed the biosafety regulation into law on 15 April.

The Biosafety Rules for the Agriculture or Forestry Sectors sets standards for regulating research, production, and trade of GMOs. The passage of the regulation was met with great civil society resistance citing concerns for biodiversity.

The moratorium would suspend all previously passed regulation for its duration.

In the rejection, the Executive claims that a five-year moratorium would be substantial enough to build up the necessary “safety filters” for avoiding biodiversity concerns. It also cites scientific evidence that shows GMOs pose no threat to biodiversity.

According to Peru’s Agriculture Minister Jorge Villasante the moratorium would continue to hold Peru back economically as it raises demands and sanctions against Peru at the WTO for its protectionist GMO policies. The move would also put Peru at odds with trade partners such as Brazil and Argentina, he said.

Observers say president-elect Ollanta Humala Tasso is likely to be in favour of the moratorium.

ICTSD Reporting; “Peru wavers on ten-year halt to GM imports,” SCIDEV.NET, 13 July 2011; “Ejecutivo observa ley sobre transgénicos,” PERU21, 6 July 2011; “Esperan la respuesta del

presidente sobre ingreso de los OVM,” LA REPUBLICA, 11 June 2011.

Tit-for-Tat in Ukraine-Moldova WTO Row?

Moldova has filed a dispute at the WTO, claiming that the taxes Ukraine charges on foreign spirits are excessive. The move comes less than a month after the WTO established a panel at Ukraine’s request over “environmental charges” applied by Moldova to the beverages sector (see Bridges Trade BioRes, [30 May 2011](#)).

In last week’s case (DS423), Moldova claims that Ukraine applies higher taxes on exported distilled spirits compared to those charged on the domestic versions. Ukraine is an important market for Moldovan spirits, especially since exports to Russia and Belarus – two non-WTO members – crashed in 2009.

Ukrainian tax codes make a distinction between Cognac and Brandy, with the latter being taxed at a rate more than twice as high as the one for Cognac. Only spirits produced in the province of Cognac in France or in Ukraine may be called Cognac, a requirement that results in higher taxes for other foreign products. Moldova claims that this distinction is artificial and that the products should be treated alike with the same tax rate.

The two disputes are closely related. In February of this year, Moldovan Deputy Minister of Economy Octavian Calmic said that “Moldova plans to synchronise the WTO examinations of the collection of the ecological duty from juice and beer producers by Moldova, with the problem of high excise taxes for Moldovan spirits.” While the Moldovan environmental charges apply to beer and orange juice, spirits and other beverage producers from Moldova are closely involved in the case against Ukraine.

Interestingly, the EU - which is known for being a defender of geographical indication rights - has voiced its own concerns over the use of the term “cognac” in Ukrainian legislation and tax codes.

ICTSD Reporting.

US Ethanol Subsidies, Import Tariffs under Fire

US Senator Dianne Feinstein joined forces with farm state Senators Amy Klobuchar, a fellow Democrat, and John Thune, a Republican, to announce an agreement on 7 July that would cut the 45 cent a gallon ethanol tax break and the 54 cent a gallon ethanol import tariff, while enacting new subsidies for ethanol infrastructure. The announcement is just one of various signs that ethanol subsidies could find themselves on the chopping block as the US Congress tries to resolve the on-going budget crisis.

The senators' announcement comes just weeks after their chamber voted in favour of a measure to end ethanol subsidies and tariffs on imports. Although the bill that resolution was attached to ultimately failed, pressure is mounting since the US government will be unable to pay its bills after 2 August if an agreement on the budget cannot be reached. Legislators may attempt to include the cuts in a budget package.

According to David Orden of the International Food Policy Research Institute (IFPRI) in Washington DC, this was a "free vote" since law makers knew that the bill it was attached to was going to fail.

The agreement between Feinstein, Klobuchar, and Thune does not change the Renewable Fuels Standard, a government mandate requiring the blending of ethanol into the US fuel supply.

The Renewable Fuel Association, a lobbying group for the US ethanol industry, [described](#) the agreement between the Senators as a "bipartisan effort to find common ground."

Geoff Moody of the Grocery Manufacturers Association said that, in the absence of an advanced cellulosic biofuels industry, "any subsidy for infrastructure" would go towards supporting ethanol from corn. Orden noted that the most likely outcome of a reform process would be a "cut" in the tax break and that supporters of

ethanol industry would find other programmes to direct funding.

A cut in subsidies, or the Volumetric Ethanol Excise Tax Credit, is expected to save US taxpayers US\$6 billion a year and US\$2 billion by year's end if enacted today, according to the non-partisan US [Government Accountability Office](#).

Representative Walter Herger a Republican from the US state of California, along with seventeen other members of his legislative chamber, responded to the momentum in the Senate by introducing a [bill](#) that would end the tax breaks and tariffs without introducing new infrastructure spending.

Procedurally, tax legislation must originate in the US House of Representatives. A compromise between the Senate and the House will be needed for the legislation to be signed into law by President Barack Obama.

Reactions to ethanol support have been harsh in recent weeks. A Washington Post editorial told readers that there was "[no need to compromise](#)" on ethanol subsidies. In Geneva, one trade expert sceptically described the US Congressional efforts towards reform as "shadow boxing."

Action against ethanol subsidies has had a wide base in Washington. Earlier this year 50 organisations, from Oxfam America to FreedomWorks, an early Tea Party sponsor, signed a [letter](#) to Republican Senator Tom Coburn and Senator Feinstein calling for an end to subsidies and tariffs. A smaller number of similarly diverse organisations, such as the National Turkey Federation and ActionAid USA, signed another [letter](#) to Herger in June.

As the deadline for resolving the budget crisis nears, Senate Minority Leader Mitch McConnell, a Republican, floated the idea yesterday, 12 July, of allowing the President to raise the debt limit in three stages, unless stopped by the US Congress. This would potentially ease pressure on law makers to reach a compromise by the 2 August deadline.

Some lobbying for change in ethanol policy are confident that subsidies will be cut but fear that the blending mandate will continue to drive demand for corn and food prices higher. Shawnee Hoover of Oxfam America told Bridges there “there will be blood in the water to take on the mandate,” when subsidies for ethanol come to an end.

Economists have [called](#) for flexibility on the blending mandate during times of high and volatile food prices. Ethanol production in the US is projected by the Renewable Fuels Association to exceed the government mandate by 1 billion gallons this year and corn prices have fluctuated wildly in the past month.

According to the Financial Times, the ethanol industry will have used more corn than farmers of livestock and poultry combined by 31 of August, consuming 40 percent of the world’s largest producer and exporter’s output.

ICTSD reporting; “Farm-State Senators Agree to End Ethanol Tax Breaks in July,” BLOOMBERG, 7 July 2011; “US ethanol refiners use more corn than farmers,” FINANCIAL TIMES, 12 July 2011; “Nancy Pelosi: Mitch McConnell’s debt ceiling plan has ‘merit,’” POLITICO, 13 July 2011.

EVENTS AND RESOURCES

Events

If you would like to see your event listed here or are interested in finding out more about publicising your event through ICTSD, write to biores@ictsd.ch. For a more comprehensive list of events for the trade and environment community visit the [BioRes online calendar](#).

Coming up in the next six weeks (25 July – 5 September)

25-29 July, Bangkok, Thailand. INTEGRATED REGIONAL WORKSHOP ON MAINSTREAMING DISASTER RISK REDUCTION, CLIMATE CHANGE IN THE

UN DEVELOPMENT ASSISTANCE FRAMEWORK PROCESS (ASIA AND PACIFIC). This workshop is being organised by the UN Development Group (UNDG) Task Team on Environmental Sustainability, Climate Change and Rio+20, in cooperation with the Capacity for Disaster Reduction Initiative (CADRI), the UN Environment Programme (UNEP) along with other UN agencies. It will consider the linkages between climate change, environmental degradation and disasters, and explore opportunities for mainstreaming disaster risk reduction (DRR), environmental sustainability, and climate change into country programming. It is one of three integrated regional workshops for UN country teams. Further details are available [here](#).

29 July-4 August, Baños, Ecuador. 2011 INTERNATIONAL BIODIVERSITY CONFERENCE. This conference will focus on scientific issues related to biodiversity conservation and tropical ecology. Participants are invited to become part of the solution to biodiversity conservation and tropical ecology issues by joining the discussion, sharing research and developing new questions for further study. More information is available on the event [website](#).

1 August, London, UK. NEXT GENERATION BIOFUELS. This event is designed to be a comprehensive 1-day introduction to biofuels from non-food crops and advanced conversion processes. This will describe the variety of feedstocks, routes, and processes through which biomass can be converted to valuable fuels, energy and other products – on large scales and without the food competition issues of current biofuels. Discussions will be primarily aimed at business people who need to understand the basics of the science and technology but explained in a clear, hype-free manner and within its economic and commercial context. More information is available [here](#).

2-5 August, Medellin, Colombia. BIO-ENERGY CONFERENCE OF THE AMERICAS 2011. This conference – organised by the Center for Research and Innovation (CIEN) and the Bolivar Group and supported by, among others, the

Organization of American States (OAS), the Bioenergy Conference of the Americas – seeks to provide a platform for information exchange, networking, and technology exchange on bioenergy in the Americas. The conference will focus on the following themes: bioenergy and the agricultural industry; policies and the environment; state of the art and next generation technologies; and the bioenergy industry as a business. Further details can be found on the event [website](#).

4-6 August, Mexico City, Mexico. LATIN AMERICA AND THE CARIBBEAN REGIONAL SCIENCE AND TECHNOLOGY WORKSHOP. The International Council for Science (ICSU) is organising this workshop as an input to the regional preparatory meeting for Rio+20. Intended for scientists, engineers, high-level policymakers, and representatives of Major Groups, this workshop seeks to formulate positions from the regional scientific and technological community regarding best available science in policy issues to be treated at Rio+20, and stimulate dialogue on a range of related issues. More information on the workshop can be found [here](#).

22-24 August, Bonn, Germany. 33RD MEETING OF THE CDM AFFORESTATION/REFORESTATION WORKING GROUP. This meeting of the Clean Development Mechanism (CDM) Afforestation/Reforestation Working Group will convene to consider issues related to baselines and monitoring methodologies for CDM afforestation/reforestation project activities. Further details are available on the UNFCCC [website](#).

28-29 August, Bonn, Germany. INTERNATIONAL WORKSHOP ON THE FRAGMENTATION OF GLOBAL ENVIRONMENTAL GOVERNANCE: CAUSES, CONSEQUENCES AND RESPONSES. Supported by the German Development Institute/Deutsches Institut für Entwicklungspolitik (DIE), together with the Environment Change Institute (ECI) of the University of Oxford, this workshop is organised by the COST (European Cooperation in Science and Technology) and endorsed by the Earth

System Governance Project. It will discuss the increasing institutional fragmentation and complexity of global governance architectures in different environmental policy domains, such as climate change, biological diversity, desertification, water, fisheries, land use, forests, wetlands, ozone layer depletion, hazardous wastes, and chemicals. More information can be found [here](#).

3-5 September, Bonn, Germany. 64TH ANNUAL UN DPI/NGO CONFERENCE: SUSTAINABLE SOCIETIES; RESPONSIVE CITIZENS. This will be the 64th Annual Conference of NGOs and the UN Department of Public Information (DPI), and will seek to highlight effective means in which civil society can contribute to creating and maintaining sustainable societies. The conference will seek to contribute to civil society preparations for the UNCSO. For more information, visit the conference [website](#).

Other upcoming events

20 September, New York, US. UNGA HIGH-LEVEL MEETING ON DESERTIFICATION. The UN General Assembly will be convening a one day high-level meeting on the theme, “Addressing desertification, land degradation and drought in the context of sustainable development and poverty eradication.” This meeting is meant to raise awareness on the effects of desertification, land degradation, and drought at the highest level, reaffirm the fulfilment of all commitments to the UN Convention to Combat Desertification and its ten-year strategic plan and framework, and ensure a higher priority for desertification, land degradation and drought on the international agenda, in particular at Rio +20. More information is available on the official [website](#).

21-23 September, Nadi, Fiji. PACIFIC REGIONAL FOREST TECHNICAL MEETING. The Secretariat of the Pacific Community (SPC) will convene the Pacific Regional Forestry Technical Meeting. The objectives of this meeting will be to review the Pacific celebration of the International Year of Forests, and present and discuss various emerging issues, challenges, opportunities and possible ways forward for Pacific forestry. Further information can be found on the [SPC website](#).

27 September, Jakarta, Indonesia. **FORESTS INDONESIA: ALTERNATIVE FUTURES TO MEET DEMANDS FOR FOOD, FIBRE, FUEL AND REDD+**. This event will provide a platform for leaders of government, parliament, the international and national business community, civil society and the research and development sector to discuss the challenges and opportunities faced by Indonesia in the sustainable use of its forests. It will focus on a series of forums under two themes: trade and investment implications for forests; and Reducing Emissions from Deforestation and Forest Degradation (REDD+) in transition to a low-carbon future. Further details can be found on the event [website](#).

27 September, Geneva, Switzerland. **ICTSD'S BRIDGES CHINA DIAGLOGUE 2011**. This dialogue will convene world top policymakers, experts and business leaders to address the issues related to China's outward direct investment (ODI). The objective of this dialogue is to generate a better understanding of China's rising outward investment. Further details can be accessed [here](#).

28-29 September, São Paulo, Brazil. **WORLD BIOFUELS MARKETS BRAZIL**. Sugar and ethanol are the lifeblood of the Brazilian biofuels industry. However, as international interest and investment in advanced biofuels in the country increases, it is paramount to the success of businesses to ensure a bigger picture to stay ahead of the curve is being examined. This event will expose the key future opportunities in the Brazilian biofuels market. With a focus on technology, finance and investment and the culture of partnerships in first and second generation biofuels – this event will cater to both local and international key industry players and explore the synergy between traditional and second generation biofuels. More information is available [here](#).

29-30 September, Geneva, Switzerland. **UNCTAD AD HOC EXPERT MEETING ON CLIMATE CHANGE IMPACTS AND ADAPTATION: A CHALLENGE FOR GLOBAL PORTS**. This meeting will discuss the crucial roles that international shipping and ports

play in global supply chains and the likely ways ports will be affected directly and indirectly by climatic changes. Rising sea levels, extreme weather events and rising temperatures, will be examined for their broader implications for international trade and development prospects in vulnerable nations, particularly LDCs and SIDS. More details on the meeting and the topics for discussion are available [here](#).

21-22 November, New York, US. **WORKSHOP ON ENVIRONMENTAL NEGOTIATIONS AND CLIMATE CHANGE DIPLOMACY**. This UN Institute for Training and Research (UNITAR) workshop aims to equip delegates, particularly those from developing countries, with the knowledge and skills to perform effectively in multilateral climate change and environmental negotiations. It will train delegates on how to analyse the particular characteristics of environmental negotiations; identify key negotiation issues, dynamics and elements in environmental negotiations; and further refine skills to strengthen effective performance in negotiations. More information is available on the workshop [website](#).

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 to the [editor](#).

IDRC: 40 YEARS OF IDEAS, INNOVATION, AND IMPACT. By Bruce Muirhead and Ronald N. Harpelle (2010). This book focuses on the International Development Research Centre of Canada as a unique institution that has funded research – proposed and undertaken by Southern researchers – in the developing world. The authors stress that the efforts have had a tremendous impact despite a relatively small budget. According to the book, IDRC is much better known in the developing South than in Canada and in many of the 150+ countries in which it has provided research funding it has contributed to creating a very positive image of Canada. The authors find that IDRC's arms-

length relationship with Canadian government assistance provides it with enormous freedom and flexibility – it was established in 1970 with its own act under the Trudeau government. The IDRC board is half international, half Canadian and is the only government agency in the world that has this structure. According to the authors, it is this structure that allows them unique insight into Southern development issues.

This book looks at IDRC's founding principles of insistence that Southern researchers decide on which projects to put forth for possible funding and avoidance of the concept of "research imperialism" or "colonialism." The authors provide an analysis of the history of IDRC and its journey on the path less travelled. They highlight the decisions, ideas, and practices that IDRC has found to be some amenable to its mission. Information on how to order the book can be found on the publisher's [website](#) or by sending an [email](#).

BUILDING A DEVELOPMENT-LED GREEN ECONOMY. UNCTAD Policy Brief No 23 (June 2011). In the wake of the food, energy, and financial crises, numerous governments are promoting green economy strategies to open more stable and sustainable development pathways. As pioneering green regulation is introduced in the world's largest market, it is bound to impact other countries through trade. The authors of this brief find that current trends in environmental regulation point to the importance of harmonising standards and raising the capacity of developing country businesses to integrate green requirements into their operations to facilitate their participation in a greening global economy. The brief is available [here](#).

CONTROLLING ILLEGAL LOGGING: IMPLEMENTATION OF THE EU TIMBER REGULATION. By Jon Buckrell and Alison Hoare at Chatham House (June 2011). The EU Timber Regulation, which comes into force in 2013, prohibits operators from placing illegally harvested timber and timber products on the European market. It adopts a broad definition of 'illegally harvested' and applies to timber both imported into and produced within the EU. The

authors contend that in order to ensure the effectiveness of the Regulation, more detailed guidance from the Commission will be needed on some of its key elements, namely the definition of 'placing on the market'; how to undertake risk assessments; and the use of certification or third-party verification to assess and mitigate risk. The paper is available via the Chatham House [website](#).

THE ROAD TO RIO+20: PART I. UN Conference on Trade and Development (2011). This first of four reports to be released by UNCTAD in the lead up to the UN Conference on Sustainable Development (Rio+20) focuses on explaining the concept of green economy within the context of sustainable development and poverty eradication. The report is a collection of essays aimed at contributing to the debate and providing a variety of perspectives on how to increase the benefits and reduce the risks in the transition to a development-led green economy. The report is available [online](#).