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BIORES

Analysis and news on trade and environment

VOLUME 6, ISSUE 3 - AUGUST-SEPTEMBER 2012



The future of green trade

SUSTAINABLE DEVELOPMENT

Rio+20 aftermath

NATURAL RESOURCES

Australia's plan to block illegal timber imports

ILLEGAL WILDLIFE TRADE

Tackling South Africa's rhino horn dilemma



International Centre for Trade
and Sustainable Development

BIORES

VOLUME 6, ISSUE 3 - AUGUST-SEPTEMBER 2012

BRIDGES TRADE BIORES

The leading authority on news and analysis emerging from the trade and environment nexus.

PUBLISHED BY

ICTSD

International Centre for Trade and Sustainable Development

Geneva, Switzerland

www.ictsd.org

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The future of green trade



After months of increasingly busy and intense negotiations leading up to the UN Conference on Sustainable Development (UNCSD or Rio+20) many of those participating – either on site or virtually – have had a chance to take a step back and reflect. The outcome was far from perfect, as detailed in the first article in this issue of BioRes. It does, however, contain elements to guide further work both to implement decades-old environmental commitments and to engage in the creation of a new set of Sustainable Development Goals. Now the time has come to look forward rather than dwell on the past.

The concept of the green economy remains intact post-Rio, although most stakeholders have come to understand the need for individually-tailored solutions to allow the transition to truly fit national and regional circumstances and capacities. In fact, there is no one green economy vision, rather multiple visions – the bulk of the work is now focussed on how to create and put these visions and solutions into action. In his article for BioRes, UNEP's Moustapha Kamal Gueye highlights ways in which this is already happening.

Using trade as a tool for enabling the green economy is also becoming more accepted. ICTSD, together with UNEP and ITC, organised a dialogue in Costa Rica shortly after Rio+20, where this became evident. Participants from governments, IGOs, civil society, academia, and the media in Latin America identified significant green export opportunities in their countries. However, they also highlighted the importance of national policies and drivers toward a green economy transition, rather than trade. In essence, they said that trade could serve as an enabling factor, but it was not necessarily one. In some sectors, such as biodiversity-based products or organic agriculture, significant export opportunities already exist. In others, such as renewable energy, export opportunities were not seen as a substantial economic driver; however, participants highlighted the importance of regional coordination and closer cooperation, which then had the potential to lead to new export opportunities.

This issue of BioRes Review delves into the post-Rio green economy question in earnest and touches on some of the most problematic issues at the trade-environment nexus, such as the need for subsidy reform in the fishery sector and the WTO implications of Australia's new bill aimed at halting illegal timber imports.

As always, we welcome your comments, questions, and possible contributions. Write to us at biores@ictsd.ch.

The BioRes Team

Special meeting report

CRITICAL VOICES DROWN OUT OFFICIAL OUTCOME IN RIO

The negative response to Rio+20 by civil society and the media has been unmistakable, but as the dust settles untapped opportunities may emerge.

Following months of informal negotiations and amid lowered expectations, the UN Conference on Sustainable Development (UNCSD, or Rio+20) drew to a close on 22 June, with civil society groups openly criticising governments for wasting a seldom seen opportunity. But while critics pointed to the need for a tangible outcome at a time when "multilateralism is in crisis," as some put it, others are pointing to new opportunities for progress represented in part by stepped-up engagement by the private sector.

Several months prior the Rio conference, negotiators met repeatedly at UN Headquarters in New York in what are known as "informal informals," with the aim of finalising a UNCSD outcome document that would secure a renewed commitment to sustainable development and help meet new and emerging challenges. But several issues – including many related to trade – proved to be divisive and doubts were repeatedly raised over the possibility of achieving a meaningful outcome. Indeed, heading into the meeting, some pundits provoked organisers by questioning whether the meeting would produce an outcome that would make up for the carbon emissions expended by the thousands of participants in getting to Rio and commuting to the Riocentro venue.

The meeting marked 20 years since the world gathered in Rio and agreed to three key outcomes: an ambitious plan of action to tackle human impacts on the environment (Agenda 21); a strong declaration on environment and development; and a set of principles aimed at managing the planet's forests. The 1992 meeting is also notable for opening two major processes for signature: the Convention on Biological Diversity (CBD); UN Framework Convention on Climate Change (UNFCCC); and the UN Convention on Desertification (UNCCD) a few years later. But despite being billed as the next "once-in-a-generation" opportunity, this year's meeting was far more humble in its outcomes.

The UNCSD 20-22 June high-level segment of the event was expected to feature few surprises, as negotiators had already adopted an outcome document – "The Future We Want" – and few expected ministers to re-open issues for negotiation. The final outcome text sparked a strong response from critics over the weakened language that was ultimately used in order for delegates to reach common ground.

Civil society responds

In the weeks leading up to Rio+20, many organisations as well as governments reportedly cut their delegations, in part due to concerns over soaring costs in Rio, and also due to their low expectations with regard to the outcome.

Nonetheless, NGOs had a strong presence in town, particularly at the *Cúpula dos Povos*, or People's Summit, which ran for the full length of the meetings and attempted to capture the voices not formally participating in the process at the official event. Competition between food, fuel, land, and biodiversity were recurring themes at the grassroots summit, where several civil society groups - despite their frustration at the Rio outcome - adopted an approach on the way forward through a global citizen's movement in the form of People's Sustainability Treaties.

In addition to addressing the plenary and participating in the People's Summit, NGOs staged many peaceful protests both at the suburban Riocentro negotiating venue and in the centre of Rio de Janeiro itself. While the strong presence of the Brazilian army and

police force gave peace of mind to conference attendees concerned about safety, many complained that it added a feeling of heaviness to the events.

On the negotiations themselves, a group of NGOs released a counter statement as a response to the official outcome document, explaining why the text lays the groundwork for "The Future We Don't Want." The statement was endorsed by more than 1,000 organisations and individuals in just one day. In the negotiations themselves, an NGO representative at the high-level plenary on 20 June notably asked for the phrase "with the full participation of civil society" to be removed from the official outcome document.

"It would be a shame and a waste for you to only come here and sign off a document," the NGO representative told heads of state directly. "We urge you to create new political will that would make us stand and applaud you as our true leaders."

Some civil society groups expressed frustration that particular areas that they had hoped would produce tangible outcomes were acknowledged using remarkably weak language and lacking reference to key issues. Agriculture and forests, for example, have countries committing to only "reaffirm" previously made commitments and "highlight" uncontroversial needs. In terms of specific missed opportunities, some pointed to the lack of action on phasing out fossil fuel subsidies, controlling the high seas, improving women's reproductive health, and mitigating conflict and disasters such as the Fukushima nuclear disaster in Japan.

By the last day of the meeting, there was a strong sense of participants losing steam. Delegates milled about the hallways of the Riocentro venue and many left ahead of time, in stark contrast to the frenetic talks going into overtime, for example, in Durban in 2011 and at other major environmental negotiations. Ultimately, heads of state and governments mainly read out prepared statements and did not reopen the outcome document, which was adopted in the form it was forwarded from the technical negotiations.

Connie Hedegaard, the EU's Commissioner for Climate Action, was one of the few major political players who joined the civil society chorus of criticism over the final Rio outcome. "Nobody in that room adopting the text was happy," she wrote on Twitter. "That's how weak it is. And they all knew. Disappointing."

Trade concerns and the green economy

Trade issues played a notable role in shaping the Rio negotiations and, ultimately, the outcome document. This was seen in the framing of the green economy debate, which provoked a negative response from some developing countries. Rio+20 regional preparatory meetings as early as October 2011 saw several developing countries lash out at the plans to establish a robust global green economy as a measure that could impede development.

Many developed countries, particularly those in Europe, saw Rio as an ideal venue for helping to create the conditions for ushering in a low-carbon and resource-efficient global green economy, which some studies have estimated could create 15-60 million additional jobs. Key initiatives involved in the green economy plan included the elimination of fossil fuel subsidies, introducing environment-related taxes, and placing a higher value on services provided by nature.

But much of the strong language was dropped from earlier texts after several developing countries expressed concern that a green economy could effectively exclude them from trade opportunities by increasing the cost of manufacturing and transportation. Technologically advanced countries would be at a clear advantage under such a scheme, they argued.

Some developing countries also questioned how complementary previously-stated development goals under the WTO's Doha Round of trade talks – especially with regards

2015

Targeted end date for the UN's Millennium Development Goals and start date for the Sustainable Development Goals. This is also the year that the UN Framework Convention on Climate Change is expected to formalise its Durban Platform.

to special and differential treatment for developing economies – would be with the implementation of the green economy.

The profile and language of the green economy thus was lowered in the current text and specific references to trade were reduced to two paragraphs – down from nine. The two paragraphs, which fall under the Means of Implementation section of the document, reaffirmed the importance of trade as an “engine for development and sustained economic growth” and spelled out a message to WTO members to “redouble their efforts to achieve an ambitious, balanced and development-oriented conclusion to the Doha Development Agenda.”

The issue of transferring environmentally sound technology and know-how to developing countries is also featured under the section on Means of Implementation. Countries agreed on the importance of supporting technology transfer and emphasised the need for appropriate enabling environments for innovation and a facilitation mechanism for promoting such transfer. The section also recognises the need for using space-related science for monitoring and evaluation to make informed sustainable development policymaking decisions.

SDGs move forward, other trade issues acknowledged

As expected, the text forwarded to leaders contained language supporting the development of Sustainable Development Goals (SDGs), a set of measurable targets based on an initiative proposed by Colombia and Guatemala that are aimed at promoting sustainable development around the world. Former Norwegian prime minister Gro Harlem Brundtland, who was instrumental in launching the first Rio Earth Summit, called the section on SDGs the most important section of the document.

The SDGs are designed to provide a concrete approach to make measurable progress toward achieving balanced sustainable socio-economic growth in tandem with sustainable sourcing of natural resources. They have been widely compared to the Millennium Development Goals (MDGs), which were adopted in 2000 to help co-ordinate efforts around the world to raise the standard of living of the world's poorest. The non-binding MDGs have a target end date of 2015, and it is thought that the SDGs will pick up where they left off by addressing criticism that the original Goals fail to address the role of the environment – particularly climate change – in development.

Some critics have argued that the SDGs pose a threat to the MDGs, with the thought that attention will be shifted away from the original Goals prematurely. The current text addresses this concern, stating that the SDGs “should not divert focus or effort from the achievement of the Millennium Development Goals.”

The need to promote sustainable consumption and production was also featured in the outcome document. Countries agreed to text that reaffirms commitments they made in phasing out fossil fuel subsidies, but uses purposefully weak language to ensure developing countries are not negatively impacted by sweeping measures.

“We invite others to consider rationalizing inefficient fossil fuel subsidies by removing market distortions, including restructuring taxation and phasing out harmful subsidies, where they exist, to reflect their environmental impacts, with such policies taking fully into account the specific needs and conditions of developing countries, with the aim of minimizing the possible adverse impacts on their development,” the document reads. In addition, the outcome text reaffirms a commitment to eliminate those fisheries subsidies that are responsible for illegal, unreported, and unregulated fishing and overcapacity, while calling for a conclusion of multilateral disciplines on fisheries subsidies in the WTO context.

“Given the state of fisheries resources...we encourage States to eliminate subsidies that contribute to overcapacity and over-fishing, and to refrain from introducing new such subsidies or from extending or enhancing existing such subsidies,” the section reads.

The text also looks carefully at the role of oceans, with countries noting with "concern" the health of oceans and marine biodiversity. It also calls the need to return ocean stocks to sustainable levels "urgent" and asks countries to develop and implement science-based management plans that focus on "reducing or suspending fishing catch and effort commensurate with the status of the stock."

Notably, the document includes a commitment to establish an Agreement on Marine Biological Diversity in Areas Beyond National Jurisdiction under the UN Convention on the Law of the Sea (UNCLOS) by the end of the 69th Session of the UN General Assembly.

The uncertain road ahead

Despite the widespread disappointment over the lack of commitment demonstrated by the final outcome document, there are a number of coalitions that are already looking to the future and seeing what opportunities can be gleaned from the Rio+20 process.

Trying to focus on the positives, Matthew Gianni of the Deep Sea Conservation Coalition said that Rio+20 had done much to keep the need for marine protection in the political and public consciousness alive.

"Hopefully, we will be able to use that to push – in force – for some real changes over the next coming months and years," Gianni said, adding that his organisation would not be disheartened by the outcome in Brazil. Many others – including government representatives – took a similarly pragmatic approach, looking for the elements of opportunity provided in the outcome document.

The high presence of private sector representatives in Rio – particularly in contrast to Rio '92 – was impossible to ignore. Some observers were quick to point out that if governments are unable or unwilling to take the lead on sustainable development, progressive businesses are poised to fill the gap. Supporters of the business model argue that there are many diverse bottom-up approaches for sustainability – such as public-private partnerships and multi-stakeholder forums – that could offer a more constructive path forward than the exchange of political barbs.

Given this mixed framework for the road ahead, governments remain tasked with bringing action from the outcome document forward. Chief among these are the negotiations of the SDGs, which, among other items in the outcome document, have been pushed forward to the 68th UN General Assembly in October 2013. Numerous other actions are also pegged to be carried out at the national level, according to domestic circumstances.

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NATURAL RESOURCES

The Australian Government's Illegal Logging Prohibition Bill: WTO implications

Duncan Brack

Current efforts by the Australian government to exclude illegally logged timber from imports and from domestic processing should be WTO compatible.

The Australian government is currently legislating to exclude illegally logged timber from imports and from domestic processing. This article explores whether the measures proposed in the Australian legislation are likely to be compatible with World Trade Organization (WTO) rules and concludes that they should be. The Australian government will need to be careful to ensure the legislation is designed and implemented in ways that do not afford protection to Australian products and is as non-trade-restrictive as possible. Within those constraints, however, they should not be inhibited from pressing ahead and introducing measures, similar to those being implemented in other consumer countries, to exclude illegal products from the market – and by so doing, improve sustainable development, protect the interests of companies playing by the rules, and uphold the rule of law.

The illegal logging prohibition bill

In October 2007, the Australian Labor Party published a policy document with aims to restrict the import of illegally logged timber, and, after consultation with stakeholders, an "exposure draft" bill was introduced to Parliament in March 2011. After referrals to Senate committees and the incorporation of various recommendations, the draft bill contains three main proposals:

- 1 A prohibition on the import of all timber products containing illegally logged timber, and on the processing of domestically grown raw logs that had been illegally harvested.
- 2 A requirement on importers of "regulated timber products" and processors of domestic raw logs to undertake due diligence to mitigate the risk of products containing illegally logged timber. Importers are to be required to complete a statement of compliance with the due diligence requirements alongside the customs import declaration. The definition of "regulated timber products" and the exact processes for carrying out due diligence are to be defined later in secondary legislation.
- 3 A comprehensive monitoring, investigation, and enforcement regime to ensure compliance with all elements of the bill.

In February 2012, the Senate Rural Affairs and Transport Legislation Committee recommended that the legislation be aligned as much as possible to similar provisions in other countries, in particular the EU's Timber Regulation and the United States' Lacey Act. In many ways, the bill is similar in approach to the European Union's Timber Regulation, which enters into force in March 2013. This will prohibit the placing of illegally harvested timber and timber products – whether from domestic production or imports – on the EU market, and require operators to implement due diligence systems in order to minimise the risk of doing so. This complements the series of bilateral voluntary partnership agreements (VPAs) which the EU is currently negotiating with timber-producing countries. These incorporate a licensing scheme designed to ensure that only legal timber products are exported to the EU from those countries; any products entering the EU under VPA licenses will automatically satisfy the requirements of the Timber Regulation.

Major criticisms

A number of submissions to the Senate committee during its inquiry raised concerns about the interrelationship of the proposals with World Trade Organization (WTO) rules,

and a number of timber-exporting countries expressed concern over the potential impact on their exports to Australia. Although the Committee supported the bill, a minority report from its Liberal-National opposition members noted concerns over a possible lack of consultation with timber-exporting countries and called for more outreach to affected countries and the conclusion, where possible, of bilateral arrangements with them. In light of this, and in the face of increasing opposition from Liberal-National parliamentarians, in March 2012 the bill was referred to a further inquiry, to be conducted by the Parliament's Joint Standing Committee on Foreign Affairs, Defence and Trade. This concluded in June 2012; the Committee recommended that the bill be passed, but also that relevant foreign governments and other stakeholders should be consulted closely on the implementation of the bill and the development of subordinate legislation.

WTO implications of measures against illegal timber

This is not the first time that the issue of the WTO compatibility of measures designed to exclude illegal timber from trade has been raised. There has never been a WTO dispute case dealing with illegal products, or one even vaguely similar, so no one can draw hard and fast conclusions about what the outcome of any such dispute might be; all we can do is extrapolate from the WTO agreements themselves and possibly relevant dispute cases. The next section surveys the main issues.

Distinguishing between legal and illegal timber

Governments seeking to exclude imports of illegal timber products are faced with an immediate problem: how can legal goods be distinguished from illegal ones? The exporting and importing companies may not be aware that they are handling illegal products – and even if they are, standard shipping documentation is often not difficult to falsify. So some kind of additional evidence of legality is necessary, such as the licenses of legality that will be issued under the EU's VPAs with timber-exporting countries. It is in the attempts to establish requirements of evidence of legal origin and processing of imported timber products that the possibilities of interaction with WTO trade rules lie: do they lead to unfair treatment of imported products or unnecessary restrictions on trade? The Australian system is designed to discriminate between legal and illegal timber, and if these are considered to be "like products," this is a violation of GATT Article I. Furthermore, if the requirement for proof of legality is imposed for some countries (e.g., countries with a high level of illegal logging) and not others, some WTO members would be treated differently from others – also a violation of GATT Article I ("most-favoured nation" treatment). If imports are treated differently from domestic timber products, this is a violation of GATT Article III ("national treatment"). Finally, if the requirement is a trade restriction imposed at the border other than a duty, tax, or other charge, it would be a violation of GATT Article XI ("elimination of quantitative restrictions").

Clearly, the exact design of the trade-restrictive measures is important. The EU Timber Regulation, for example, is carefully constructed to apply both to domestic production and to all imports, regardless of origin. However, even if the measures are notionally the same, if in practice they operate to afford an advantage to domestic products, or to the products of some countries and not others, there could still be a WTO violation. And regardless of that, a requirement for documentary proof of legality by itself has the potential to conflict with Article XI.

The "savings clause": GATT Article XX

If the legality requirement is found to conflict with any of the GATT articles described above, it could still be "saved" under the provisions of GATT Article XX, under which exceptions can be made to the other provisions of the agreement, and therefore be in compliance with WTO rules. None of the subparagraphs of Article XX relate explicitly to illegal production, but (b), (d) and (g) may provide possible justifications in the case of a requirement for proof of legality, and are explored in more detail below. In each case, even if the measure can be justified under one of these sub-paragraphs, it must also satisfy the requirements of the headnote to Article XX, which requires that the measures not be applied "in a manner which would constitute a means of arbitrary or unjustifiable

discrimination between countries where the same conditions prevail, or a disguised restriction on international trade."

Article XX(b)

Article XX(b) provides that measures are allowable if "necessary to protect human, animal, or plant life or health." Action taken against illegal logging is clearly important to "plant life or health," but the main question is whether the measure is "necessary" – that is to say, are there no less trade-distorting options available that meet the same objective? It could be argued that imposing an additional documentary requirement for proof of legality on the entire timber and timber products sector, despite the fact that the majority of its products are legal, could result in an unnecessary degree of disruption to trade, raising timber prices, reducing demand for timber, and encouraging consumption of timber substitutes. Alternative non-trade-disrupting options, such as improving law enforcement in the country of origin, would be preferable.

This is not, however, a strong argument, as the costs incurred in proving legality vary from country to country and are not always very significant. The increasing use of national and international legality verification schemes, particularly in high-risk areas, is making this easier. In addition, products certified under voluntary certification schemes such as the Forest Stewardship Council, which already bear the costs of proof of legality, may not increase in price at all. Many producer countries have argued that trade controls on their exports are a necessary component of their own strategies to improve enforcement, denying illegal loggers revenue from foreign markets. If the trade measures are part of a broader package of steps to improve forest governance – as in the EU's Forest Law Enforcement, Governance, and Trade (FLEGT) initiative – rather than an unaccompanied unilateral trade measure, it should be easier to argue that they are a "necessary" component of a broader strategy. Nevertheless, the "necessity" test can be a difficult one to satisfy.

Article XX(d)

The arguments are similar in the case of Article XX(d), which covers measures "necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement ... and the prevention of deceptive practices." This was designed to cover measures that could only be taken at the border, such as a ban on imports of counterfeit goods. If the counterfeiting was carried out domestically, the country in question could take action against the enterprises involved, but where they were foreign companies, no such action would be possible, and trade measures would be necessary to defend intellectual property rights in the importing country. It could certainly be argued that imposing a legality requirement for timber products at the border would help to secure compliance with laws on timber harvesting, processing, and export that are not themselves incompatible with the GATT and also to prevent deceptive practices (i.e., illegally sourced timber being passed off as legal). However, the same "necessity" test applies as in Article XX(b).

Article XX(g)

Article XX(g) provides that measures are allowable if they are "relating to the conservation of exhaustible natural resources", as long as the measures are "made effective in conjunction with restrictions on domestic production or consumption." In practice, of course, illegal logging almost always contributes to the unsustainable exploitation of forest resources, in some cases dramatically so. Article XX(g) probably offers the strongest defence, not least because it does not contain a "necessity" test.

The well-known WTO dispute case involving a US embargo on imports of shrimp fished with methods that killed endangered sea turtles resulted in the interpretation that "exhaustible natural resources" are not limited to finite resources such as minerals, but can include living species that are susceptible to depletion, such as forests and their products.

Additionally, a measure may target resources outside the country that applies the trade restrictions, where there is a "nexus" between the resource and that country. It can be argued that consumers in the importing country share a "nexus" through their use of the

timber products, their interest in the global rule of law; or that forests, as sources and reserves of biodiversity and as a sink for carbon, are a global resource of concern to all. The measure must be enforced evenly between domestic and foreign products; it must be "made effective in conjunction with restrictions on domestic production or consumption" (Article XX(g) and must not be applied "in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade" (headnote to Article XX).

Finally, the country seeking to regulate should negotiate in good faith with other countries with a view to seeking bilateral or multilateral agreements.

Implications for the Australian bill

It is impossible to know precisely how the proposals in the Australian legislation relate to these WTO rules, as the details of the proposals are not yet finalised. In particular, we do not know exactly which products will fall into the category of "regulated timber products" for the purpose of the due diligence requirements, or many of the details of those requirements themselves – including, importantly, which legality verification, forest certification, or other existing or evolving systems for identifying legality are likely to be regarded as placing their products into low-risk categories.

However, as long as the basic WTO principle of non-discrimination is respected – as reflected in Article XX(g) and the headnote to Article XX – it seems likely that Article XX(g) of the GATT could provide a justification for trade-restrictive measures aimed at excluding illegal timber from international trade, should a WTO dispute ever be brought. The main arguments against this position, as expressed in one of the submissions to the Senate Committee inquiry, seemed to rest on the assumption that any products that enter trade must be treated in the same way, regardless of their status under national laws (i.e., that legal and illegal timber are "like products"). Taken to its logical conclusion, this would require all countries to have exactly the same laws – which seems likely to be a misreading of the GATT.

Conclusion

The interrelationship of measures designed to restrict trade in illegal timber and timber products with WTO trade rules has been a constant issue throughout the international debate over the last ten years or more. On occasion, the spectre of a WTO challenge has been deployed by those seeking to inhibit any effective action against illegal logging – for example, by those defending the practices of companies benefiting from illegal behaviour, or by deregulatory enthusiasts who appear to believe that illegal trade is a small price to pay for trade liberalisation and globalisation.

There are, nevertheless, genuine concerns about the extent to which well-intentioned measures may inhibit trade in legal products as well as illegal, or favour some countries' products over others, and it is right to be careful in designing measures to ensure that they do not conflict with WTO rules. The principles of rules-based equal treatment and non-discrimination that lie at the heart of the WTO agreements are worth defending.

There has never been a dispute case dealing with illegal products, or one even vaguely similar, so no one can draw hard and fast conclusions about what the outcome of any such dispute might be; all we can do is extrapolate from the WTO agreements themselves and possibly relevant dispute cases. There are good reasons for thinking that trade measures taken against illegal timber can be compatible with WTO rules. As long as care is taken in their design, it should be entirely possible to respect WTO constraints, while at the same time implementing measures effective enough to exclude illegal products from international trade – and by so doing, improve sustainable development, protect the interests of companies playing by the rules and uphold the rule of law.



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This article is based on a longer IISD paper, which can be accessed [here](#). The paper was prepared in collaboration with Alexander C. Chandra and Herjuno Kinasih, of Trade Knowledge Network South East Asia.

GREEN ECONOMY

Green future: Whither the green economy in the wake of Rio+20?

Moustapha Kamal Gueye

The current economic model is running out of steam and policymakers are considering a move to a greener economy. But while the greening of the economy is widely accepted as a possible approach towards sustainable development, debate remains on the details. Rio+20 provided some guidelines.

The topic of the green economy was a major component of discussions during the preparatory process for Rio+20 as well as during the conference itself. The strong debates it caused reinforced the importance of the notion of green economy, its content and its connection with the concept of sustainable development. There is no common definition of the concept of green economy today. However, the United Nations Environment Programme (UNEP) provides a broad definition. A green economy would thus be an economy that results in improved human well-being and social equity, while significantly reducing environmental risks and ecological scarcities.^①

Economic, social and environmental factors

Over the past decade, several simultaneous crises have occurred or intensified: climate change, the progressive loss of biodiversity, the food and energy crisis, and the recent financial crisis that has affected the global economy. While these crises have different root causes, they are all associated with poor allocation of funds.

Land erosion and degradation, water and air pollution, and the depletion of forests and of fishery resources all contributed to weakening the resource base on which people directly depend for survival. Resource depletion and ecosystem degradation have a negative effect on economic activity. These impacts are due to the ineffective development choices and strategies that encouraged the rapid accumulation of physical and financial capital at the cost of the depletion and excessive degradation of natural capital. Investments in real estate, financial assets, and fossil fuel have risen in inverse proportion to the efforts made to finance the protection of the ecosystems, the promotion of renewable energy, and the preservation of both land and water.

These policies have also significantly impacted social development, with unemployment figures rising considerably. As a result, all governments are faced with strong social and political pressure and must find solutions that are both immediate and sustainable. This can only happen if development models and paradigms are radically altered and a process of change is set in motion.

Many poor countries are rapidly exhausting their resource base, undermining prospects for future prosperity.

A new vehicle towards sustainable development

Despite having helped us make significant progress, the development model that has existed until now has not improved the living conditions in the most vulnerable countries and has not managed to build the conditions for sustainable progress divided equally among communities and generations. Over the past thirty years, the number of countries rated as Least Developed Countries (LDC) by the United Nations has doubled, whereas only three countries have moved up the list: Botswana, Cape Verde, and Maldives. In

300,000

Targeted number of new green jobs resulting from South Africa's "green economy accord."

addition, many poor countries are rapidly exhausting their resource base, undermining prospects for future prosperity.

As people become aware of the need to find an alternative to production based on unsustainable resource extraction and pollution, initiatives supporting sustainable development will be able to emerge. It is within this context that UNEP's Green Economy Initiative, launched in 2008, should be placed. Using a simulation on redistributing investments of up to two percent of the world's GDP to ten key areas of the global economy, UNEP has tried to prove the theory that a green economy would promote a sustainable economic recovery by creating new drivers of growth and jobs.

According to UNEP, investing in the green economy would reinforce long-term economic performance by generating a GDP that would be higher than the one produced in a business as usual scenario (i.e., if the global economy were to continue with its current pattern of massive consumption of fossil fuels and other non-renewable resources). This positive impact would then be seen in the field of unemployment, especially for construction, transport, forestry and agriculture. The green economy would also significantly lower the ecological footprint while raising the stocks of renewable resources.

Key issues to address

Green industrial growth is an essential aspect of a move toward a greener economy, particularly in developing countries that aspire to industrialisation. The establishment of an environmentally sensitive industrial sector could encourage the development of more efficient companies throughout the world while allowing developing countries to take a leap forward. Currently, many developing country industries are characterised by high-intensity energy and material use, which adds to production costs and harms their competitiveness on the global market.

Limited access to energy is one of the main obstacles against meeting the Millennium Development Goals (MDGs) in Africa [...]

A green economy plan must also establish a model for transitioning to alternative sources of energy. Limited access to energy is one of the main obstacles against meeting the Millennium Development Goals (MDGs) in Africa, for example. However, the African continent has the greatest technical potential for producing renewable energy in the world, thanks to its huge resources in solar energy, biomass, and wind turbines. Realising this potential could stimulate economic growth and create jobs as well as strong environmental benefits.

The transition toward sustainable agriculture is another key pillar in the transition to a green economy. Agriculture represents 34 percent of the GDP of Sub-Saharan countries and employs over 70 percent of the population. In order to maximise natural capital in agriculture, new production methods that lower water pollution and land erosion, optimise the use of organic inputs, and provide high productivity and better income to farmers need to be put in place. Small-scale ecological agricultural systems, the sustainable use of chemical fertilisers and pesticides, and labour-intensive production systems could provide a foundation for the green transformation of agriculture in Africa.

Post Rio+20 green economy opportunities

Heads of state, high-level officials, and members of civil society who met in Rio stated that the "green economy in the context of sustainable development and poverty eradication [is] one of the important tools available for achieving sustainable development and [...] could provide options for policy making but should not be a rigid set of rules."

15-20%

Projected annual growth of China's environmental protection industry.

A large number of countries around the world have started to draft or implement strategies to develop a green economy within the framework of their sustainable development goals. Their initiatives are now supported by the statement released by the Rio Conference, which reasserts the sovereignty of each country over its own natural resources and its economic choices dependant on its circumstances and context. Some countries are pioneers in this field.

For example, South Africa launched a "new growth strategy" in 2010 that aims at providing a basis for the creation of 5 million jobs in 2020 and promoting a more inclusive and greener economy through macro and micro-economical interventions. The South-African government also announced a "green economy accord" in November 2011 – this social pact between the government, the trade unions, employers, and civil society organisations aims to create 300,000 new green jobs. The agreement plans to double the percentage of energy generated by renewable sources.

In the Caribbean, Barbados has adapted a national development strategy for the 2006-2025 period. It is comprised of six strategic goals, one of which includes the building of a green economy. The strategy sets out several specific goals, including meeting 30 percent of energy needs with energy from renewable sources and reducing coastal erosion – a significant challenge in the island state – by 50 percent.

China intends to invest 468 billion dollars into making its economy more green as part of its 12th five-year development plan (2011-2015). Among other issues, Beijing plans to focus on recycling and reusing waste, developing clean technologies, and promoting renewable energy. China has doubled its investment in these areas compared to its previous five-year plan. China's environmental protection industry is therefore expected to grow at an average of 15 to 20 percent per year and produce 743 billion dollars in five years.

Other countries, such as Mexico and Korea, have also taken initiatives or implemented plans on various scales to promote elements of a green economy and change their economic trajectory in the short or medium term.

The Rio+20 Conference is an important step in reaching the goal of greening the planet's economy in a world that is facing major economic, social, and environmental challenges. By recognising that the green economy in the context of sustainable development and poverty elimination is an important tool to creating sustainable development, governments have laid the groundwork for a new impetus toward a more inclusive and sustainable form of development.

① UNEP, 2011, *Towards a Green Economy: Pathways to Sustainable Development and Poverty Eradication*. www.unep.org/greeneconomy.



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ILLEGAL WILDLIFE TRADE

Beyond biodiversity: Sustainable development implications of South Africa's "rhino wars"

Sanaz Sohrabian

A spike in demand for rhinoceros horn is decimating populations in South Africa. At stake is not only the survival of the species, but the many sustainable development opportunities afforded by ecotourism.

It's a calm evening in South Africa's Dabchick nature reserve when farm manager Martin Roux hears a shot ring out in the distance. Roux, who just returned from a patrol on the farm, leaps into his vehicle and speeds off in the direction of the shot. Upon his arrival, he discovers the carcass of a mother rhino with its horn sawn off. The troubling incident, which took place last March, has been an increasingly familiar occurrence in recent years, largely due to a surge in demand for rhino horns from Asia. Indeed, illicit exports of animal parts from the country have been rising steadily and there is no sign of abatement.

The first six months of 2012 have been particularly devastating for South Africa's iconic rhino. Figures released by Pretoria say that some 281 rhinos have been poached already, a number that will surely surpass last year's annual total of 448 reported incidents. Kruger National Park – the country's largest and best known game reserve – has been hit hardest by poachers, with a loss of 164 rhinos since January. But while the increased number of rhino deaths poses a significant threat to conservation efforts in South Africa, the problem also poses challenges to sustainable development in the region.

Rhinoceros are one of Africa's "Big Five" wildlife tourist attractions – lions, leopards, elephants, and Cape buffalos are the remaining four – and contribute to the valuable ecotourism industry. With South Africa being home to 75 percent of Africa's rhino population, wildlife tourism and the safari industry represent an invaluable source of revenue in marginalised rural communities where few other employment opportunities exist. However, poaching is increasingly recognised as a threat to the industry.

"Our rhinos are part of our valuable ecotourism and safari industries. Their very existence creates employment and generates important tourism revenue," says Mike Rumble of the African Conservation Trust.

In 2011, South African President Jacob Zuma announced six priority areas to boost job creation in South Africa, tourism being one of them. According to Zuma, for every 16 tourists that visit the country, one South African job is created.

Supply and demand

Rhino horn is prized in Eastern traditional medicine, particularly in China and Vietnam. According to wildlife trade experts, a rumour that rhino horn cured cancer in a high ranking Vietnamese government official is responsible for a recent surge in demand for rhino horn in Asia. The rumour reportedly spread rapidly across the country, eventually making its way to China, rejuvenating an interest in the horns, which had until recently been primarily used only in traditional medicine. Since then, poaching gangs have managed to organise themselves in a sophisticated manner with one goal in mind: to obtain as many horns as possible, through any means possible. This poaching crisis has ignited a war between poachers and southern African conservationists and has become known as Africa's "rhino wars."

Pretoria recognises the explicit threats poaching has on the country's economy and environment and is taking a strong stance against illegal poachers. Recent reports indicate that South Africa's Department of Environmental Affairs was the recipient of nearly US\$3 million in funding from the Washington-based funding agency Global Environment Facility

1,000

Number of poached rhinos since 2006.

22

Number of poachers killed since 2006.

200

Number of poachers arrested since 2006.

(GEF), aimed at strengthening the country's abilities to fight wildlife crimes. South Africa says it hopes to enhance its enforcement capacity through forensic-based technologies.

Ecotourism impacts

Eco-tourism, which is based on attracting visitors to a given country's natural environments and biodiversity, contributes to sustainable development and creates new job opportunities. Employment generated by ecotourism has been recognised as being particularly beneficial to indigenous peoples' employment opportunities and growth of local businesses is connected to increasing numbers of tourists. According to the findings of the Collaborative Partnership on Forests (CPF), benefits of ecotourism to local businesses are higher than those from mass tourism and it provides incentives to local communities to protect their surrounding environment.

"Ecotourism has a far greater potential for contributing to income and livelihoods in poor rural communities than what is realised," says Edgar Kaeslin, from the UN Food and Agriculture Organization (FAO).

Tourists from all over the world visit South Africa to observe the country's rich natural environment and rare species. Black rhinos – considered one of the rarest rhinos in Africa – are a main attraction in South Africa and are responsible for driving much tourism in the region. The tourism industry, in turn, creates valuable job opportunities, often in areas where few other economic opportunities exist. According to *Rhinos Under Threat*, a recent documentary released by United Nations TV (UNTV) and the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), community lead initiatives linking employment, infrastructure, education, and health care with conservation and species protection are being promoted throughout South Africa.

But these ecotourism spin-off benefits are in jeopardy. The recent drop in numbers of black rhinos due to poaching has caused a spike in the value of their horns which, in turn, is stimulating the black market. The rhino black market is an imminent threat to eco-tourism industry not only because of dropping numbers, but also due to the massive security costs associated with protecting private game reserves.

William Fowlds, co-owner of Amakhala Game Reserve and chairman of the Eastern Cape private game reserve association Indalo, says escalating costs associated with rhino poaching poses a serious threat to the sustainability of the eco-tourism industry.

"This is not investment that will grow, that we will get a return on. It's just dead money, that we will not see again," Fowlds said. "So, if we actually lose a rhino or not, it adds up to a severe cost, and this is impacting on the budget we have available to manage all our other conservation systems and species."

Legalise rhino trade?

Since 2006, the tally on Africa's rhino war stands at more than 1,000 poached rhinos, 22 poachers killed, and more than 200 poachers arrested. John Hume, a 69-year-old entrepreneur and game farmer, has floated a controversial proposal to legalise trade in rhinoceros horn. Hume says rangers and conservationists could win the war if rhino horns were farmed on a large scale. Opponents to the scheme, however, argue that legalising rhino horn won't change the fundamental economics behind poaching.

According to Hume, as buyers become more confident in the availability of legal horn, prices will fall, which will keep rhino horn off the black market. He argues that, unlike elephants, rhinos can be farmed in a more "sustainable" manner because they can survive without their horns (elephants die when their tusks are removed because the nerve attached to their husks becomes infected).

"If you cut the horn about three inches above its base, it will grow back in two years. That means there is a never ending supply of rhino horn if we're smart enough to keep the bloody animal alive," he said, adding that a farmed rhino can produce 1kg of horn per year.

International regulation

For the last 36 years, CITES has been tasked with enforcing the practice of sustainable use of biodiversity by issuing permits and certificates to regulate some 35,000 species. The convention is an international agreement between governments to ensure international trade of wild animals and plants does not impede their survival. Under the CITES regulation, rhinos are listed as an Appendix I species – one of the most endangered. CITES prohibits the international trade of Appendix I species except when the purpose of the import is non-commercial.

During The 62nd meeting of the Standing Committee of CITES – which took place on 23-27 July in Geneva – delegates ramped up pressure on countries that either fail to sufficiently address illegal wildlife trade in their legislation or to report on such trade. The topic of elephant and rhinoceros conservation sparked fierce debate during the meeting. Vietnam – the country with highest demand for rhino horn – was given until 3 September to report on its progress on reducing rhino horn demand. The country is required to explain the measures they will implement to prevent illegal import and trade in rhino horn, how the black market for such trade is targeted in the country, and what the country is doing to discourage the use of rhino horn.

"We meet at a time when the illegal killing and illegal trade in African elephants and rhinoceros have reached the highest levels in our decade," CITES Secretary-General John Scanlon told delegates.

Alongside CITES, in the battle to combat rhino poaching, is the International Consortium on Combating Wildlife Crime (ICCCWC). ICCWC is comprised of five different organisations – the CITES Secretariat, INTERPOL, the United Nations Office on Drugs and Crime (UNODC), the World Bank, and the World Customs Organisation (WCO) – with the common mission to "usher in a new era where perpetrators of serious wildlife crimes will face a formidable and coordinated response." Each of these five organisations offer specialised expertise, which is able to aid national enforcement agencies. In its attempts to curb elephant and rhino poaching, ICCWC helped organise the first international workshop aimed at establishing a network of controlled delivery units for forest and wildlife law enforcement.

"The use of this enforcement technique will yield real results in bringing to justice those individuals who organise the smuggling of wildlife," Scanlon said at the meeting. "And this workshop clearly demonstrates the added value of working together through the International Consortium on Combating Wildlife Crime in taking up the fight against wildlife crime."

The future

Next year, as Bangkok hosts CITES's 16th Conference of the Parties (COP16), countries will vote on a report that proposes the creation of a centralised ivory sales body, the Central Ivory Selling Organisation (CISO), that would legalise the sale of ivory. The report, commissioned by the CITES secretariat, seeks to legalise the sale of ivory from elephants that die naturally and similar proposals may be made for rhinos and rhino farming.

During the 62nd meeting of the Standing Committee of CITES, delegates agreed to penalise seven nations for either lacking stringent regulations or failure to report on wildlife trade. Suspensions against Comoros, Guinea-Bissau, Paraguay, Rwanda, Nepal, Solomon Islands, and Syria will take place unless they take corrective action by 1 October. As conservationists and rangers remain in the forefront of the rhino wars in Africa, delegates are looking toward COP16, where they will further evaluate and discuss rhino poaching and its threats to conservation and sustainable development.



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NATURAL RESOURCES

Taking stock: Perverse subsidies in the fisheries sector

At Rio+20 governments reaffirmed their commitment to phase out perverse subsidies in the fisheries sector. Significant progress was made under the WTO's Doha Round negotiations on fishery subsidies, but the lack of a complete package has left the talks in a state of limbo. Unless countries find ways to capture that progress, the survival of fisheries and the livelihoods of fishermen remain at risk.

Subsidies have always been part of the policy toolbox that governments use to achieve a variety of policy goals. Over the last decades, they have been particularly pervasive in the energy, agriculture, and fisheries sectors. A recent report by the McKinsey Global Institute estimates that current government supports globally on energy, water, agriculture, and fisheries total more than US\$1 trillion dollars annually.^① The way in which these subsidies are allocated plays a major role in shaping global production and trade patterns, income distribution, and the use of natural resources.

Critics of subsidies often point to the inefficiencies and economic distortions they create, their perverse distributive consequences, and the negative impact they tend to have on the environment by lowering prices and exacerbating the absence of prices on externalities. In the area of fisheries, subsidies have been blamed for enhancing the capacity of fishing fleets to the point that stocks are consistently over-exploited. This phenomenon can be seen each year in the Mediterranean when European fleets meet established quotas in far less time than what has been allocated by authorities. However, despite the negative impacts, subsidies can also play a positive role in addressing market failures or advancing public policy objectives such as supporting the livelihoods of small-scale fisheries or delivering essential public goods.

Fisheries provide livelihoods to vast numbers of people and are a cornerstone of food security in developing countries. According to the FAO, some 45 million people were directly engaged in capture fisheries or in aquaculture in 2008, with more than 90 percent of them located in developing countries.^② Fish and fishery products are highly traded. Exports have increased significantly from US\$2.9 billion in 1978 to US\$27.2 billion in 2008, with the EU being by far the largest market.^③ For developing countries as a whole, fish exports largely exceed those of several other agricultural commodities such as rice, meat, sugar, coffee, and tobacco. At the same time, 80 percent of the world's fisheries are being fished up to or beyond their biological limits, a situation that carries significant social, environmental, and economic risks. Many developing countries face depleted fish stocks, causing severe disruption of coastal economies and loss of livelihoods. In spite of that, the size of the global fishing fleet continues to grow, while catches per vessel and per unit of capacity are continually decreasing.

Scale and composition

Subsidies in the fisheries sector have been applied in a number of ways and for a number of objectives. Direct support for vessel building has played an important role in developing the global fishing industry. There is clear evidence that these subsidies can cause market distortions and encourage overcapacity, ultimately contributing to the depletion of fish stocks. On the other hand, subsidies to resource management might have positive effects on trade and natural resources, as do support measures for monitoring, control, and surveillance of illegal fishing activities. Still other subsidies are designed to assist small-scale and artisanal fishing communities that rely on fishing activities for their livelihood and food security.

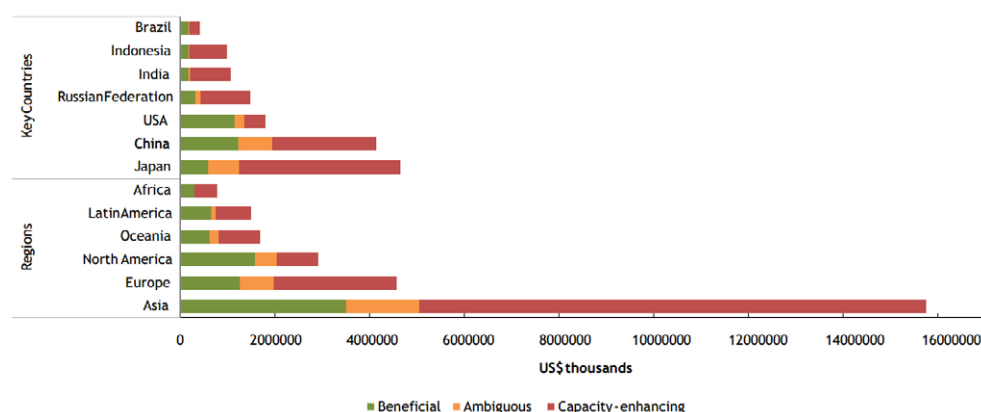
Overall, reliable data on fisheries subsidy schemes remains scarce. Developed country subsidy programmes are complex and often linked to general subsidy programmes. Several support measures are "hidden" – for example in the form of fuel subsidies – or under the

guise of other measures not traditionally considered subsidies. For developing countries, very little quantitative data exists. Keeping these shortcomings in mind, Sumaila et al.⁴ estimate that global fisheries subsidies in 2003 were between US\$25 billion and US\$29 billion.

Fisheries subsidies fall into three main categories:

- Beneficial subsidies, which enhance fish stocks through conservation, and fisheries management;
- Capacity-enhancing subsidies, such as price and marketing support, fuel subsidies, boat and fishing port construction programmes, or certain aspects of foreign access agreements; and
- Ambiguous subsidies, whose impact on fish stocks are undetermined (for example, rural fishers' development programmes, or vessel buyback).

Figure 1
Fisheries Subsidies by
Regions and Key Countries
(2003 US\$ thousands)



Overall, fuel subsidies compose 15-30 percent of total support, while capacity-enhancing subsidies represent 60 percent of global fisheries subsidies.⁵ Japan and the EU have traditionally provided the bulk of these subsidies, but rapidly-emerging economies such as China and Brazil are now providing their fleets with significant support – in part to catch up with, and sometimes surpass, the traditional fishing nations (see Figure 1).

The different amounts of subsidies by regions also reflect significant differences in annual catch and fleet size. Taking this into account, figure 2 shows subsidies as a share of total landed value in 2003 in different regions. The calculation of subsidy intensity results in much more parity among the different regions with Africa and Latin America ranking first when subsidies are expressed as a share of the value of catches.

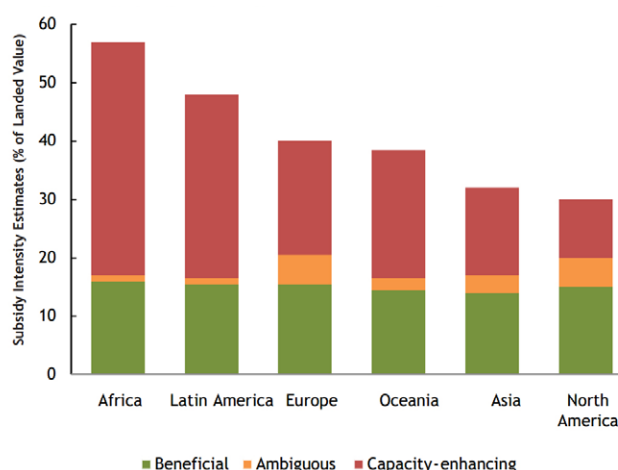
Policy reform at the WTO

The critical importance of fisheries for employment, livelihoods, food security, and government revenues in both developed and developing countries makes reforming the sector very sensitive. Recognising the importance of the sector for developing countries, WTO members launched negotiations in 2001 with the aim of clarifying and improving disciplines on fisheries subsidies. Notably, the mandate highlighted the imperative to tackle the unsustainability of the natural resource under current practices. The 2005 Hong Kong ministerial declaration called on the Negotiating Group on Rules to “strengthen disciplines on subsidies in the fisheries sector, including through the prohibition of certain forms of fisheries subsidies that contribute to overcapacity and over-fishing.” To address the concerns of developing countries and small and artisanal fisheries, several countries have put on the table proposals for exemptions from the disciplines for least developed countries (LDCs), as well as for Special and Differential Treatment for all developing countries.

Ambassador Guillermo Valles Galmés of Uruguay, former Chair of the Negotiating Group on Rules, issued a first draft text in November 2007. The text, described as “ambitious” by many, proposed the prohibition of government support for construction, operating and fuel costs of vessels, and port infrastructure development exclusively or predominantly linked to wild capture fishing – including storage and processing facilities. The draft

also proposed that some subsidies be permissible for all countries, provided that they maintain an international-standard fisheries management system. The text would have also exempted LDCs from the disciplines altogether. Non-LDC countries, including large developing countries with potentially significant subsidy programmes, would only be entitled to exemptions under Special and Differential Treatment provisions. These exemptions are currently conditioned to the size of the fishing vessels and to fishing within their own Exclusive Economic Zone (EEZ) and are subject to the implementation of management regimes.

Figure 2
 Subsidy Intensity by
 Regions (2003 percent of
 Landed Value)



Both developed and developing countries raised concerns about the potential impact of the new disciplines for employment, food security, and livelihoods in their fisheries sectors. Japan has been sceptical about the potential benefits of cutting down subsidies, insisting that the problem with over-fishing is rather related to poor management regimes, which need to be strengthened. While a proponent of the WTO agenda on fishery subsidy reform, the EU has been concerned with the socio-economic impacts of a deep cut in its support programmes. South Korea has signalled an interest in "carving out" subsidies for small-scale fishers, especially in terms of aging traditional fishing communities.

Some non-exempted developing countries have expressed concern over the lack of flexibility in the current draft text. For example, China, India, and Brazil say there would be potential negative effects on their fisheries sectors in terms of employment, livelihood, and food security. Some have even described not obtaining sufficient flexibilities in this area as a deal breaker. The exemptions provided in the draft Chair's text would eliminate many subsidies currently allowed, and subject exemptions to stringent management requirements, which a number of developing countries have indicated would result in nullifying the benefit of the exemptions and be beyond their capacity to comply with.

Countries from the ACP group (Africa, Caribbean, and Pacific) host many Fishery Partnership Agreements, granting access to their marine waters to distant nation fishing vessels in return for financial compensation. In the subsidy negotiations, these countries have sought and obtained an exclusion of access fees paid by distant fishing nations to host countries (so-called government-to-government payments). However, subsidies arising from the further transfer of access rights that a government has acquired from another WTO member state to fisheries within the jurisdiction of that state remain amongst those prohibited under the draft text. As such, ACP states may find themselves indirectly affected in their fisheries relations with foreign nations, including for sourcing of fish from foreign vessels for processing and export. They may also see a decline in employment and revenues arising from the operations of foreign fleets. On the other hand, reduced foreign presence may provide an opportunity for reducing the fishing effort, thereby contributing to more sustainable use and less competition for capture and export between foreign vessels and the local fishing industry.

On 19 December 2008, Chair Valles Galmés responded to these complaints by reeling-in much of the hard language on specific subsidies featured in the 2007 draft text. Much of this language was replaced by a "roadmap" consisting of fundamental questions to be addressed before negotiations can move forward. With the current impasse in the Doha Round, these negotiations have not progressed in any significant way since then, in spite of repeated calls for an "early harvest" on fisheries subsidies.

Policy reform under the Common Fisheries Policy (CFP)

Meanwhile, the EU is seeking to reform its fishery policy. An estimated 75 percent of EU stocks are currently overfished, according to European Commission estimates, and one-third of Europe's fleet will become unviable in the future if overfishing continues. In this context, the Common Fisheries Policy (CFP) reform proposal contains provisions to reduce harvests of the most over-exploited stocks and fix quotas for fish stocks on multi-year basis. The proposals are the result of a long process initiated in an April 2009 Green Paper exposing existing loopholes and failures of the current CFP. To address the issue of sustainability, the plan proposes that the EU fleet adopt the principle of maximum sustainable yield (MSY) for fishery harvest by 2015.

The reforms also address sustainability issues by proposing to eliminate the practice of discarding by-catch (i.e. non-target species caught unintentionally). The proposal aims to force the fishing industry to better target their catch. If implemented, the by-catch proposal will be phased-in over a realistic time period to allow the fishing industry to adjust to 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 the reformed CFP. Compulsory labelling of fishery products would be incorporated into the CFP under the plan to give EU consumers a choice concerning the fishery products they purchase, including information on where the fish was harvested, whether it has been previously frozen, and the fishing method used to harvest it. In an effort to achieve an agreement by mid-2012, concessions to accommodate all member states have, however, resulted in a significant weakening of the Commission's reform proposal from July 2011, prompting several NGOs to call for a boycott on the compromise.

EU policy reform in this area, as well as necessary reform in other countries, would be significantly boosted by international agreement on subsidy reform. The progress achieved during tireless discussions in the WTO negotiating group on rules provides an invaluable basis for such an agreement. In order to ensure the survival of fisheries and the livelihoods of fishermen, countries will need to find a way to capture that progress and the important steps taken towards mutual understanding.

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- ❶ See McKinsey Global Institute, *Resource revolution: Meeting the world's energy, materials, food, and water needs*, Nov 2011.
 - ❷ FAO, *State of the World Fisheries and Aquaculture*, 2010.
 - ❸ Ibid.
 - ❹ Sumaila, U.R., A.S. Khan, A.J. Dyck, R. Watson, G. Munro, P. Tyedmers and D. Pauly. A Bottom-up Re-estimation of Global Fisheries Subsidies. *Journal of Bioeconomics* (2010) 12: 201-225.
 - ❺ Ibid.

SUSTAINABLE ENERGY

Harnessing trade and markets for sustainable energy in Africa

Maresh Sugathan

While Africa is responsible for only a fraction of the planet's greenhouse gas emissions, the continent is in an ideal position to benefit from reduced emissions by participating in Sustainable Energy Trade Initiatives (SETIs).

The adverse impacts of climate change will be felt disproportionately across the globe, with the poor and vulnerable in developing countries in Africa, South Asia, and low-lying island states suffering the most. These populations will need adaptation and mitigation assistance if they are to overcome the worst effects of climate change. An ideal path for effectively adopting climate change mitigation and adaptation technologies is through Sustainable Energy Trade Initiatives (SETIs).

Such initiatives aim to take a holistic view of the sustainable energy sector, address a variety of market and trade-related barriers, while simultaneously clarifying trade-rules – including those linked to clean energy subsidies. In short, SETIs could provide an enabling framework to scale-up sustainable energy in Africa, where addressing the effects of climate change is urgent. Indeed, while Africa accounts for less than four percent of global greenhouse gas (GHG) emissions, studies on the effects of climate change consistently point to it as the world's most vulnerable region. Various models predict that emissions from the African continent will rise at the lowest rate among all regions by 2035.

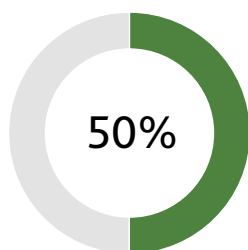
Access to sustainable energy sources is another important need that could be addressed by a SETI. Only about 31 percent of the Sub-Saharan African population has access to electricity, with approximately 60 percent and 14 percent electrification rates in the urban and rural areas, respectively. In addition, traditional biomass dominates energy consumption in the region, accounting for some 50 percent of the total energy supply in 2008.

Despite this comparatively low impact, Africa is in an advantageous position to adopt new approaches to sustainable energy on the ground floor, and the continent could significantly benefit from a switch to greater sources of renewable energy. Access to clean energy through grid-connected and off-grid renewable electricity sources as well as cleaner cooking fuels and modern stoves could reduce emissions associated with deforestation and slash indoor air-pollution related deaths.

Increasing the use of alternative fuels in Africa is another way SETIs could be effective in terms of addressing Africa's energy-security needs. According to a report by the United Nations Economic Commission for Africa (UNECA), Africa's share of global oil consumption in 2010 was only 3.7 percent compared to a production share of about 12.4 percent. While there are some notable African oil exporting countries, the region is heavily dependent on imports. All of these countries are vulnerable to volatility in oil prices and the subsequent impacts on their balance of payments. A switch to renewable energy sources such as biofuels, solar, and hydro-power could alleviate this dependence on fossil-fuel imports and save many African countries precious foreign-exchange for imports.

Tools for addressing trade and market barriers

The high upfront costs associated with the deployment of sustainable energy demonstrate that domestic policy intervention is required to create a more level playing field between sustainable and conventional energy sources and foster an "enabling environment" for investments in sustainable power generation. In addition to domestic sustainable energy policies, trade policies can also aid in granting sustainable power producers access to



Percentage of Africa's energy supply generated by traditional biomass in 2008.

equipment and services of the desired quality at competitive world market prices. A wide variety of sustainable policy instruments can be deployed in this regard.

While synergies between the various objectives of renewable energy policies are possible, policies may also be designed or applied by many countries in a manner that restricts trade or discriminates against foreign suppliers of sustainable energy goods and services in order to meet domestic employment and industrial policy objectives. It may be possible to address barriers to trade in these goods and services by taking recourse to existing rules of the WTO. However, in many areas of the energy sector, including sustainable energy, WTO rules are ambiguous, and in certain areas – such as regulations or incentives affecting cross-border electricity transit – they are non-existent.

The WTO's Doha round of negotiations is presently stalled, including negotiations on environmental goods and services that could have addressed some of these barriers. All these factors suggest there is a need to consider SETIs, which could be a means to bring together countries interested in addressing climate change and long term energy security while maintaining open markets. One example of an initiative that has garnered interest among the government and private sectors recently is a Sustainable Energy Trade Agreement (SETA). Such an agreement aims to address trade-market related barriers and establish a set of trade-related sustainable energy guidelines between like-minded countries.

Conceptualising African SETIs

Numerous possible pathways could be conceived for such an agreement in terms of the structure and scope of the issues and market barriers to be addressed. A SETA could be a stand-alone plurilateral agreement. However, even if plurilateral, it could extend concessions on a most favoured nation (MFN) basis to all WTO members, similar to the Information Technology Agreement (ITA), with such an extension made conditional on the accession of a "critical mass" of members based on various trade, climate, or energy-related criteria.

African countries that wish to join a SETA may particularly want to emphasise special and differential treatment provisions that provide a certain degree of freedom to try and establish a viable, competitive manufacturing base. African countries may also want to pursue provisions on technology-cooperation and assistance in sustainable energy. For example, according to an International Finance Corporation (IFC) report, a sizable trade-finance facility open to local and international firms making devices, solar home systems, or components for mini-grid systems would help unlock supply chains and facilitate market penetration.

As renewable electricity generation costs decrease, infrastructure assistance to set up effective cross-border transmission networks could enable African countries rich in renewable energy sources to produce electricity not only for domestic consumption but for export to neighbouring countries. Multi-country, cross-border initiatives such as DESERTEC that seek to export solar electricity from North Africa to European markets could also be improved by a SETI that clarifies rules on cross-border electricity transit. While it could take the form of a legally-binding agreement such as a SETA, countries may also wish to explore other non-binding initiatives as well.

Such initiatives are already gaining momentum in Africa. Two documents that will establish a regional policy initiative on renewable energy and energy efficiency will be adopted during the High Level Energy Forum, which is scheduled to take place from 29-31 October 2012 in Accra, Ghana. The expansion of transmission, gas, and large hydro capacities in combination with intensified renewable energy and energy efficiency investments have been floated as a solution for region's energy crisis by 2030. This clearly demonstrates the relevance of SETIs for Africa and is one way in which the vision of a more sustainable future emerging from the recent Rio +20 conference could be given more concrete form and shape.



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The newroom

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Legal ivory trade proposal floated at CITES

Elephant conservation sparked fierce debate at a 23-27 July meeting, as delegates reviewed a CITES secretariat-commissioned report that featured a proposal for a possible decision-making mechanism for legal ivory trade.

The report examines the possibility of establishing a single ivory sales body, the Central Ivory Selling Organisation (CISO). Poaching would not be permitted under the proposed mechanism; rather, it would allow for the legal sale of government stockpiles obtained from elephants that die from natural causes, problem animals, and ivory confiscated from poachers.

A decision on whether or not to enact the proposal was not made at the meeting. Following further review and revisions, the report will be submitted for members' consideration at CITES' 16th Convention of the Parties (COP), slated to be held in March 2013 in Bangkok, Thailand.

EC to propose carbon label scheme by year-end

The European Commission is now in the process of reviewing the technical details of how best to account for a given product's carbon footprint and is expected to propose a carbon labelling system by this autumn.

The Product Carbon Footprint (PCF) system is likely to be based on a "cradle-to-grave" life cycle assessment (LCA), which takes into account the carbon inherent in the inputs, production process, distribution, and disposal of the product.

The cradle-to-grave approach to carbon labelling, however, has been criticised by consumer groups over two key issues. First, opponents argue the LCA approach is vulnerable to data manipulation because it creates opportunities for the use of subjective data with imprecisely defined parameters at multiple junctions in the life cycle. Second, there has yet to be a single internationally agreed PCF methodology.

The final system is expected to be similar to the EU energy consumption A-to-G "grading" system, which is now widely recognised by European consumers.

US court upholds EPA emissions regulations

The US Court of Appeals dismissed challenges by state and industry groups over the EPA's greenhouse gas regulations implemented under the guidelines of the Clean Air Act (CAA) of 2002. The petitioners challenged the EPA's interpretation of a 2007 US Supreme Court ruling.

The new ruling is a major victory for environmental groups and the Obama administration, which will likely press forward with wider, more stringent rules governing GHG emissions. The court dismissed the challenge to the EPA's tailoring rule, finding that the petitioners lacked sufficient legal standing to challenge the rule.

Looking ahead, the ruling allows the EPA to proceed with new rules regulating greenhouse gas emissions from new power plants and new vehicle emissions standards.

WTO appellate body finds COOL illegal

The WTO has ruled that the US' country-of-origin labelling (COOL) requirements for livestock and meat imports are inconsistent with international trade rules. The highly-anticipated ruling, which stemmed from a dispute launched by Canada and Mexico in 2008, found that the US measure put foreign products at a disadvantage by making the processing of imported livestock prohibitively costly. The judges, however, disagreed that the measure was also more trade restrictive than necessary to achieve the legitimate objective of consumer information.

During the dispute, Canada and Mexico had offered four different alternatives that the US could apply instead of the current policy. These suggested measures included a voluntary COOL requirement, a mandatory COOL requirement in cases of "substantial transformation," a voluntary labelling regime combined with a mandatory COOL requirement based on substantial transformation, or a trace-back system that would allow a retailer to trace a piece of meat back to the original animal.

The countries have until September to agree on a compliance timetable.

WIPO cultural expressions talks bogged down

Negotiations at the World Intellectual Property Organization (WIPO) on a legal instrument intended to protect traditional cultural expressions (TCEs) saw little progress in July, with the first days of the meeting being plagued with disagreements among members over the agenda.

An initial disagreement over whether to include an agenda item regarding the WIPO Intergovernmental Committee on Genetic Resources, Traditional Knowledge, and Folklore (IGC) "future work" nearly prompted the committee to hold a vote on the matter.

The scope of protection of the potential instrument proved to be a particularly divisive issue during the discussion. Discussions on exceptions and limitations were also controversial. While developed countries supported more exceptions and limitations, developing countries instead called for alternatives that would ensure greater protection for traditional cultural expressions.

The WIPO General Assembly will meet in October, at which point it is expected to examine the IGC's mandate and future work.

Australian carbon tax takes effect

Increased political bickering and intense public debate marked the days leading up to the 1 July implementation of Australia's first ever carbon tax.

The carbon tax originates from the Clean Energy Agreement, a multi-party initiative designed to reduce carbon pollution that narrowly passed the Australian parliament last fall.

The measure aims to cut 160 million tonnes of carbon emissions by 2020, and proponents of the legislation say the tax will spur billions of dollars in investment and innovation in new, cleaner energy sources.

Opponents of the carbon tax, however, contend that it will lead to mine and factory closures, job losses, and increased cost of living for Australians as higher prices find their way to the consumer.

To offset the increase in energy prices, the prime minister has pledged A\$7 billion in tax cuts and assistance to eight million households.

Food prices on the rise amid US drought

With more than half the continental US experiencing a severe summer drought, global food prices skyrocketed in July.

A few months earlier analysts projected global food production to grow smoothly in the wake of high prices in the previous year. However, low stocks and one of the driest months on record in the US – one of the warmest globally – lead traders to push up prices for corn and soy, critical exports from the country.

High food prices, often caused in major producers, can both benefit and hurt farmers. Farmers that are net buyers are forced to allocate a greater share of their income to food purchases, while others – often large farming operations – are able to benefit from investments.

Notably, emerging economies are expected to hold an increasing share in global agricultural trade. Questions remain among analysts as to what effects the US situation could mean in the long-term.

Gabon cracks down on illegal wildlife trade

Gabon has sent out a strong signal to poachers and illegal wildlife traffickers by publicly burning more than 1,200 ivory tusks and assorted ivory carvings in the capital city of Libreville.

President Bongo lit the pyre and stated the importance of inviting the international community to witness the act of destroying the country's ivory. The symbolic act, he said, reaffirms the country's commitments to tackle elephant poaching and illegal wildlife trade.

Experts say the surge of illegal wildlife products out of Africa in recent years is primarily the result of increased disposable income in China, where products such as ivory and rhinoceros horn are prized for their purported medicinal effects.

While illegal wildlife trade still plays a prominent role in Africa, recent efforts by governments to minimise demand for ivory have been lauded by wildlife protection groups.

It is hugely symbolic that a head of state has taken leadership in sending a signal to the outside world that illegal wildlife trafficking will not be tolerated," said Stefanie Conrad, WWF's Central Africa Regional Office representative..

Publications and resources



Legal Options for a Sustainable Energy Trade Agreement – ICTSD, GGGI, and PIIE – July 2012

This research paper, written by Matthew Kennedy, is part of a joint initiative to promote sustainable energy undertaken by ICTSD, the Global Green Growth Institute, and the Peterson Institute for International Economics. It analyses the existing legal frameworks under which a possible Sustainable Energy Trade Agreement (SETA) could be negotiated to address energy-related trade governance and resulting legal challenges and opportunities. It includes a number of options under which a SETA could be given legal shape within and outside the WTO. This research also assesses the pros and cons of these options. The full research can be found at <http://bit.ly/Mvughx>.



The Future and the WTO: Confronting the Challenges – ICTSD – July 2012

This e-book is a compilation of short essays that aim to provide a brief but thorough analysis of pressing issues in today's global trade environment. It features a range of contributions from distinguished academics, policy makers, and practitioners working in the field of international trade policy. Topics include the core functions of the WTO, the role of emerging economies, the influence of regional agreements, and institutional challenges.

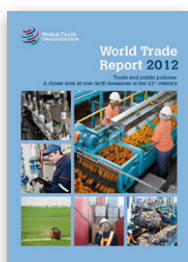
The e-book can be found at <http://bit.ly/PVHPmr>.



Climate Change in Brazil: economic, social and regulatory aspects – IPEA – 2011

This book addresses policies of global warming and is written by 40 specialists, many who participated as Brazilian negotiators at the Conferences of the Parties of the Climate Convention and are members of the Intergovernmental Panel on Climate Change (IPCC). It provides discussions on regulatory issues through national and international economic, institutional, sectoral, and social perspectives. Topics include, achievements of the second period for the Kyoto Protocol, REDD financing, and technology transfer.

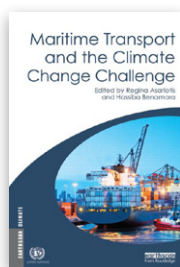
The full book can be found at <http://bit.ly/NBSuEL>.



World Trade Report 2012 – WTO – July 2012

This report reveals how the expansion of global production chains, climate change, and the growing importance of consumer concerns in richer countries affect the use of non-tariff measures (NTMs). It also reports that such measures represent the main source of concerns for exporters. The focus of the report is on technical barriers to trade (TBT) regarding standards for manufactured goods, sanitary and phytosanitary (SPS) measures concerning food safety and animal and plant health, and domestic regulation in services. It presents the availability of information on NTMs and the latest trends concerning usage. The report looks at international cooperation on NTMs.

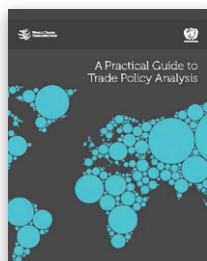
The full report can be found at <http://bit.ly/OYD8JP>.



Maritime Transport and the Climate Change Challenge – UNCTAD – May 2012

This book offers information and analysis about the climate change challenge from the perspective of maritime transport and trade. The book includes contributions from 25 experts from academia, international organisations, and the shipping and port industries. Issues discussed in the book include greenhouse gas emissions from international shipping, potential approaches to mitigation in maritime transport, the state of play in terms of the relevant regulatory and institutional framework, potential climate change impacts and approaches to adaptation in maritime transport, and relevant cross-cutting issues such as financing and investment, technology, and energy.

The book can be purchased at <http://bit.ly/PdgOz2>.



A Practical Guide to Trade Policy Analysis – WTO – 2012

This guide, an outcome of joint work by the United Nations Conference on Trade and Development (UNCTAD) and the Secretariat of the World Trade Organization, aims to aid researchers and interested policymakers to understand and renew their knowledge of, quantitative economic methods and data sources for trade policy analysis. It has been developed to contribute to the enhancement of developing countries' capacity to analyse and implement trade policy.

The full guide can be found at <http://bit.ly/OYDEr9>.



Green Economy in a Blue World – UNEP – 2012

This report analyses the challenges and opportunities associated with a potential transition towards a green economy in key sectors that are heavily linked to the marine and coastal environments. It analyses the necessary policy and institutional adjustments required for a green transition. The report highlights ways to reduce environmental impact and how to improve the environmental, economic and social sustainability of traditional and emerging ocean-orientated economies.

The full report can be found at <http://bit.ly/N0pTwC>.



European Power from US Forests – EDF – July 2012

This report aims to identify and understand policy drivers in the EU, which potentially drive pellet production in the US, with emphasis on existing and emerging sustainability requirements. It discusses relevant EU legislations, sustainability requirements, and demand projections on those policies. The report also evaluates influences of the pellet market in the EU, and how those issues may affect US production.

The full report can be found at <http://bit.ly/NDHmZK>.



Trade in a 'Green Growth' Development Strategy Global Scale Issues and Challenges – FERDI – May 2012

This paper by La FERDI's Jaime de Melo surveys the current state of knowledge on the trade-related environmental consequences of a country's development strategy along three channels: (i) direct trade-environment linkages (overexploitation of natural resources and trade-related transport costs); (ii) "virtual trade" in emissions resulting from production activities; and (iii) the product mix attributes of a "green-growth" strategy (environmentally preferable products and goods for environmental management).

The full working paper can be found at <http://bit.ly/MCxNe7>.

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Price: €10.00
ISSN 1996-9198

