

BRIDGES NETWORK

# BIORES

Analysis and news on trade and environment

VOLUME 7, ISSUE 1 - APRIL 2013



## Environment and the new trade agenda

### NATURAL RESOURCES

The trade dimension of the shale gas boom

### INTELLECTUAL PROPERTY

Fast tracking patents to boost green tech diffusion

### WILDLIFE TRADE

CITES COP 16: What's in? What's out?



International Centre for Trade  
and Sustainable Development

# BIORES

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## BRIDGES TRADE BIoRES

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## Environment and the new trade agenda



*The WTO's December Ministerial Conference in Bali is shaping up to be one of the most likely events that could witness some tangible progress on the Doha Round, which has been stalling for more than a decade. Countries are carefully considering some of the low hanging fruit that could form the basis of an early harvest package. But while trade facilitation and some agriculture issues appear to be likely candidates for progress, what about the environment?*

*When APEC leaders last year agreed to a list of over 50 environmental goods for liberalisation by 2015, some observers wondered whether this might provoke movement on the issue at the WTO. So far, this does not appear to have been the case.*

*There is a clear expectation for a publication such as this to focus on the environment angle of WTO negotiations. But with environment-related issues increasingly becoming the focus of trade disputes, members should carefully consider whether the 20th century WTO rules need to be updated to deal with the current environmental reality.*

*Renewable energy related issues have been the most prevalent example in recent years, with disputes proliferating both inside and outside the WTO. In the most recent example, the appeal process in the case over renewable energy support in the Canadian province of Ontario got underway in March.*

*A dispute panel in December ruled that the local content requirements in Ontario's programme were in violation of international trade rules. The case has been tracked closely by those in the environment and trade worlds as a growing list of countries search for the fulcrum point between fostering an important fledgling industry and excluding foreign competition. Indeed, a similar domestic content requirement issue is now also the subject of a new WTO dispute, with the US taking issue with India's "buy local" incentives.*

*Perhaps the most antagonistic row over renewable energy has been unfolding between the EU and China over solar panels and solar glass. The tit-for-tat issue has seen two anti-dumping investigations launched by the EU and a WTO complaint filed by China over the EU's domestic content requirements. Government support for solar industries has also been a sensitive topic between Beijing and Washington, with both taking issue with each others' domestic incentives.*

*A range of other environment-related issues have been making waves in Geneva and elsewhere. From tuna to seals to natural resource export quotas, it appears that the more connected the world's trade routes are, the more likely we are to see disputes over environmental issues.*

*An early harvest package in Bali is certainly not a forgone conclusion and – given the history of the Doha Round – few experts are even willing to make predictions. And while environmental goods and services are a long shot for making it to the top of the list in time for Bali, we'll be watching closely to see how the discussions unfold.*

NATURAL RESOURCES

# Shale gas: New issues on the trade and sustainable development agendas

Thomas L. Brewer

*The recent spike in the exploitation of shale gas reserves has triggered an array of concerns over the potential environmental, health, and safety impacts of the energy source. Little analysis has been done on the associated trade issues related to the vast deposits scattered around the world.*

The emergence of the "Shale Gas Revolution" in the United States and the prospect of major shale gas production in other countries pose a wide range of new issues concerning trade and sustainable development. The issues have become more salient in recent months in the US as key members of Congress have called for restrictions on exports of liquefied natural gas (LNG) and as studies and other commentaries about shale gas exports have entered public discourse.

Concerns over the implications of the Shale Gas Revolution have also arisen in other countries that deal in shale gas. Notable countries include importers China, India, and Japan, exporters Australia and Qatar, and countries with shale gas reserves, including Argentina, France, Poland, and the UK. For each of these countries, however, there are inevitable uncertainties regarding magnitudes, locations and costs of access, particularly since exploration has barely begun in some countries.

For instance, Poland's reserves were estimated to be nearly 200 trillion cubic feet in a widely cited study funded by the US Energy Information Agency<sup>①</sup>, but after subsequent on-site exploration in only two sites, Polish officials reduced the estimate by about 90 percent<sup>②</sup>. On the other hand, some early estimates in other countries have been revised upward. Despite such uncertainties and changing estimates, there is little doubt that there are many large shale gas deposits in several countries.

## Health and safety concerns

Exploration, production, and trade of natural gas from these deposits have become highly controversial issues around the world. Primary concerns include the health effects of chemical additives that seep into aquifers and ground water, the potential for triggering small earthquakes, and the disruption of daily life in local communities within close proximity to extraction sites.

These and other concerns – whether based on real or imagined risks – may impose significant constraints on the long-term exploitation of shale gas, particularly in some countries in Europe, and perhaps in some states within the US because of the opposition of local communities and/or various governmental entities on health, safety, and environmental grounds. Although these concerns are not directly linked to climate change, they could substantially reduce production of shale gas and thus affect greenhouse gas emissions.

Such concerns have led to moratoria and other limitations on exploration and recovery of shale gas in parts of the US and in other countries. Some countries, such as France, have imposed prohibitions, while others, such as Denmark, are allowing carefully controlled exploration but without any decisions yet on extraction. Finally, countries including China have embarked on ambitious exploration operations with the hope of subsequent large-scale extraction operations.

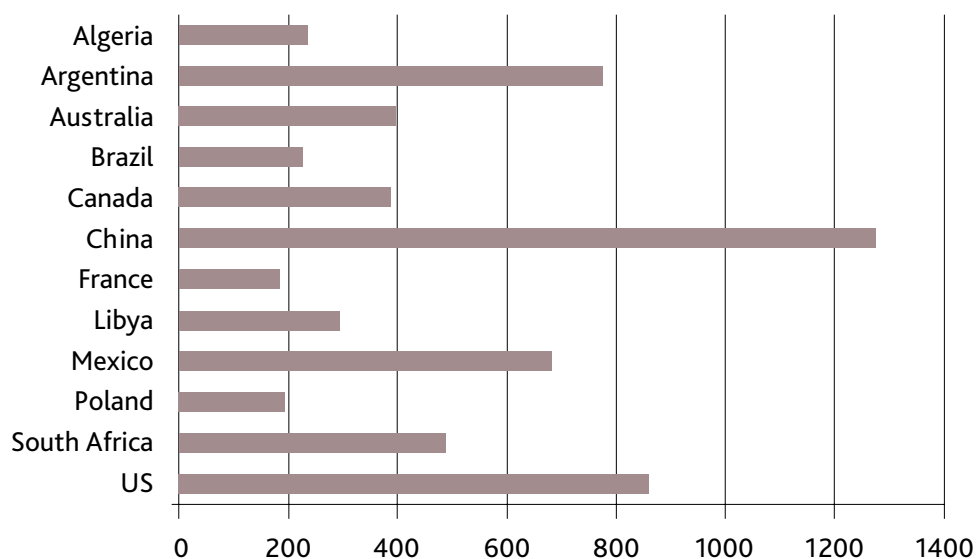
## Methane and climate change

An attractive feature of shale gas from the standpoint of climate change mitigation is that, like natural gas in general, greenhouse gas emissions from shale gas *consumption*

are much lower than those from coal – for instance, in electric power plants emissions are about 40-50 percent lower. However, there are serious questions about greenhouse gas emissions, especially methane, during *exploration* and *extraction*.

There can be significant emissions of methane during the exploration and production phases of shale gas. Methane is a much more potent greenhouse gas than carbon dioxide – with a global warming potential about 23 times greater than CO<sub>2</sub> at 100 years and 78 times greater at 20 years<sup>③</sup>. Methane thus has particularly strong short-term effects. There are, however, technological fixes available, but their effective implementation will require government regulation and industry cooperation. The large-scale flaring of gas from shale oil deposits in the US in the same areas where there are also shale gas deposits is a related issue because there are methane release concerns in both shale gas and shale oil sites<sup>④</sup>.

**Figure 1**  
Preliminary estimates of selected countries' recoverable shale gas reserves (Trillion cubic feet)



Source: Compiled by the author from data for 32 countries in US Energy Information Agency, *World Shale Gas Resources*, 2011; report prepared by Advanced Resources International. Note that these are preliminary estimates that are subject to significant revision, either upward or downward. Also note that they do not include some countries with major deposits, such as Russia and Qatar.

### Effects on investment in renewable energy sources

Over the longer term, a key issue is whether cheap, abundant shale gas will undermine investment in renewable energy sources. One of the effects of shale gas exploitation in the US has already been a significant decrease in the price of natural gas – from about US\$13 per million BTU in 2008 to as low as about US\$3 in 2012.

*A key issue is whether cheap, abundant shale gas will undermine investment in renewable energy sources.*

With a consequent decline in electricity prices produced by natural gas fired power plants, the competitive position of wind, solar, and other renewable energy sources has been weakened and the future shares of those technologies in the energy mix are thus also undermined. Therefore, in some scenarios, while the substitution of shale gas for coal to produce electricity may yield a net reduction in greenhouse gas emissions in the short-run, the increasing share of shale gas and concomitant smaller share of renewables may yield a net increase in emissions over the longer term<sup>⑤</sup>.

## Shale gas: Why now?

Shale gas is interspersed in rock formations that are typically found thousands of meters underground in formations that are millions of years old. Although the existence of large reserves of shale gas in the US has been known for many decades, it was the relatively recent development of two extraction technologies – hydraulic fracturing and horizontal drilling – that made the process economically feasible.

### Trade potential

Significant potential for international trade in liquefied natural gas (LNG) derived from shale gas has emerged in recent years because of variation in patterns of production and prices depending on geography. Already, there is much interest, for instance, in US exports to Europe and Australian exports to Japan, among many other possible trading relationships. Of course there are a variety of constraints on the potential trade, including transport costs and the costs of establishing LNG export and import processing facilities. Nevertheless, the largest Japanese electric utility, Tokyo Electric Power, has already signed a long term contract for shipments of LNG from a Louisiana port in the US, subject to US government approval.

As for import/export facilities, in the US there has been a surprising shift away from expectations that the US would become an increasingly important LNG importer toward expectations that it will become an increasingly important exporter. This prospective switch, however, will be expensive for investors that have already invested billions of dollars in import facilities, which must now be changed into export facilities or remain largely idle as they have been.

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*There are a variety of constraints on the potential trade, including transport costs and the costs of establishing LNG export and import processing facilities.*

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US government policy concerning LNG exports is now under intense scrutiny. The current policy allows LNG exports to a select small group of countries and considers others on an *ad hoc* basis. A country must have a free trade agreement (FTA) with the US in order to engage in natural gas trade with it on a reliable, on-going basis, without the uncertainties of an *ad hoc* application process that is outside an FTA. Of course, FTAs are separate from WTO agreements, and they are different from trade and investment framework agreements and from bilateral investment treaties. Only 20 countries have FTAs with the US – including countries in NAFTA and the Caribbean Basin Initiative (CBI), plus a few countries with bilateral agreements such as those with Bahrain, Oman and South Korea. However, there are two countries – Costa Rica and Israel – of the 20, whose FTAs do not include provisions concerning natural gas. Thus, as of October 31, 2012 there were 18 countries that qualified for more or less automatic natural gas trading rights.

Domestic chemical firms in the US and other manufacturers that use natural gas have put pressure on the government to limit exports in order to maintain the current relatively low price of natural gas, which is an important feedstock in their production processes. A recent large-scale study commissioned by the US Department of Energy concluded that although there would be some price increases for a few industries such as chemicals, there would be no significant macro-economic effects on the national economy<sup>6</sup>. The results, however, are being disputed by chemical industry representatives, and there are likely to be additional studies. Some key members of the Congress – including Ron Wyden, Chairman of the Senate Energy Committee – have also called for restrictions on exports. In the midst of such policy controversy, potential investments in many LNG export processing facilities are on hold.

These developments in the US, of course, reflect only part of the wider global interest in shale gas exploration, production and trade issues. Although it is assumed that Europe's key foreign natural gas suppliers – Russia and Qatar – both have significant shale gas reserves, it remains to be seen more precisely how large they are. In any case, the possibility of increasing LNG imports from the US might substantially diminish Europe's reliance on Russia and Qatar.

## Conclusions

Regardless of the uncertainties about the magnitudes of shale gas deposits in individual countries, as well as the production prospects and potential trade patterns, there is little doubt that shale gas issues will be looming large for many years in international sustainable development and trade dialogues. There are several possible formal international diplomatic venues where such meetings could take place – among them the UN Framework Convention on Climate Change (UNFCCC) and its annual Conference of the Parties (COP), the G-20 annual heads of state meetings, the Major Economies Forum and its related Clean Energy Ministerial.

In addition, the work of multilateral and regional development agencies will surely have to address many shale gas issues, as will trade organisations at all levels. In the meantime, dialogue has begun in earnest in many countries in all regions of the world as government policies evolve in response to changing technological, economic, and political circumstances. In short, the analytic and policy agendas are rapidly evolving.

- ❶ US Energy Information Agency, *World Shale Gas Resources*, 2011; the report was prepared by Advanced Resources International.
- ❷ Corey Johnson and Tim Boersma, Energy (in) security in Poland: the case of shale gas. *Energy Policy*, vol. 53, February 2013, Pages 389-399.
- ❸ Robert W. Howarth, Renee Santoro, and Anthony Ingraffea, Methane and the Greenhouse-Gas Imprint of Natural Gas from Shale Formations, *Climatic Change*, vol. 106, 2011, and Tom M.L. Wigley, Coal to Gas: The Influence of Methane Leakage, *Climatic Change* vol. 108, 2011.
- ❹ Ajay Makan and Ed Crooks, Shale gas boom now visible from space, *Financial Times*, January 27, 2013.
- ❺ *The Future of Natural Gas*, as reported in Henry D. Jacoby, Francis M. O'Sullivan, and Sergey Paltsev, The Influence of Shale Gas on U.S. Energy and Environmental Policy, *Economics of Energy & Environmental Policy*, Vol. 1, No. 1, 2012.
- ❻ The study of the effects of US exports on US domestic prices is in US Department of Energy, *Macroeconomic Impacts of LNG: Exports from the United States*, 2012; the study was conducted by NERA Economic Consulting.



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INTELLECTUAL PROPERTY

# Fast-tracking green patent applications: An empirical analysis

Antoine Dechezleprêtre

*In recent years, innovation has topped the agenda of policymakers worldwide as they seek to promote green growth and advance sustainable development. As a result, several countries have put in place green patent fast-tracking programmes with the aim of accelerating the development and diffusion of environment-friendly technologies.*

In the past few years, promoting environmentally-friendly innovation has become a key priority for national and international policy. Green innovation is seen by governments not only as an essential means to tackle environmental challenges and promote sustainable development, but also as a potential driver of economic growth. Hence, a number of national intellectual property (IP) offices around the world have recently put in place measures to fast track "green" patent applications. The common objective of these schemes is to allow patents covering green technologies to be examined as a matter of priority thus reducing the time needed to obtain a granted patent from several years to a much shorter period reaching a few months in some cases.

There are several advantages to a reduced examination process. It allows patent applicants to start licensing their technologies sooner, thereby reducing the time to reach the market. A granted patent may also help start-up companies to raise private capital. For these reasons, green patent fast-track schemes have been expected to accelerate the diffusion of clean technologies. This study provides a first empirical analysis of the fast tracking procedures based on data from Australia, Canada, Israel, Japan, Korea, the UK, and the US. In order to analyse the characteristics of fast-track patents and companies that resort to these programmes, data sets were assembled from the various patent offices. The data analysis was complemented by interviews with patent attorneys and IP professionals.

An analysis of the data reveals that the number of patents requiring accelerated examination under the fast track programmes represents only a tiny share of total patent filings in each patent office. Additionally, only a small share of green patents chooses to request accelerated examination. This suggests that either patent applicants are unaware of the existence of the programmes, or that it is not always in their best interest to request accelerated examination.

As mentioned above, while there are several advantages to a reduced examination process, there might also be some disadvantages in accelerating the granting of a patent. To begin with, requesting an accelerated examination may add costs to the application for patent offices that also require these applicants to conduct a search report on the prior art, as is the case at the Japan Patent Office (JPO). Some programmes require additional commentary by the applicant to explain the differences between the prior art and the application being prosecuted (e.g., in Japan). More importantly, it is not always in the applicant's best interest to have his or her patent published or granted as soon as possible. Indeed, patent applicants must reach a compromise between the need to secure patent protection as early as possible, and the incentive to keep the design of the patent open as long as possible.

Consequently, patent applicants have an interest in using fast-tracking programmes only under specific circumstances (suspicion of infringement, capital-raising activity, securing commercial partnerships, among others). This explains why only a small percentage of eligible patents are found to be using this opportunity.



### Are fast-track green patents crowding out other patents?

A potential problem of fast-tracking programmes for green patent applications is that they may delay examination of patent applications in other technologies. An important consequence of the compromise is that most patent applicants are actually happy to see the examination of their patent applications postponed. If we assume that fast-tracking is appealing for at most 20 percent of patents in non-green technologies, this means that crowding-out is likely to be an issue for only 20 percent of patent applications delayed. This only represents around 1,000 patents since 2009 worldwide, suggesting that crowding-out is unlikely to have been a significant issue so far.

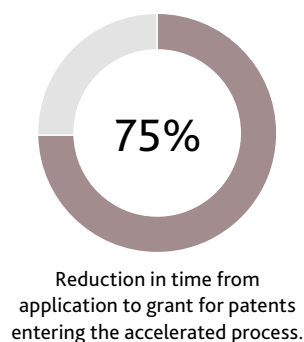
### Description of green patent fast-track programmes

Country	Starting Date	Technologies Covered	Period of Analysis	Fast-trackgreen patents
UK	May 2009	All environmentally friendly inventions	May 2009 – June 2012	776
Australia	September 2009	All environmentally friendly inventions	September 2009 – August 2012	43
Korea	October 2009	Technologies funded or accredited by the Korean government, or mentioned in relevant government environmental laws	October 2009 – June 2012	604
Japan	November 2009	Energy-saving & CO2 Reduction	November 2009 – December 2010	220
US	December 2009	Environmental quality, energy conservation, development of renewable energy resources, or green housgas emission reduction	December 2009 – March 2012	3533
Israel	December 2009	All environmentally friendly inventions	December 2009 – September 2012	78
Canada	March 2011	All environmentally friendly inventions	March 2011 – August 2011	67
Brazil	April 2012	Alternative energy, transportation, energy conservation, waste management and agriculture	-	-
China	August 2012	Energy-saving technologies, environmental protection, new energy, new energy vehicles	-	-

### The characteristics of fast-track patents

The data distribution of patents by technology could only be obtained from the UK, the US, Australia, Canada and Israel. Three results stand out from the analysis of technologies. First, despite the absence of any strict definition of what constitutes a green patent in most of the fast-track programmes, nearly all patents cover environment-related technologies. Second, climate change-related technologies represent the majority of patents in all fast-tracking programmes, with the exception of Israel. Third, the top technologies differ greatly across countries, reflecting national specificities.

Most patents in the US relate to renewable energy technologies, in particular wind and solar power. They are followed by transport-related technologies. The majority of these patents cover energy-efficient technologies for internal combustion engines and not electric and hybrid vehicles. Interestingly, carbon capture and storage is the main technology for which accelerated examination is requested in Australia and Canada. This can be linked to Australia's dependence on coal-based electricity production and to Canada's booming tar sand mining industry. In Canada, carbon capture and storage is followed by biomass patents – an indication of the abundance of biomass resources in the country. In Israel, 30 percent of fast-track patents cover water-related technologies, in particular grey water reuse and desalination technologies, which is not surprising given Israel's strong water scarcity problems. In the UK, other environmental technologies – such as recycling or water-saving technologies – also represent a significant share of patents. Interestingly, there are more solar patents in the UK programme than wind patents.



From the data it is evident that fast-tracking programmes have kept with their promises. In the UK, for example, there was a 75 percent reduction in the time-to-grant period. Other patent offices also showed a significant, albeit slightly smaller, reduction in the time-to-grant period

### **The value of fast-track patents**

Our results consistently show that fast-track patents are of higher value than equivalent patents going through the normal procedure. We consistently found a significant difference between the values of fast-track and regular patents. Fast-track patents are filed in 15 percent more countries on average than non-fast-track patents. The results were even more compelling when we looked at patents taken out in all three of the world's major patent offices – Europe, Japan, and the US – which represent the high-end of patent distribution in terms of commercial value. Here we found that fast-track patents were up to 56 percent more likely to be filed in all major patent offices than non-fast-track patents. Importantly, these results hold when we included patent applicant fixed effects, meaning that among a company's patent portfolio, fast-track patents are of higher value than the average patent.

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*Our results consistently show that fast-track patents are of higher value than equivalent patents going through the normal procedure.*

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This suggests that patent applicants – who have private information on the value of their patent applications – request accelerated examination for patent applications that are of higher value, are more commercially viable and thus may have been the subject of commercial interest from potential business partners.

One of the main objectives of fast-tracking programmes is to accelerate the diffusion of green technological knowledge in the economy. In this regard, patent citations offer an attractive way to analyse knowledge diffusion. When a patent is filed, it must include citations to previous patents upon which the inventor has built to develop the new technology. Compared with non-fast-tracked patents, fast-track patents received twice as many citations in the same time period. There appears to be strong evidence that green patent fast-tracking programmes accelerate the diffusion of knowledge in green technologies in the short run (i.e., during the first years following the publication of the patents).

### **Understanding fast-track programme users**

We were able to obtain the nationality of applicants for the UK and the US programmes. The majority of requests for accelerated examination come from domestic applicants. Foreign applicants are mainly from OECD countries – very few are from emerging economies. When we compared applicants requesting accelerated examination with all applicants for green patents at the UK and the US patent offices in the last few years, we found that domestic applicants were much more likely to participate in the fast-tracking programmes than foreign applicants were. This suggests that foreign applicants might be unaware of the existence of these programmes. This is also likely the result of applicants only wanting to expedite the first application, which is usually filed in their home country. Multinational companies very often let their patent filings be handled by the local subsidiary. Therefore, looking at the location of applicants may fail to uncover all cross-border patent transfers.

The 1,304 UK and US-published patents on which detailed data is available were filed by 531 applicants. This means that applicants requested accelerated examination for 2.4 patents on average (the median applicant filed one request). We also found that, while only 20 percent of companies requested accelerated examination for some of the patents

in their portfolio, 80 percent of them requested accelerated procedure for all of their green patents. The procedure appears to be a systematic strategy for most applicants.

The fact that most applicants systematically choose to request the accelerated procedure while only a few use it on an ad-hoc basis suggests that companies joining the programme might differ in some manner from companies that do not. We found evidence that the fast-tracking programme seems to appeal particularly to start-up companies in the green technology sector that are currently raising capital but still generating small revenue. The reason for this is that patents are more critical to the survival of start-up companies than to that of larger, established companies.

### Conclusion

After conducting the first empirical analysis of the green patent fast-tracking programmes that have recently been put in place in various patent offices worldwide, three results stand out.

First, despite a low participation in the programmes, which reflects the strong incentive for patent applicants to keep their patents in the examination process (i.e., not granted) for as long as possible, there is a clear demand for fast-tracking procedures, in particular from small but fast-growing start-up companies in the green technology sector. The main advantage of fast-tracking programmes is that they bring a welcome differentiation to patent examination procedures. Patent applicants who can benefit strongly from an early grant can choose to request accelerated examination. Other patent applicants who prefer to keep learning about how the market for their technology develops before requesting a grant can do so by not opting in.

Second, fast-tracking programmes seem to keep their promises. The time from application to grant is reduced by up to 75 percent for patents entering the accelerated procedure. The time from application to grant has been reduced by up to 75 percent for patents entering the accelerated process.

Finally, the analysis of patent citation data shows that fast-tracking programmes have accelerated the diffusion of knowledge in green technologies during the first years following the publication of the patents.

One of the main limitations of this analysis is that we have not been able to assess to what extent fast-tracking programmes have accelerated the diffusion of green patented technologies, in particular through licensing. A survey of programme users could help answer this question and refine our understanding of accelerated examination. This is left for future research.



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Political Science. This article has  
been drawn from a longer study,  
which can be accessed [here](#).

## ANIMAL WELFARE

# The EU-Chile association agreement: A booster for animal welfare

Cédric Cabanne

*The bilateral free trade agreement between the EU and Chile, agreed in 2002, includes provisions on animal welfare as well as cooperative mechanisms supporting their implementation. As such, the agreement has contributed to the institutionalisation of animal welfare in Chile.*

Over the past three decades, Chile has experienced a rapid increase in external trade. Based on a reform agenda set in the 1980s, Chile negotiated tariff reductions through a number of trade and association agreements. Such agreements were concluded with neighbouring countries during the second half of the 1990s and with the EU, US, China and Japan since 2003.

The Association Agreement between the European Community and its Member States and the Republic of Chile was signed on 18 November 2002. This Agreement includes a comprehensive Free Trade Agreement (FTA) that entered partially into force on 1 February 2003. All the agreement's provisions entered into force two years later – on 1 March 2005 – after being ratified by the signing parties.

The process of tariff elimination began in 2003 for almost all Chilean exports to the EU. Tariffs were phased out on schedules lasting up to ten years. In addition, tariff quotas were established for sensitive products, which included beef, pork, mutton, and poultry.

### Animal welfare in bilateral relations

In 2003, the EU, with the aim of developing standards, requested the introduction of a reference to animal welfare in the trade agreement. A meat exporter, Chile, finally agreed to the proposal. The objective was to establish a mechanism of transparency and recognition of equivalence with regard to the protection of public, animal, and plant health in the two parties. The agreement specifically mentioned the aim of reaching a common understanding concerning animal welfare standards.

With the annex entitled "Agreement on sanitary and phytosanitary (SPS) measures applicable to trade in animals and animal products, plants, plant products and other goods and animal welfare," the EU-Chile Association Agreement became the first bilateral trade agreement to mention animal welfare.

The EC-Chile FTA allows for further modifications. Article 89(3) of the agreement "establishes that the Association Committee when dealing with SPS measures, shall be composed of representatives of the European Union and Chile with responsibility for SPS matters. This Committee is called the Joint Management Committee for SPS matters and it is empowered to modify, by means of a decision, Appendices I to XII to the SPS Agreement, as established in its Article 16 (2)."

Appendix I determines animal and animal products, products of animal origin covered, and the animal welfare standards. When signing the association agreement, the two parties mentioned "stunning" and slaughter of animals as standards of concern.

Animal welfare standards are defined as "standards for the protection of animals as developed and applied by the Parties and, as appropriate, in compliance with the World Organisation for Animal Health (OIE) standards (...)"

### **Operationalising cooperation: The Joint Management Committee**

Set-up in the SPS Agreement of the EU-Chile FTA, the Joint Management Committee seeks to harmonise measures applicable to trade in animals, plants and other goods, and animal welfare. The Joint Management Committee monitors the implementation of the agreement and examines all matters arising, reviews all the appendices of the agreement in the light of progress made under consultations and review, and provides recommendations for modifications of the agreement. Furthermore, the parties agreed to establish technical working groups consisting of scientific experts. When further expertise is needed, additional *ad hoc* groups can be established.

Equivalence for trade purposes is a key notion in the work of the Joint Management Committee. In legal terms, it means *"the state where in measures applied in the exporting Party, whether or not different from the measures applied in the importing Party, objectively achieve the importing Party's appropriate level of protection or acceptable level of risks."* Concretely, equivalence can be recognised in relation to an individual, a group of measures, or a system. The determination of equivalence is achieved following a consultation process. Once established, equivalence can be suspended or withdrawn by the importing party acting in accordance with its legislation and administrative system.

When the parties signed the agreement, the standards concerned were the stunning and slaughtering of animals. However, a year after the 1 March 2005 entry into force of the association agreement, the Committee was due to adopt a working plan on *"other animal welfare standards which are important for the parties."* In 2006, the Joint Management Committee adopted a recommendation to extend the scope of the agreement to animal welfare standards concerning the transport of animals by land and sea.

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*Thanks to the working group, the EU and Chile are cooperating more closely in their work within the sphere of the World Organisation for Animal Health.*

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Every year, the Joint Management Committee organises working group meetings to improve coherency between Chile and EU. The working group on animal welfare has established several annual action plans and programmes. The 2012 action programme included activities to establish equivalence in the area of the welfare of animals during stunning and slaughter. Thanks to the working group, the EU and Chile are cooperating more closely in their work within the sphere of the World Organisation for Animal Health (OIE) as well. In 2012, the working group focused on the entry into force of Council Regulation (EC) No. 1099/2009 on the protection of animals at the time of killing.

### **Emergence of an animal welfare regulatory system in Chile**

The provision on animal welfare in the Chile-EU agreement triggered the institutionalisation of animal welfare in Chile. Through its Agriculture and Livestock Service (SAG), Chile has developed rules for the welfare of animals, mainly during transport and slaughter, based on a voluntary or binding approach on a scientific basis.

Chile does not have one single regulation on animal welfare. The country first considered the issue from the perspective of animal production, which was later incorporated into general regulations. Specific laws were adopted in order to approximate European regulations and processes on slaughter:

- After the publication of the law n° 19.162 (07/09/1992) *"Ley de Carnes,"* a decree was promulgated (*Decreto Supremo* n° 94) integrating animal welfare aspects before and during slaughter (entrance, reception, management, stunning of animals). This decree applies to cattle, sheep and pigs.

- In the case of poultry, the Ministry of Health (*Ministerio de la Salud*) adopted the norm number 117, which details the conditions of arrival in slaughterhouses and aspects ante and post mortem. In the case of livestock for food and meat, the Ministry of Health adopted the norm number 62, which details the inspection procedure and qualifies meat for human consumption.
- In addition to Law n° 19.162 and norm n° 54, Chile adopted specific rules for slaughterhouses for meat to be exported. The procedure for inspection P-PP-IT-005 includes requirements on animal welfare of each country of destination.

Specific rules were adopted on transport of animals. Regulation n° 240 (law n°. 19.162) establishes rules regarding the transportation of cattle and beef. It includes rules on transport by land, sea and air. It also establishes conditions for transport vehicles, standards for loading, unloading, and transport. Additionally, it refers to eight hour rest periods for every 24 hours of journey. Law n° 20.380 adopted in 2009 takes into account the different aspects of animal welfare (companion animals, sports animal, zoos and circus animal, production animals, use of animals in education, and farmed fish). Its elaboration was made possible after a long process.

The Ministry of Agriculture, as the ministry in charge, mobilised stakeholders through a participative approach. These stakeholders included producers (syndicates of rangers, small farmers, producers of chickens, pigs, and sheep), veterinarians, national institutions (*Oficina de planificación Agrícola* of the Ministry of Agriculture, Ministry of Health), representatives of civil society (NGOs dedicated to animal welfare, consumers), and scientists. The process of institutionalisation was accompanied by a number of seminars.

### **Impact of the institutionalisation of animal welfare in Chile**

Today, Chile and the EU are in a position to evaluate the mutual benefit of their harmonisation in the area of animal welfare.

Although Chile originally considered the inclusion of animal welfare as an EU demand, the bilateral agreement played an important role bringing several benefits. "The cooperation we have received from the European Union, in the framework of the Chile - EU bilateral agreement has been an 'adjuvant' for the development of an animal welfare policy in the area of competency of the Agriculture and Livestock Service (SAG) in particular and in Chile in general," said the animal welfare unit coordinator for the Agriculture and Livestock Service at the Chilean Ministry of Agriculture. "An example of this cooperation is the participation of internationally renowned experts in different training and dissemination activities organised by SAG, which have significantly increased the understanding of the animal welfare concept in our country❶."

For the EU, Chile serves as a good example of collaboration in animal welfare and reinforces the EU strategy on animal welfare at the international level.

"The inclusion of animal welfare in the bilateral agreement between the EU and Chile represented an international milestone to achieve a shared understanding on international animal welfare standards as well as to clarify the aims of the European Commission in this field," Andrea Gavinelli, Head of Unit in charge of Animal Welfare at DG Sanco (European Commission) told the author in an interview. He further remarked that, "the technical collaboration within the bilateral agreement with Chile represented an example of a successful *modus operandi* with an EU trading partner that raised the interest of many other countries not only in the Latin American Region. The Chilean experience has definitely helped to highlight the added value of animal welfare to livestock production."

In addition, it is interesting to note that the inclusion of animal welfare in the bilateral agreement between the EU and Chile took place even before the adoption of the OIE animal welfare standards in 2005. The EU and Chile worked together to build a common understanding on the application of animal welfare standards, exchange of expertise, and informal harmonisation of their position at international level (e.g. OIE). There is also

strong collaboration between the EU and Chile at the institutional and academic levels through the organisation of joint seminars.

With the FTA, Chile has engaged in a continuous learning process, which takes into account trade regulations and consumer demand in third countries. Chile and Uruguay also together established a Collaborating Centre on Animal Welfare - *Instituto de ciencia animal de la Universidad Austral de Chile & Instituto de Biociencias veterinarias de la facultad de Veterinaria de Montevideo* – with the support of the OIE.

Chilean animal welfare expertise has already been put to use in cooperation with American partners, including through collaboration on transport with Argentina, exchanges and training with Canada and the US, and possible upcoming collaboration with Costa-Rica and Bolivia.

### Conclusion

The Association Agreement has played a positive role in the institutionalisation of animal welfare in Chile, in particular for livestock production. Following the signature of the agreement, Chilean stakeholders from the production sector were involved in the harmonisation of national rules with EU standards. The trade opportunities provided by the Association Agreement were the main motivation, as the EU is the second largest destination for Chilean exports after China.

Chile provides a good example for Latin American producers with interests in the competitive advantage provided by adherence to animal welfare standards.

Apart from the creation of the law on animal welfare and a sub-department in charge of animal welfare<sup>2</sup>, meat producers in Chile achieved a more comprehensive understanding of animal welfare through a participatory process lead by the Ministry of Agriculture. The respect of animal welfare clearly brought new economic opportunities for Chilean meat producers, which saw a growth in exports to the EU.

① Interview with Leopoldo Stuardo, Coordinador de Bienestar Animal, División de Protección Pecuaria, Servicio Agrícola y Ganadero del Ministerio de Agricultura de Chile, 29/02/2012.

② Resolución n°1.757



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## Special meeting report

# BANGKOK MEET AFFORDS "HISTORIC" TRADE PROTECTIONS FOR THREATENED SPECIES

*Countries met in Bangkok from 3-14 March to consider possible trade measures that could help protect the future of a range of species.*

Countries meeting in Bangkok, Thailand earlier this month have voted to implement trade measures aimed at protecting 55 threatened species. The sixteenth meeting of the Conference of the Parties (COP16) to the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) drew more than 2,000 participants from 170 countries and saw notable listings for certain species of shark, turtle, manta ray, and timber.

This year's conference featured an array of hotly contested species that received much media attention, including polar bears. Negotiations took place from 3-14 March, culminating in plenary voting on new listing proposals. According to Earth Negotiations Bulletin, delegates were overall "very happy" with the outcomes of COP16, with some calling it the most successful meet in 40 years.

In force since 1975, the Convention restricts and regulates trade in certain species to help minimise threats to their survival among its current 177 members. CITES operates through controls and regulations on species listed in three appendices, the major point of discussion at COPs.

Appendix I includes species threatened with extinction and are therefore only allowed to be traded in exceptional circumstances. Appendix II species are not necessarily threatened with extinction, but may become so if trade is unregulated. The lightest listings are on Appendix III, which includes species that a party would like to see controlled through international trade, in addition to its own domestic trade restrictions.

### **Protection for marine species**

In a groundbreaking development that has attracted much media attention, member states have agreed to add five shark species—the oceanic whitetip, the porbeagle, and three types of hammerhead shark – to Appendix II of CITES. These additions passed despite opposition from several Asian nations, led by Japan and China, where shark fin soup is considered a delicacy.

The shark proposals did face some pushback, however, with Japan and Grenada attempting to reopen debate on the oceanic whitetip and hammerhead shark proposals, respectively. In the end, these countries narrowly failed to gain the needed one-third majority for such an action, and both proposals were subsequently adopted onto Appendix II.

An additional proposal for adding the manta ray to Appendix II was also adopted. The species has been a point of growing concern, as they have among the lowest reproductive rates of any marine animals. Experts say this, combined with high prices in international markets for use in traditional Chinese medicine, make them extremely vulnerable. Protection for rays, sharks, and other marine wildlife such as turtles, has led several observers to call COP16 a historic gathering for marine species.

### **Polar bear initiative fails to get traction**

One hotly-contested proposal, which ultimately failed to pass, saw the alignment of Russia and the US behind increasing protections for polar bears. The US – emphasising climate change, not simply trade as a main threat to the species – made a bid to move the arctic animal from its current listing on Appendix II to Appendix I, stating that this

upgrade in listing "is not the solution, but is part of the solution." This united US-Russia front marked a change from Moscow's opposition to a similar proposal from the US three years ago.

Ultimately however, the US-Russia alignment failed to overcome adamant opposition from Canada and Denmark, with the latter representing Greenland. Canada, in particular, had strong Inuit presence at the conference that fought any proposal concerning increasing regulation on polar bears, stressing the cultural and traditional importance of polar bear hunting for native peoples.

### **Plans in motion for great apes, elephants, rhinos**

COP16 also had several movements to strengthen monitoring, enforcement and prosecuting measures for violations of CITES trade policy. Following a report by TRAFFIC, the wildlife trade monitoring network, on the severity of illegal trade in great apes, members moved to establish an illegal trade reporting mechanism on the animals. Experts hailed the decision as a major step toward saving great apes from extinction.

The recent surge in illegal elephant poaching and ivory trade made the species a prominent issue in Bangkok. Countries with prominent illegal ivory trade – China, Kenya, Malaysia, the Philippines, Tanzania, Thailand, Uganda, and Vietnam – were mandated to submit plans to address the problem within two months.

Several groups hailed the progress made, with Carlos Drews, WWF's head of delegation, calling it a "major milestone." Others, however, said they felt it was not enough, and that the decision to not implement any immediate trade sanctions was a failure of the convention. "Illegal killing of large numbers of elephants is increasingly involving organised criminal groups and sometimes well-armed militias," Achim Steiner, head of UNEP, said in his opening address to CITES participants. "Poached ivory is believed to be exchanged for money, weapons, and ammunition to support conflicts in the region."

Member states also extended greater protection to endangered rhinos that are being poached in record numbers for their horns. CITES member states decided that Vietnam, Mozambique, and South Africa must enact stricter legislation concerning poachers and rhino horn smuggling, and they also must provide comprehensive reports to CITES on progress made. Governments also agreed to increase covert investigations, prosecute members of organised crime groups implicated in rhino-related crimes, and use stronger penalties as a deterrence mechanism.

### **Host country issues**

Host country Thailand made headlines at the start of the meet when Prime Minister Yingluck Shinawatra announced that the government would start to work towards ending the country's domestic ivory trade.

Thai rosewood was also the subject of intense debate at COP16. The Southeast Asian country has been struggling with cross border smuggling of the rare wood to neighbouring countries, particularly China, despite domestic Thai law prohibiting logging of all rosewood and other precious wood species. CITES members, however, approved a proposal to list several species of rosewoods from Brazil, Thailand, Honduras, and Madagascar onto Appendix II.

Some observers have commented that the Bangkok meeting has marked a historic shift where countries are increasingly viewing CITES as a useful tool for global enforcement. One delegate noted that in the early years of the Convention, parties were reluctant to even discuss penalties for non-compliance. CITES Secretary-General John Scanlon drew a connection from the positive outcome in Bangkok to movement made at the UN Conference on Sustainable Development last year in Rio.

The next COP will be held in South Africa in 2016.

ENVIRONMENT AT THE WTO

# Seal ban dispute debuts in Geneva

*Trade disputes over environmental issues are on the rise. The seal dispute has been many years in the making and is being watched closely by both the trade and environment communities.*

A much-anticipated WTO dispute hearing got underway on 18 February in Geneva, with initial arguments being presented by Canada, Norway, and the EU over Brussels' ban on seal product imports. The case is one of the most emotionally charged disputes to reach the WTO panel stage.

Much of the two day hearing was open to the public, which helped attract a large delegation from the animal welfare community as well as the sealing industry. Those arriving at WTO headquarters on Monday were greeted by demonstrators bearing placards with graphic images of seal carcasses upon them. Rumours swirled over the possible appearance of Hollywood actress Pamela Anderson – a prominent anti-sealing activist – at the hearing and security was noticeably heavier than usual.

The case revolves around a 2009 European Commission (EC) regulation which banned the sale of seal products in all EU member states. The ban targets commercial sealing operations – such as those in Canada and Norway – which the regulation's proponents have argued to be "inherently cruel" and "inhumane." Both countries, however, insist that there is no justification for the ban and that the policy also discriminates against their industries while favouring sealing taking place in certain EU member states.

## Exceptions complicate case

The regulation, however, does allow the sale of seal products in the EU marketplace in three exceptional circumstances: products derived from hunts carried out by indigenous peoples, products from hunts that were conducted for the sustainable management of marine resources, and products brought in by tourists.

The exemptions have come under attack from Canada, Norway, and several third parties to the case, which argued at the hearing that because the ban is based on the concept that there is a moral imperative to protect seals, it should apply in all circumstances. Japan notably spoke to this point strongly at the hearing, saying that the exceptions undermine the EU's claim that animal treatment is the only issue being considered.

For its part, the EU argues that the exemptions – particularly those pertaining to indigenous peoples and sustainable management of marine resources exemptions – are necessary, even if hunts are not conducted with sufficient animal welfare protection, because of the dependence of indigenous communities on the industry and the need to protect other marine species.

Canada and Norway argue that the indigenous exception amounts to discrimination on grounds of nationality because some 80 percent of fellow sealing nation Greenland's population is indigenous and, as such, could qualify for a disproportionate indigenous exemption under the ban. However, this position is unclear because the majority of Greenland's sealing operations are commercial and will likely not qualify for the exemption. Notably, Greenland has not exported any seal products to the EU since the ban was established as it is awaiting recognition under the exception. In its external affairs Greenland is represented by Denmark, a fact that some interpret as the EU aiming to protect its "own" industry.

### **Morality at issue**

The three parties on Monday presented their opening statements and showed two films that were prepared especially for the event - an unusual occurrence at such a hearing. Canada and Norway began by reiterating their argument that the policy is inconsistent and discriminatory.

"The EU Seal regime bans some seal products because, the EU says, seals cannot be hunted consistently with animal welfare requirements, yet it opens the EU market to other seal products without regard to animal welfare," Norway said in its first opening statement. "As a result, the measure is highly selective about the necessity to protect seal welfare and it does not establish a high level of protection for seals."

The EU, however, has focused on presenting evidence that the ban is legitimate because of the moral basis of animal protection. This is the first time the global trade arbiter will consider the WTO compatibility of a measure based on public morality relating to animal welfare.

"As a result of the conditions in which commercial seal hunting takes place, it is impossible to ensure that seals will not be killed in ways that cause them excessive pain, distress, fear, or other forms of suffering," the EU said in their oral statement.

The EU's position was bolstered by the submission of two amicus curiae briefs from an alliance of animal rights activists and a small group of Canadian lawyers sympathetic to the EU position. The unsolicited briefs provide non-governmental representatives a means to provide additional inputs into the case that were not provided in the first written submissions of any given party. In an unexpected move the EU decided to make the first amicus brief a formal part of their submission, thus ensuring that it will be taken into account by the panel and the other parties.

### **Graphic video footage**

The EU followed up its statement with the presentation of a long graphic film demonstrating the way in which some commercial sealing operations conduct their hunt. While the case has only just begun and will likely take many twists and turns before it is over, panel chair Luzius Wasescha of Switzerland appeared to acknowledge that the EU footage was moving.

"The video does not encourage me to have a meat dish tonight - instead I'll opt for raclette," the chair said, referring to the popular Swiss dish of cheese and potatoes. Still, some experts say that basing a WTO case almost exclusively on moral grounds will be difficult because it could open a Pandora's Box of potential trade bans based on "morality." Articulating concerns along these lines, all third parties to the dispute with the exception of the United States appeared to speak against the "morality" arguments presented by the EU.

Some critics of the EU ban also say that the morality basis of the ban is too vague because it hinges upon the visual appeal of the seals themselves, while other animals are not afforded the same treatment. For example, some say the practice of gavage on ducks and geese to feed Europe's foie gras industry should be treated in the same way as the sealing industry if the EC regulation was indeed established to protect animal welfare.

The panel is considering what details it will be focusing on as the case unfolds and has hinted that it was interested in the trade relationship between Greenland and the EU, the market for seal products, the way in which other trade bans function, details around how the indigenous exception works, possible animal welfare outcomes in different EU member states, details on the killing methods that could be used under the sustainable resource management exception, and clarification on whether the ban is a technical regulation that should be covered under the WTO Technical Barriers to Trade (TBT) Agreement.

The next hearing, scheduled for 29 and 30 April, is expected to focus more specifically on the legal aspects of the case.

RENEWABLE ENERGY

# Solar glass spat renews EU-China trade tensions

*The most recent chapter in the EU-China renewable energy row is focussed on the glass used to create solar panels.*

The European Commission on 28 February announced that it was launching a new investigation into whether imports of solar glass from China were being sold below market value – a practice known as “dumping.” The move comes as a reaction to a 15 January complaint from EU ProSun Glass, an ad hoc group representing European solar glass manufacturers.

While not connected formally with EU ProSun, the group responsible for issuing a separate solar complaint last September, EU ProSun Glass represents a similar constituency that is responsible for more than the 25 percent of industry production required to launch an investigation. Solar glass is used primarily, but not exclusively, in the production of solar panels.

According to Brussels, the EU solar glass market is valued at less than €200 million. Bloomberg notes that solar glass accounts for about four percent of solar panel costs and that EU imports of solar panels from China were worth €21 billion in 2011. Brussels said that it was obliged to open the new investigation because the complainant was able to provide clear evidence of dumping and material injury.

The EU investigation could take up to 15 months to reach a formal conclusion, but Brussels could impose anti-dumping duties as soon as December 2013, when the Commission releases its provisional findings.

Meanwhile, the separate investigation that the Commission launched last September into alleged dumping of Chinese solar panels continues underway, with an announcement on provisional duties expected by June, and final duties possibly by year's end. EU Trade Commissioner Karel De Gucht said last week that the two sides would need to reach an amicable solution in that timeframe if Beijing wishes to avoid the penalties that could come from that particular investigation.

The two sides have sparred repeatedly over their respective renewable energy policies over the past year, with challenges also coming from Beijing. Last November, China filed a WTO complaint against Brussels over EU local content requirements. That complaint came just days after China launched anti-dumping and countervailing duty investigations domestically over EU exports of solar polysilicon components to the Chinese market.

Yi Xiaozhun, China's ambassador to the WTO, spoke out against the newest investigation on Monday, arguing that the EU and US are resorting to such punitive measures to help offset economic adversity. The ambassador said that the increased frequency and magnitude of the frictions are troubling and must be addressed.

“We must resolutely oppose such trade protectionism abuse,” Yi told state news agency Xinhua on the sidelines of the annual session of the 12th National Committee of the Chinese People's Political Consultative Conference, the country's top political advisory body. “Otherwise, China will see an increasingly worse export environment.”

The ambassador further argued that Brussels' position on Chinese solar-related exports is inconsistent with its stated position on climate change.

CLIMATE CHANGE

# Obama shifts gears on climate change

*The US president is giving signals that his second term could see a boost in initiatives aimed at reducing climate change.*

US President Barack Obama on 12 February outlined a series of new measures aimed at tackling climate change, following up on his January pledge to make the subject a priority in his second-term agenda. The announcement – which came as part of Obama's annual address to Congress – marks an overt change in tone on the issue, which has proven to be particularly divisive in the US.

During his inaugural address on 21 January that kicked off his new term, the president promised to "respond to the threat of climate change," a pledge that was viewed by observers as an early sign that Obama's second term might make the issue more of a priority than his first.

The US president began his first four years in office with a strong position on combating climate change, leading many observers to believe the Obama Administration would take a far more aggressive position on the issue compared to the previous administration of George W. Bush. However, many environmentalists say they were disappointed when the US took a backseat in the international negotiations on the subject, which are held under the UN Framework Convention on Climate Change (UNFCCC).

Obama called on Congress to pursue "a bipartisan, market-based solution to climate change," similar to the Climate Stewardship Act that was championed by Senators John McCain and Joe Lieberman – a Republican and Independent, respectively – some years ago. That initiative, and others following it, failed to make it out of Congress.

Should US lawmakers not act quickly enough at the federal level, Obama said that he would direct his cabinet to find executive actions that his office could take toward reducing pollution, fostering a quicker transition to sustainable energy sources, and preparing communities to handle climate change impacts.

As part of the push to drive down emissions, the US must continue to make inroads into the clean energy market, Obama said – particularly as other countries build up their own renewable energy sectors. Such an approach would not only help in fighting climate change, but would also create jobs, the US president argued.

"Four years ago, other countries dominated the clean energy market and the jobs that came with it. We've begun to change that," Obama said. "Last year, wind energy added nearly half of all new power capacity in America. So let's generate even more. Solar energy gets cheaper by the year – so let's drive costs down even further."

In his speech, Obama also stressed the need to focus on developing technology for cleaner natural gas and to reduce dependence on foreign oil – while eventually transitioning away from oil as an energy source.

The reference to moving away from oil dependence comes amid growing speculation over the future of a proposed multi-billion dollar pipeline that would – if built – carry crude oil and bitumen from the oil sands of the Canadian province of Alberta to refineries south of the border.

# The newroom

Be sure to visit [ictsd.org/news/biores](http://ictsd.org/news/biores) regularly for breaking trade and environment news

## US challenges Indian renewables incentives

The US has filed a formal challenge at the WTO over India's support policies for solar energy, Washington officials announced in early February.

At issue in the complaint is a local content requirement in India's national solar programme, which Washington claims discriminates against foreign solar equipment manufacturers in favour of their domestic counterparts.

The challenge comes amid growing questions over the degree to which countries can help support their burgeoning renewable energy sectors, particularly given the global trade arbiter's recent panel ruling regarding a similar programme in the Canadian province of Ontario.

US officials have stressed that the India-focused complaint targets only India's local content requirement, and not the overall objective of developing renewable energy sources.

## Commission to promote sustainability of high seas

A new high-level international commission has been established to help focus political attention on the need for protecting the high seas. The Global Ocean Commission aims to generate new solutions for protecting this part of the world that it says has been a "neglected area of global governance."

Because of the enormous geographic magnitude of the high seas, they have been particularly challenging to manage and notoriously vulnerable to exploitation. The global commission, however, says it will use new technologies to help monitor activity on the open ocean in a way that was not previously possible.

The Commission will look into the effects of climate change, which is drastically changing conditions in the oceans, including acidification. The global body will also be working on proposals for change in areas such as: biodiversity and habitat protection; subsidy reform in the area of fisheries; policing and enforcement; as well as evolving governance.

## EU-Singapore trade deal aims for "green growth"

The EU and Singapore have completed final negotiations on a free trade agreement (FTA) that includes language aimed at promoting "green growth." While the FTA is Brussels' first with a member-country of the Association of Southeast Asian Nations (ASEAN), the deal could be the first step in forging a trade liberalising deal between their two respective regional blocs.

The EU will remove tariffs on all imports from Singapore over five years, with 80 percent of tariff lines being covered upon entry into force. Singapore, however, will immediately allow duty-free access for all imports from the EU. The green growth aspect of the FTA aims to remove trade and investment barriers pertaining to renewable energy generation.

The EU-Singapore deal also includes a commitment to "ensure that trade supports environmental protection and social development."

## Canada appeals WTO renewable energy decision

Canada has appealed a recent WTO dispute panel finding that local content requirements for renewable energy generation in the province of Ontario violate international trade rules.

The province's feed-in tariff (FIT) scheme aims to support renewable energy by guaranteeing electricity generators above-market rates on certain renewable sources of energy, such as wind and solar.

The global trade arbiter on 19 December announced that the local content requirement of the scheme - obliging participants to source up to 60 percent of their equipment from Ontario - was a trade barrier that discriminated against companies the EU and Japan.

Canada has challenged the panel's finding, insisting that the programme qualifies for an exemption from certain trade rules relating to government procurement under the General Agreement on Tariffs and Trade (GATT).



## Brussels freezes GM crop approval process

The European Commission has ruled that there will be a freeze on the approval process of any further genetically modified (GM) crops until a concrete decision is made on whether member states will be given authority to decide on the issue themselves.

Currently, the EU allows for the cultivation of only two GM crops for human consumption and hence has one of the strictest policies on the issue of any region or country in the world. In order for a GM crop to be approved for use within the borders of the EU it must undergo extensive testing done by the European Food Safety Authority (EFSA) which can take years to complete.

Biotech firms say the new GM crops in Europe would allow farmers to substantially increase yields from varieties that are resistant to drought and insects. However, critics maintain that the crops are less genetically diverse than the original organism, making them more susceptible to disease and other naturally found toxins.

## Obama under pressure over US-Canada pipeline

Debate over whether US President Barack Obama should approve a controversial oil-and-gas pipeline from Canada to refineries south of the border reached a fever pitch in March, following the highly-anticipated release of a draft assessment of the project's environmental impact.

Observers and officials alike have said that the impending pipeline decision could indeed be one of the first tests of Obama's commitment to climate change issues, after the US President outlined an ambitious agenda in this area a month ago. Obama made headlines last year when he denied the original application of TransCanada for the construction of the Keystone XL pipeline.

The recently-published US State Department report, however, found the project's approval – or rejection – is “unlikely to have a substantial impact on the rate of development in the oil sands,” and that the expected carbon emissions, while greater with tar sand oil than with conventional sources, would still be manageable.

Environmental groups have long argued that the extraction and refining of Canadian sand oil produce substantial carbon emissions, and that the risk of a pipeline breach in environmentally sensitive areas could have devastating consequences.

## Global mercury treaty clinched in Geneva

Delegates representing 140 countries have clinched a deal to establish an international binding treaty to curb mercury pollution. The convention will enter into force once it has been ratified by at least 50 countries.

The Minamata Convention seeks to reduce the use of mercury by targeting several products for phase-out by 2020. Those products include mercury thermometers, certain blood pressure measuring devices, many batteries, certain types of electric switches, some fluorescent lamps, and certain soaps and cosmetics.

While many welcomed the treaty, some groups felt that the language used was too vague in reference to some industries, such as gold mining and coal-fired plants, the largest mercury sources. Aside from the vague language, many of the necessary actions will be taken during extensive phase-out periods, and not all actions are mandatory.

## EU confirms ethanol duties on imports from US

The European Commission has confirmed that it will be imposing a five-year anti-dumping duty on imports of bioethanol from the US, after an internal investigation concluded that low-priced imports were harming the European Union's domestic bioethanol industry.

The 9.5 percent duty will be imposed on all US producers exporting to the 27-nation bloc, according to an entry published in the EU's Official Journal on 22 March, in line with an earlier proposal issued by the Commission in January.

Brussels had concluded on the basis of a 15-month investigation into a number of US producers that domestic policies aimed to encourage clean energy constituted an illegal subsidy and lead to artificially low-priced imports being “dumped” on the EU market.

Washington, in turn, has expressed “serious concerns” about the methodology used in conducting the investigation, and US producers have decried the decision.

ePURE - the industry association that first asked the Commission to launch the investigation - welcomed the Commission's move. ePURE's members produce 80 percent of Europe's bioethanol.

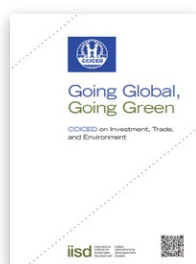
# Publications and resources



## **Turn Down the Heat: Why a 4°C World Must be Avoided – World Bank - November 2012**

This report, produced for the World Bank by the Potsdam Institute for Climate Impact Research and Climate Analytics, aims to describe what climate change impacts are likely to be felt in a "4°C world" (i.e., a world where global average temperatures have risen four degrees Celsius above pre-industrial levels). In doing so, it hopes to motivate actors and insert urgency into climate change mitigation and adaptation efforts.

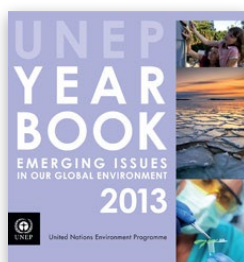
The full report can be found at <http://bit.ly/ZbrEcj>.



## **Going Global, Going Green: CCICED on Investment, Trade and Environment – IISD - 2012**

This book is a summary of work by the China Council for International Cooperation on Environment and Development Task Force on Investment, Trade, and Environment. The authors argue that while significant progress has been made in achieving sustainable development in China, there are still many challenges ahead. The book analyses the impact of international investment and trade on the environment and how China could leverage its international trade and investment activities to advance a "green shift" of the economy.

The book can be purchased at <http://bit.ly/16xy4a2>.



## **UNEP Year Book 2013: Emerging Issues in Our Global Environment – UNEP - 2013**

The UNEP Year Book 2013 is the 10th edition of the Year Book series. This series presents annual reviews of emerging environmental issues and policy-relevant developments. The year book addresses several themes, including the rush for resources prompted by an apparent acceleration in sea ice melting, the need for better information and sound management to minimise the risks from chemicals, and the recent spike in the illegal trade in elephant ivory and rhino horn. Overall, the publication looks at key environmental events in 2012-13 and at changes in the global environment, based on key environmental indicators.

The year book can be found at <http://bit.ly/13XAOO0>.



## **Is Green Growth Good for the Poor? – The World Bank Development and Research Group – October 2012**

This paper challenges a predominantly held view about "green growth" as a solution to help the poor in developing countries. According to the author, such a view ignores important trade-offs in the nature of green growth strategies, stemming from a poor understanding of the sector and effective poverty reduction. The paper finds that the aforementioned strategy may well cause a slow-down in the effectiveness of growth in reducing poverty. The main lesson therefore is that trade-offs are bound to exist; they increase the social costs of green growth and should be explicitly addressed.

The full research paper can be found at <http://bit.ly/Xd66cC>.



### **Fast-tracking Green Patent Applications: An Empirical Analysis – ICTSD – February 2013**

In recent years, innovation has topped the agenda of policymakers worldwide as they seek to promote green growth and advance sustainable development. As a result, several countries – including Australia, Canada, Israel, Japan, Korea, the UK, and the US – have put in place green patent fast-tracking programmes with the aim of accelerating the development and diffusion of environment-friendly technologies. This study by Antoine Dechezleprêtre is the first empirical analysis of these programmes. The study finds that fast-tracking procedures enable applicants to start licensing their technologies sooner and reach the market more rapidly.

The study can be found at <http://bit.ly/107lxqP>.



### **Practical Considerations on Managing Trade Disputes – ICTSD – December 2012**

Insufficient legal capacity impedes the ability of developing and least-developed countries to make full use of the options provided by the multilateral trading system, in particular the WTO dispute settlement system. This information note focuses on how countries can build legal capacity, engage with the WTO, and better manage their trade disputes. The paper presents the main findings and recommendations that emerged from recent dialogue jointly organised by ICTSD, WTO and the Advisory Centre on WTO Law (ACWL). The findings are presented in seven sections, with each focusing on a different phase or aspect of the extended WTO litigation process.

The information note is available at <http://bit.ly/YjH6nB>.



### **Unpacking the International Technology Transfer Debate: Fifty Years and Beyond – ICTSD – November 2012**

This paper, written by Padmashree Gehl Sampath and Pedro Roffe, summarises the political economy of technology transfer negotiations since the 1960s. The paper addresses two key questions: do the debates cater to country-level technological needs in developing countries and how can lessons learnt be incorporated into the international discourse. The analysis places a particular emphasis on the technology transfer-intellectual property rights (IPRs) nexus which, in many ways, has been at the heart of the international discourse on technology transfer. The authors conclude by identifying the main issues that remain outstanding in this discourse and propose some thoughts for the way forward.

The full paper can be accessed at <http://bit.ly/Ym2FRd>.



### **Letting the Sunshine in at the WTO: How Transparency Brings the Trading System to Life – WTO – March 2013**

This working paper, written by Robert Wolfe of the School of Policy Studies at Queen's University, addresses the logic of transparency in general, and the motivation for its use in the multilateral trading system. The author also analyses information on the existing transparency mechanisms within the WTO, and provides suggestions for improving transparency within the Geneva based trade body.

The working paper is available at <http://bit.ly/12WpVgn>.

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