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Analysis and news on trade and environment

VOLUME 8, ISSUE 8 – OCTOBER 2014



## Bridging the gaps in biodiversity conservation and use

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CBD COP and Nagoya Protocol meetings ahead

### WILDLIFE TRADE

New rules for shark and manta ray trade

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Lessons from trading diamonds



International Centre for Trade  
and Sustainable Development

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## BRIDGES TRADE BIORES

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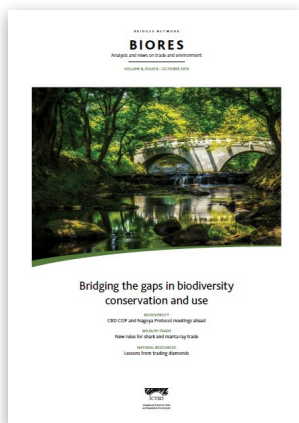
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## Bridging the gaps in biodiversity conservation and use



*Biodiversity loss continues to present a major global challenge. A 2002 goal set by global leaders to significantly halt the decline by 2010 – measured by 21 sub-targets – did not even come close to being met.*

*At the same time, some estimates suggest that at least 40 percent of the global economy depends directly or indirectly on biological resources. This figure climbs to around 80 percent when evaluating the needs of the world's poorest communities. Earlier this year, UN climate scientists also warned of far-reaching consequences in the face of climate change, set to leave marks on natural and human systems across all continents and oceans.*

*Against this backdrop, delegates gathering later this month in Pyeongchang, South Korea for the CBD COP12 will have their work cut out for them. Key tasks include discussion on how to ramp up efforts on a strategic plan governing biodiversity management and policy action to the end of the decade.*

*A potential bright spot on the agenda, the Pyeongchang COP will see the entry into force and first meeting of the Nagoya Protocol, designed to implement the CBD's third pillar on access to and the fair and equitable sharing of benefits arising from the use of genetic resources. These are often commercialised and traded as natural ingredients in food, pharmaceutical, and cosmetic products and benefit sharing would also be required with the providers if research and development is conducted.*

*However, as the two lead articles in this BioRes issue argue, some gaps exist in the final text of the Nagoya Protocol. Daniel Robinson provides an overview of the trade-relevant areas up for discussion in Pyeongchang, including uncertainties that remain around national implementation of Nagoya, and monitoring and reporting mechanisms for the new instrument. Morten Walløe Tvedt takes a look at issues that need to be addressed to make the Protocol a more functional conservation and sustainable use instrument, including use of contracts as well as potential holes in its scope.*

*According to the Nagoya Protocol's opening lines, appropriate access to genetic resources, transfer of relevant technologies, and necessary funding will help to ensure the conservation of biological diversity and the sustainable use of its components.*

*There is still some catching up to do in relation to both conservation efforts and sustainable use practices. The Nagoya Protocol also has at its core an aim to build a bridge between the need to safeguard the world's biodiversity and being able to reap benefits from the equitable employment of its components. But will it live up to this potential?*

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BIODIVERSITY

# Nagoya Protocol in the spotlight with CBD meet ahead

Daniel Robinson

*The next Conference of the Parties to the Convention on Biological Diversity is just around the corner. This article outlines some of the key issues on the agenda, as well as potential interactions with trade policy.*

The planet is threatened with a serious biodiversity challenge. Up against rapid and continuing biodiversity decline, highlighted by UN reports for well over a decade, the Convention on Biological Diversity (CBD) may be facing a crisis of confidence from many scientists and commentators. According to the last Global Biodiversity Outlook report, a 2002 pledge by world leaders to significantly stem biodiversity loss by 2010 was not definitively met for any of the 21 sub-targets, with key indicators among others including increased species extinction threats, natural habitat decline, ecosystem damage, and waning crop genetic diversity.

Governments and stakeholders will once again gather to confront these concerns at the twelfth meeting of the Conference of the Parties (COP) to the CBD, scheduled from 6-17 October in Pyeongchang, South Korea. Following news in July of the deposit of the 50th instrument of ratification of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (ABS) – the required threshold for the international instrument to enter into force – the first Meeting of the Parties (MOP) to the Protocol is now a much-anticipated feature of the October biennial meet. Word ahead of the meeting is that a “Pyeongchang Roadmap” to help scale up biodiversity conservation, if successfully agreed, could prove an important win in the fight to preserve the world’s biodiversity.

### Stemming the loss

The CBD – one of the three Rio Conventions – has only two “hard” instruments in the form of protocols, the Cartagena Protocol on Biosafety, and now the Nagoya Protocol on ABS. Although both were secured after protracted wrangling, some see these protocols as focusing on lesser areas of importance when compared to the need for specific protections and targets for biodiversity conservation and sustainable use, and for the prevention of further species extinctions. The targets and action inspired by the CBD agenda are arguably not backed up by specific obligations and enforcement mechanisms leading to ongoing criticisms and concern around safeguarding the world’s biodiversity. Indeed, a draft of the pending fourth Global Biodiversity Outlook (GBO-4), discussed at a CBD intersessional meet in July and set to be finalised in Pyeongchang, finds that only one of the 20 Aichi Targets is truly on track. The draft report further suggested that elements of five targets are in fact moving in the wrong direction. Performance on a tenth target on minimising human-induced damage to coral reefs, marked down for realisation by 2015, is deemed particularly poor.

As a result, a good part of COP12 is set to be devoted to mid-term review on the implementation of the Strategic Plan for Biodiversity (2011-2020), and on progress towards meeting the related Aichi Biodiversity Targets. One working group at the COP will seek to shore up a roadmap for implementing the objectives of the Strategic Plan, which will build on analysis of the GBO-4, and updated national biodiversity strategies and action plans (NBSAPS). The provisional agenda indicates that discussion around assisting strategic implementation will also focus on capacity-building, enhancement of technical and scientific cooperation. An ad-hoc working group is set to be established on indicators for assessing progress on the Strategic Plan. This language, however, suggests the likely



## Rio Conventions

Three international conventions – on biodiversity, climate change, and desertification – were agreed to at a 1992 “Earth Summit” held in Rio de Janeiro, Brazil. World leaders gathered in the South American city to address urgent problems related to both environmental protection and socio-economic development.

continuation of a soft, non-binding approach that leaves little opportunity for the working group to incorporate some teeth behind the targets.

### On the docket

Several other items are up for discussion from individual programmes of work and cross-cutting issues addressed by the CBD. Under an item on biodiversity and climate change, delegates will consider a draft decision with elements enhancing collaboration between the UN Framework Convention on Climate Change (UNFCCC) and other relevant organisations to ensure that UN Reducing Emissions from Deforestation and Forest Degradation (REDD+) activities and CBD objectives are mutually supportive. In theory, REDD+ projects should mean the setting aside of additional forest areas or avoiding deforestation, for the purposes of using it as a carbon sink. Some concerns remain, however, that plantations – often low in biodiversity – rather than natural forests might be allowed within the scope of REDD+.

Among the emerging issues, CBD participants will for the first time consider components, organisms, and products from synthetic biology, and their relevance for the CBD and its two protocols. Questions arising in this area include, for example, whether specific biosafety issues need to be considered in relation to synthetic biology? Furthermore, is there an implicit or explicit obligation to share benefits relating to a genetic resource where it has been reproduced as a synthetic natural product? The CBD Secretariat has compiled submissions and information to help the Parties and experts explore these questions. Furthermore, COP-MOP7 of the Cartagena Protocol – ongoing this week – continues its work on biosafety relating to trade in living modified organisms, including through a special session on implementation.

The Secretariat of the CBD has also invited final comments with the intent of adopting a “Gangwon Declaration on Biodiversity for Sustainable Development” at the high-level segment of the CBD COP. The Declaration and high-level segment discussions are likely to focus on integrating biodiversity into the UN sustainable development goals (SDGs) and post-2015 development agenda.

The COP is also due to continue work on tackling the challenge posed by invasive alien species (IAS). Stowed away in shipments, packaging or introduced for a variety of other reasons, fauna and flora are increasingly crossing borders and often pose a threat to local ecosystems. Some estimates pin the cost of these to the global economy at US\$1.4 trillion.

With respect to invasive species, at COP11 some CBD Parties drew attention to the need for further information on the application of Articles 9.2 and 10 of the Agreement on the Application of Sanitary and Phytosanitary Measures of the WTO, with reference to technical assistance and special and differential treatment for developing countries and LDCs in meeting the SPS standards of importing countries. The final decision, however, focused on encouraging governments to address the challenge and requested the CBD Secretariat to help countries tackle the issue on a global scale. Although this area focuses heavily on monitoring and enforcement aspects as well as best practice, following instructions from Parties, CBD Secretariat has also sought observer status in the Committee on Sanitary and Phytosanitary Measures of the WTO and encouraging collaboration between the two bodies to remedy a perceived gap in international standards on the issue.

Discussions in Pyeongchang are set to focus mainly on gaps in standards relating to the introductions of alien species as pets, aquarium and terrarium species, as well as live bait and food. A set of voluntary guidelines is up for adoption and these are expected to provide significant assistance in developing regulations or codes of conduct. Meanwhile the question of addressing e-commerce standards related to invasive alien species proved controversial in the preparations for the October meeting, particularly as to whether to address this under the WTO.

## Genetic resources

Defined by the CBD as genetic material from plants, animals and microbes containing functional units of heredity. The Nagoya Protocol definition extends this to include derivatives, in other words, biochemical compounds resulting from genetic resources.

### Nagoya Protocol kicks off

Clinched in 2010 in the Japanese city after which the instrument was baptised, the Nagoya Protocol seeks to flesh out further the legally binding framework for determining how users, providers, and stakeholders' access genetic resources, together with how the benefits derived from the use of these are subsequently shared. Access and benefit sharing (ABS) is the third pillar of the CBD and analysts have long held that legal certainty on this often-ambiguous principle is critical in relation to regulating bio-prospecting activities and other research and development (R&D) on genetic resources. It is important to note that the Nagoya Protocol reaffirms the CBD principle regarding the sovereign rights of states over their genetic resources. Nagoya extends this to include "utilisation" of the biochemical derivatives of these resources.

The fair and equitable sharing of benefits arising from the utilisation of genetic resources has been framed as a potential mechanism to contribute both monetary and non-monetary benefits towards the conservation and sustainable use of biodiversity. Genetic resources and their biochemical derivatives are now being commercially traded and used in many industries ranging from pharmaceuticals, biotechnology, agriculture, cosmetics, hair and skin care, as well as waste management. Assuming proper implementation, ABS legislation spurred by Nagoya could be used to promote fairness and equity in bioprospecting – in other words, discovering novel products from nature – as well as for preventing biopiracy and misappropriation of genetic resources from national territories.

Although critics have highlighted a number of ambiguities and shortcomings in the final text, overall, the Nagoya Protocol represents a significant development in terms of legal certainty around ABS. It clarifies terminology around the utilisation of genetic resources defined as means to conduct R&D on the genetic and/or biochemical composition of genetic resources, including through the application of biotechnology, which may include biochemical compound derivatives. It expands upon existing descriptions of access including measures to ensure that prior informed consent (PIC) or approval and involvement of indigenous and local communities is obtained for access to genetic resources where they have the established right to grant access to such resources. It extends access rules to traditional knowledge associated with genetic resources. Article 12 also asks Parties to consider the customary laws and community protocols of communities, with respect to traditional knowledge associated with genetic resources.

### Critical implementation

Although the successful conclusion of Nagoya at COP10 after years of negotiations was broadly welcomed, exhausted negotiators at the time cautioned that national implementation of the regime would be critical. Beyond administrative matters establishing the MOP, the October meet will subsequently include an exchange of information on the status of Parties' ratification and implementation of the Protocol. A likely discussion will be on varying interpretations of access, utilisation, and the instrument's temporal scope. Some countries with existing ABS systems or newly developed systems have rules that emphasise that utilisation of genetic resources is a "trigger" for benefit sharing, including for research and development (R&D) towards new uses for genetic resources that might have been accessed prior to entry into force of the Nagoya Protocol, or even possibly before the CBD. The EU Commission regulations implementing the Protocol within the trade bloc passed in April, however, take a different approach to access. The scope of the EU regulations applies to genetic resources and associated traditional knowledge "that are accessed after the entry into force of the Nagoya Protocol for the Union" (Article 2.1). This essentially means that EU members, subject to their national legislation, may not need to consider the need for prior informed consent and benefit sharing for new R&D on millions of previously accessed and collected genetic resources – and traditional knowledge associated with it – that already exists in genebanks, botanic gardens, herbariums, university and private collections. The EU move raises important questions around the potential effectiveness of the Protocol, suggesting it all could come down to the specifics of national implementation. Furthermore, the implications of having inconsistent approaches to access and utilisation in different countries and regions could fuel concerns among biodiverse developing countries and indigenous and local communities around the instrument's ability to ensure meaningful benefit sharing. ②

### Monitoring and reporting

The question of monitoring therefore comes into play since genetic resources are commonly traded for a variety of uses. If a user of the biological resource changes intent and conducts new R&D on the genetic or biochemical composition, then they may be obliged to share benefits to those provider countries that have an ABS regulation that specifies benefit sharing for utilisation, although due consideration is required as to how this should be enforced in practice. The Nagoya Protocol includes measures to facilitate the monitoring of utilisation of genetic resources through checkpoints and the upcoming MOP will feature some discussion in this area.

During the Nagoya negotiations some Parties wanted to include patent offices as a monitoring checkpoint. This was ultimately not retained in the final text. Several developed countries that are mainly “users” of genetic resources suggested that the mandate of the WIPO Intergovernmental Committee on Intellectual Property & Genetic Resources, Traditional Knowledge and Folklore (IGC) was the appropriate forum to discuss legal instruments relating to intellectual property and the protection of genetic resources. At the IGC, several countries have been pushing for a “disclosure of origin” requirement in patent applications, with some differences in opinion over the legal implications of non-disclosure. The topic has often proved controversial as it is opposed by the developed countries in “Group B” who argue that databases and codes of conduct would be more effective in preventing the grant of erroneous patents. In February, WIPO negotiators narrowed down a bracketed draft text with a range of options and measures including a proposal calling for patent applications to disclose the country and origin of the genetic resource and associated traditional knowledge.

The WTO Doha Ministerial Declaration (2001), which governs the current round of talks at the global trade body, instructs the Trade Related Aspects of Intellectual Property Rights (TRIPS) Council to address the relationship between the CBD and the WTO TRIPS Agreement. Movement forward in this area over the years has also not proved easy. A disclosure of origin requirement was put forward in the TRIPS Council by an unprecedented of developed and developing countries in July 2008. After the adoption of the Nagoya Protocol in 2010, a group of developing countries put forward a new proposal for a disclosure requirement that incorporates elements and language of the Nagoya Protocol. A handful of developed countries – namely the US and Japan – have argued, as they also do at the IGC, that including a disclosure requirement would introduce uncertainty in the patent system and could undermine its role in promoting innovation.

Whilst a patent disclosure requirement is one important potential checkpoint there are several other suggestions that could be deployed including declarations required of researchers by publishing houses, research grant-making bodies, and prior to marketing permission of new products – for example for foods, cosmetics, and drugs.

The MOP is also scheduled to discuss a related issue in the form of the extension of a pilot of the ABS Clearing House Mechanism (CHM) and its effectiveness so far. The Nagoya Protocol established the CHM where permits and evidence of legal access can be deposited and checked as a transparency measure. The information about permissions and compliance of individual researchers and companies would have to be transmitted to the CHM by competent national authorities. The CHM would serve as another international monitoring and transparency mechanism receiving relatively uniform “certificates of compliance” – a legally recognised document designed to smooth monitoring hurdles created by ABS arrangements in different jurisdictions – from party countries.

### Trade rules

Another monitoring possibility Parties could eventually consider – at this stage hypothetical – would be to add an export checkpoint. In this scenario customs authorities in provider countries could require an indication of the intent of the export of a genetic resource and whether ABS arrangements had been followed. This would, however, raise interesting questions around whether Nagoya implementation to this effect might result in trade-restrictive and/or trade-discriminatory effects under WTO rules. If a provider country

refuses an ABS permit in relation to export of certain quantities of a specific genetic resource, say a medicinal plant, to a company for R&D towards a potential pharmaceutical but then allows commodity trade of the same medicinal plant to other companies in other countries, is this export country in breach of the WTO most favoured nation (MFN) principle? MFN is concerned with exportations for "like products" and so conceivably discrimination based on "intended use" could be construed as a breach of this principle.

Another relevant question regarding the manner in which Parties choose to implement the instrument, is whether national genetic resource access rules might be construed as de facto trade restrictions if hypothetically some countries sought to strictly limit access, arguing their sovereign rights for ABS reasons.<sup>③</sup> Parties may equally decide to limit genetic resource access and export for environmental reasons related to rarity/critical shortage, or for natural resource conservation. The China raw materials and recent China rare earths disputes at the WTO, regarding export restrictions on different natural resources, perhaps provides interesting food for thought in this regard although the cases also presented unique questions vis-à-vis China's WTO accession and the organisation's body of law. On one hand the potential replicability of valuable genetic resources through breeding or modern techniques – for example plant tissue cultures, synthetic biology – may render their "exhaustibility" or "critical shortage" an unlikely scenario to justify. On the other hand, as global failure to make progress on the Aichi targets attests, we may be losing many useful genetic resources faster than they can be isolated and conserved.

#### Cooperation and coherence

The MOP is scheduled to include an item on cooperation with other international organisations, conventions, and initiatives, wherein Nagoya implementation and its relationship with relevant negotiations, mandates, and legal instruments in the WTO and WIPO may feature. A focus on the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), which has its own multilateral system for benefit sharing, will mostly likely also come up in this context. The experiences of the ITPGRFA will also be relevant for an agenda item on the need for and modalities of a global multilateral benefit sharing mechanism, which parties are requested to consider under Article 10 of the Nagoya Protocol. This tool would provide a way to deal with trans-boundary genetic resources – and associated traditional knowledge – as well as situations where it is not possible to grant or obtain prior informed consent. These include, for example, widely held genetic resources, resources accessed prior to the CBD, or resources with no discernible origin. Other relevant discussions may be in relation to relevant instruments and considerations of ABS in areas beyond national jurisdiction such as the high seas or Antarctica, and also streamlined access to genetic resources for public health emergencies and relevant WHO frameworks such as the Pandemic Influenza Preparedness Framework.<sup>④</sup> [Editor's note, see related article in this BioRes edition]

As alarm bells sound louder around the state of the world's biodiversity, and the international community gears up to hammer out a post-2015 development framework, it is clear that delegates heading to South Korea later this month have some work cut out for them carrying forward multilateral work on biodiversity governance.



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BIODIVERSITY

# Into ABS implementation: Challenges and opportunities for the Nagoya Protocol

Morten Walløe Tvedt

*With the Nagoya Protocol set to enter into force in October, this article explores some of the challenges facing the instrument, and looks at some possibilities for its implementation as a tool for funding conservation and sustainable use of biodiversity.*

The fair and equitable sharing of benefits arising from the use of genetic resources, one of the three pillars of the 1992 Convention on Biological Diversity (CBD), is set to enter a new phase later this month marked by the first Meeting of the Parties (MOP) to the Nagoya Protocol. The October meet will be a watershed moment in the decades of work towards making access and benefit sharing (ABS) a functional mechanism for raising funds for the conservation and sustainable use of biological diversity. A lot of effort was put into the negotiation that led to the Protocol and now is the time to make the mechanisms work by functional implementation.❶ Ensuring such modalities for access and benefit sharing (ABS) has long been a priority on both the conservation and development agendas. These interests stem from the fact that most of the world's most biodiverse regions are in developing countries, dubbed "providers," while "users" are more traditionally situated in richer economies. Fair and equitable ABS should in theory safeguard against the plundering and misappropriation of genetic resources and also ensures that communities benefit from profits derived from their biodiversity heritage.

Unfortunately, however, limited monetary benefits are currently shared back to the provider countries and providing groups of biodiversity under ABS-arrangements. Following the modus operandi of the Nagoya Protocol, users of genetic resources should be distributing a part of their profits and other non-monetary benefits drawn from the commercialisation of genetic resources back to conservation and sustainable use of biodiversity. This article offers a look at the outstanding challenges facing the Nagoya Protocol and opportunities for the instrument to play a real role in biodiversity conservation and sustainable use moving forward.

There are three key remaining areas to address to help make the ABS regime more functional:❷ contractual mechanisms for access and for benefit-sharing; domestic legislative, policy, and administrative measures in both user countries and provider countries; and clarifying questions at the international level including the possibility of unregulated genetic resources in certain arenas.

### **Making genetic resources contracts work**

Article 15 of the Convention on Biological Diversity (CBD) prescribes two contractual mechanisms. A contract is a private law instrument that is binding for the two parties agreeing to its terms and conditions. CBD Article 15 prescribes one contractual mechanism at the point of access to the genetic resources and another aimed at regulating the benefit-sharing arrangements at the point of time when they are being used. According to both CBD Article 15 and the Nagoya Protocol, the main way of enforcing a country's sovereign rights is by invoking private law contracts – mutually agreed terms – between the providing country and/or country of origin and the user, the latter often thought of as a private company from another country. ABS therefore largely relies on contracts as the relevant means of regulating exchange and sharing returns.❸ However, although these mechanisms are already stipulated by the CBD, there have been very limited efforts to systematically make the contractual system functional. There is a need for clearer incentives for companies to enter into ABS contracts and meet a fair and equitable obligation to share benefits from their research and development. Furthermore the

hammering out of the Nagoya Protocol in 2010 did not appear to make these incentives significantly stronger.

For example, while the latest international instrument provides some guidelines as to the system for enforcing contracts, ABS contracts will be negotiated and enforced as commercial contracts. This raises a number of challenges. ABS contracts must be drafted in a manner making them legally viable in the jurisdiction and legal system of the user. Since the Nagoya Protocol does not prescribe a uniform system for standardised user country legislation, the contracts must resolve a number of complex legal questions, which typically vary among countries. Since ABS contract-law is a relatively new and unexplored area of law, the background jurisprudence is limited. This raises a number of technical and difficult challenges in contract law. Existing global legal contract tools do not solve these challenges and international private law has limited potential in this area.

An example of another core unresolved contracts challenge is how to regulate the subject matter that is being transferred. An ABS contract regulates a dynamic situation with a high degree of scientific and commercial potential and changes. The material transferred at the time of entering into a contract mostly goes through one or several research and development processes before reaching a final product. It is seldom “genetic resources” as they are defined in the CBD and Nagoya Protocol themselves that are directly creating a commercial product in the market, but a product with a close or more remote connection to them. For a contract to grasp the creation of value arising from the use of genetic resources, it needs to some extent foresee future developments of the material. The level of change and uncertainty, however, will vary among types of users and types of uses for the genetic material. Often this is presented as a question of tracing, but it is perhaps more complex, as it is also about understanding the relative contribution from the genetic resource and research, development, and other investments.

The two contractual mechanisms under the CBD – found in Article 15.4 and 15.7 – have the potential to enable a functional definition of the subject matter of the contract. The careful drafting of the *subject* of the contract and the *actions* allowed by the contract will become crucial to the functionality of this type of right. The higher the degree of precision in the formulation of the subject of the contract leaves less discretion in the interpretation of a court when it is to apply the obligations in the contract. One concrete advice is to avoid as far as possible the term *genetic resources* as a term defining the subject of the contract. In a contract the parties should rather spell out in more detail what actions the contractual partner has the explicit right to perform with the biological material. When such explicit utilisation options are set in the contract they can be connected to specific consequences pending the realisation of each utilisation. Clarity is the key virtue in the formulation of contractual obligations. A tool capable of rendering ABS functional is to ensure these contracts are well drafted in the sense that the rights are defined and enumerated. A patent defines the subject of the exclusive right in a highly precise manner. Contracts regarding transfer of genetic resources also need to aim at a high level of clarity.

Contracts generally suffer from a lack of a clear trigger point for benefit sharing once a commercial product has been developed, a situation complicated by whether to aim governance at the point of access or the point of utilisation of GR. This problem is enhanced by the lack of a functional monitoring mechanism, along the lines of the providers' failed attempt at linking ABS to the much stronger intellectual property rights systems through disclosure. [Editor's note, see related article in this BioRes edition]

#### **Domestic ABS legislation as a core tool**

Both the CBD and the Nagoya Protocol are based on a perception that it is the providing countries that have the primary responsibility for regulating ABS at the point of time of access. During the negotiations that eventually lead to the new instrument, an understanding of “utilisation of genetic resources” gradually gained more momentum. The Nagoya Protocol builds on CBD Article 15.7 in defining what exactly constitutes utilisation in Articles 2(c) and (d).

## The Nagoya Protocol

Clinched in the Japanese city from which it takes its name in October 2010, the Nagoya Protocol is an international agreement geared towards ensuring that the monetary and non-monetary benefits arising from the utilisation of genetic resources are shared in a fair and equitable way, including by the appropriate transfer of relevant technologies, funding, and contributing to the conservation of biological diversity and its components.

During the process of pinning down the Nagoya Protocol a number of countries likely halted their process of regulating access to their genetic resources while waiting for the international framework. There are number of issues to consider now as countries continue to implement ABS access-side legislation. For example, should the national ABS system be set up to avoid any use of biological diversity without a full ABS contract, or should it attempt to encourage users to enter into a contract in a more deliberate way. This is linked to which countries attempt to include stronger incentives for users to enter into such contracts.

Australian ABS legislation is viewed as pioneering in this respect, as it involves simplified mandatory permits for all types of bioprospecting, including for non-commercial use. The regulation also includes an in-built clause for "change of intent," namely if activities change from pure scientific or non-commercial to commercial, the user must return to change the contract. Even more important, this requirement is based on an existing legal instrument known as the statutory declaration. The latter binds the user to Australian criminal law, although admittedly it has limited force if genetic material is transferred to third parties.<sup>6</sup> Furthermore, even though the Australian system has been in place for a while, almost none of the initial bioprospecting agreements have resulted in the user coming back to enter into a benefit sharing contract. This demonstrates in part the scale of the challenge facing countries when it comes to surveying and tracing the use and commercialisation of products based on their genetic resources.

To increase the prospects of tracing use and follow genetic resources through to final products on the market, steps must be taken by all CBD countries, not only those currently party to the Nagoya Protocol. Making ABS functional is already an obligation on all CBD countries as demonstrated by Article 15.7. The latter contains clear requirements for parties to take measures to implement ABS both on the user and provider side. One piece of advice for provider countries is to require that all user countries report to the next CBD COP on relevant ABS measures put in place.

### Avoiding fragmentation in the international arena

Among the more polarising questions in the negotiations towards the Nagoya Protocol was the relationship between the ABS in the CBD and other international legal regimes touching on genetic resources. The debate circled around rules already in place and possible new regimes. These concerns led to the inclusion of Article 4 of the Nagoya Protocol. This recognises that the Nagoya Protocol "does not apply for the Party or Parties to the specialized instrument in respect of the specific genetic resource covered by and for the purpose of the specialized instrument." The scope of the other existing regimes will therefore be crucial to define which genetic resources are covered by the Nagoya Protocol.

The International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), for example, has been in force since 2004. It is a global instrument designed to promote the conservation of plant genetic resources and to help protect farmers' rights, and ensure the fair and equitable sharing of benefits arising from the use of plant genetic resources. The Plant Treaty establishes a Multilateral System (MLS) under which selected crops are exchanged without individual regulation, subject to a standard contract where less focus is on monetary benefits, and access to plant genetic resources is termed as a benefit in itself. One challenge concerning this instrument is that not all parties to the CBD are members of the Plant Treaty. There are a number of unresolved and disputed questions between the scope of the ITPGRFA and general ABS. It is not clear what plant resources are mandatory under the scope of the Plant Treaty. There is a substantial difference between the views expressed by Halewood et al.<sup>6</sup> and Cabrera et al.<sup>7</sup> on the interpretation of the mandatory scope. These differences have also been surfacing in the so-called "tandem meetings" between the CBD and ITPGRFA focal points that have been organised the last year by the ABS Capacity Building Initiative, and also in a recent Nordic meeting on access and benefit sharing in September. One key grey zone is that ABS in the Plant Treaty differs from the ABS regime of the CBD in being voluntary, basically non-monetary, without a link to benefit sharing and return to specific providers. In effect, concern for food security trumps the greater emphasis on equity found in the ethos of the CBD ABS. Beyond these

unresolved questions work is also ongoing under the Plant Treaty aimed at exploring the conditions for expanding the scope of the list of crops that are covered by the MLS. Expanding the scope of the multilateral system under the Plant Treaty necessarily leads to a narrower scope for the Nagoya Protocol.

The Commission on Genetic Resources for Food and Agriculture under the UN Food and Agriculture Organisation (FAO) is also discussing questions related to access and benefit sharing for six groups of genetic resources, namely, animals; aquatic; invertebrates; plants; forest; and microbial genetic resources. Any agreement in the Commission on a need for specialised regimes for ABS holds potential to exclude commercially valuable groups of ABS governed by the CBD and the Nagoya Protocol. Providers fought a long and hard battle to include domesticated – valuable – genetic material in the ABS system of the CBD, based on equitable benefit sharing. Thus it would be a controversial move politically to empty the CBD and Nagoya Protocol of these valuable genetic resources. In effect, there has been some political discussion and wrangling among parties to the Commission concerning the extent to which new regimes for ABS for these groupings of genetic resources are needed. Currently, the mandate is not to negotiate any specialised regimes, but to explore the questions relating to and needs for these groupings.

Another international platform for regulating access and benefit sharing reached agreement a year after Nagoya was clinched; the World Health Organisation (WHO) in 2011 gave the green light for two standard material transfer agreements concerning exchange and use of viral genetic resources with pandemic potential for humans. In these two standard contracts globally negotiated terms and conditions both for rapid access and benefit sharing are pre-set. For exchange of viral, human pandemic material, time and unhindered access are crucial to combat potential outbreaks.

For almost a decade, the question of access and benefit sharing from genetic resources in the area beyond national jurisdiction (ABNJ) has been on the agenda of the UN Convention on the Law of the Sea (UNCLOS). Negotiations are currently underway towards reaching a consensus on a mandate for future talks around a special regime for this category of genetic resources. This could include, for example, genetic resources taken from the seabed and/or the high seas. Discussion under the auspice of the Antarctic Treaty is also ongoing around how to regulate genetic resource material from one of the world's most remote, yet biologically unique areas.

In addition there are large collections of foreign genetic material held in genebanks. Some scholars and lawyers see these collections as outside the scope of the CBD given that they were collected prior to its entry into force. Whether these collections will be subject to benefit sharing and with whom is currently an unresolved question.

The Nagoya Protocol itself foresees two important mechanisms for handling ABS in relation to special branches of genetic resources. Article 19 outlines the need to develop and update information on model contracts. The essence here is that sectoral and cross-sectoral model contracts can be negotiated under the auspices of the Nagoya Protocol to serve special purposes. This is one potential tool for preventing ABS from becoming fragmented by a number of international organisations negotiating separate systems for access and benefit sharing.

A second mechanism foreseen in the Nagoya Protocol is the possible Global Multilateral Benefit-Sharing Mechanism outlined in Article 10.Ⓢ Among other aims, the mechanism could essentially act as a "catch" in instances where it is unclear who should benefit, or indeed if the genetic resource in question has multiple beneficiaries as would be the case with transboundary genetic resources. Such a system also holds potential to narrow some of the grey zones around ABS and genetic resources that appear to be left out of the general scope of the Nagoya Protocol. The October MOP of the Nagoya Protocol is scheduled to address the need for, and modalities of, such a mechanism. The mechanism remains undecided and no agreement has emerged around how it should be designed.



### Shoring up conservation and sustainable use

Access and benefit sharing of the dividends from genetic resources has now entered a critical phase following the entry into force of the Nagoya Protocol. One might expect that examples of functional benefit sharing contracts would need to be seen in relatively short timeframe for the Nagoya system not to lose momentum and the CBD to retain credibility.

One certain observation is that collections of plant genetic material by groups such as the Global Crop Diversity Trust and other collections are intensifying. The rationale for such collections is to secure biodiversity in a changing climate when species and plant extinctions are a real risk. At the same time, new genetic variations could hold potential for helping to adapt to a warmer climate. However, these collection activities are going on under unclear domestic legislations. If access is not regulated, the providing countries run the risk of these genetic resource extractions falling outside the scope of mandatory benefit sharing obligations.

Access and benefit sharing is also often confronted with a paradox when business representatives often claim that genetic resources have limited value. At the same time, however, business is vocal in voicing that access to genetic resources must be secured. The question necessarily follows that if there is no value – potential or current – why should access to genetic resources be important to business? Furthermore, the fact that patents are taken out on bio-innovation outcomes, the value for business created from the utilisation of genetic resources would appear not to be wholly insignificant.

If the current system for access and benefit sharing in relation to genetic resources does not end up providing funds for conservation and sustainable use of biological diversity, a core *raison d'être* of the CBD is in jeopardy. It is therefore increasingly urgent for the CBD to make ABS work as was intended. The entry into force of the Nagoya Protocol represents a step in this direction. The new instrument, however, cannot reach these goals alone and so much will rely on functional implementation moving forward.

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- ❼ Medaglia, Jorge Cabrera, Morten Walløe Tvedt, Frederic Perron-Welch, Ane Jørem and Freedom-Kai Phillips (2013), *The Interface between the Nagoya Protocol on ABS and the ITPGRFA at the International Level - Potential Issues for Consideration in Supporting Mutually Supportive Implementation at the National Level*, Lysaker, Fridtjof Nansens Institutt, FNI Report, no. 1/2013.
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WILDLIFE TRADE

# Getting sharks and manta rays ready for CITES

John E. Scanlon and Haruko Okusu

*On 14 September 2014, new rules came in place for the international trade in five shark species and all manta rays. But how to concretely implement these rules applicable to valuable, highly mobile, and transboundary marine residents?*

In force since 1975, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) sets the rules of the game for international trade in wildlife in over 35,000 types of terrestrial and aquatic plants and animals through a system of Appendices. Meeting in Bangkok, Thailand for the sixteenth Conference of the Parties (COP) in March 2013, CITES Parties agreed to regulate international commercial trade in five species of sharks and all manta rays through a CITES Appendix II listing. As of 14 September 2014 countries must take certain administrative and regulatory measures when international commercial trade takes place for scalloped hammerhead shark, great hammerhead shark, smooth hammerhead shark, oceanic whitetip shark, porbeagle shark, and all manta rays, including live and dead specimens, readily recognisable parts and derivatives.

### Testing the waters

Decisions taken at the Bangkok meet did not mark the first time that sharks were included in the CITES Appendices. Sharks first entered CITES's waters in 2000, when the basking shark was included in Appendix III, later uplisted to Appendix II in 2003. In total, CITES now includes eight species of sharks and all manta rays in Appendix II, as well as all species of sawfishes in Appendix I.

The most recent listings, however, were significant for many reasons, not least because the new shark species are commercially valuable. According to the UN Food and Agriculture Organization (FAO), the global reported annual shark catches from 2000 to 2011 ranged between 750,000-900,000 tonnes per year. Using the FAO Fisheries and Aquaculture statistics database, various shark and ray commodities trade flows – including import, export, and re-export – potentially added up to around US\$1 billion annually during the same period. Disaggregated data for the five shark species in question is not readily available, however, due to the fact that traded goods are generally not identified at the species level. The listings therefore set new challenges and opportunities for CITES Parties around implementing regulations for highly traded fisheries commodities. Noting that an Appendix II listing under CITES does not prohibit commercial international trade, but strictly regulates such trade to ensure it is legal, sustainable, and traceable, the entry into effect of the listings was delayed until 14 September 2014 to give Parties time to resolve related technical and administrative issues.

### Coming together for sharks

A global, collaborative effort came together to assist CITES Parties in preparing for the implementation of the new listings. The undertaking greatly benefited from the support from a wide-range of stakeholders including Parties to CITES, intergovernmental organisations, non-governmental organisations, and others. These include Australia, Brazil, Colombia, Germany, India, New Zealand, USA, Southeast Asia Fisheries Development Center (SEAFDEC), Pew Charitable Trusts, International Fund for Animal Welfare (IFAW), and TRAFFIC, to name a few. The CITES Secretariat is most grateful to all those that have played a role over the past year. Close coordination with Regional Fisheries Management Organizations (RFMOs) and Regional Fishery Bodies (RFBs) at the regional level, and national fisheries agencies at the local level is critical for the effective implementation of these new listings. Much effort has gone into engaging directly with these entities, which will continue, to ensure that CITES requirements are complementary to existing measures and contribute to good overall fisheries management.

## CITES Appendices

Species included in CITES Appendix I are considered threatened with extinction and international commercial trade in specimens of these species is generally prohibited. On the other hand, species included in Appendix II are not necessarily threatened with extinction, but trade in them is strictly controlled to avoid utilisation incompatible with their survival. Appendix III is a list of species included at the request of a CITES party that already regulates trade in the species and that needs the cooperation of other countries to prevent unsustainable or illegal exploitation.



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Furthermore, at the global level, CITES has worked closely with the FAO on the new sharks and manta ray listings. Buoyed by a contribution of €1.2 million from the EU to address the challenge, the two international agencies have worked collaboratively in order to bring the fisheries and CITES communities together in key shark fishing and trading nations. The CITES Secretariat also made interventions at recent session of the FAO Committee on Fisheries (COFI) and COFI Subcommittee on Fishery Trade (COFI-FT), and joint side events have been held at a number of FAO and CITES meetings. In addition the FAO-CITES partnership led regional consultative workshops, for example in Casablanca, Morocco in February 2014 and later in Xiamen, China in May. The partnership also supported regional and sub-regional workshops hosted by others in Latin America, Oceania, and the Bay of Bengal. In each of these meetings the participation of national representatives of both fisheries and CITES agencies allowed for collective discussion of implementation challenges.

### Legality, sustainability, and traceability

Three key issues dominated Parties' preparations for the entry into force of the new CITES-listings of sharks and manta rays: legality, sustainability, and traceability. Legality involves making the necessary legal acquisition finding – in other words, a determination that the wildlife product in question was obtained in accordance with the relevant legal provisions – which can be complex with sharks given many are taken from the high seas. According to Article 89 of the UN Convention on the Law of the Sea (UNCLOS), “[n]o State may validly purport to subject any part of the high seas to its sovereignty” and the high seas are therefore a shared resource. CITES addresses the taking of specimens of listed species in the high seas – in other words, the marine environment not under the jurisdiction of any State – as “introduction from the sea.” The 2013 Bangkok meet saw Parties agree on additional guidance for the uniform interpretation and implementation of this term, after many years of debate, clarifying the CITES documents that must be issued in such instances and which Party is responsible for doing so under different circumstances. Sustainability involves determining that the proposed trade will not be detrimental to the survival of the species, through scientific assessments of the status of the species in the national/regional species, known as “non-detriment finding” (NDF) in CITES language. Traceability under CITES means recording and tracing trade from the country of origin to the country of destination through the issuance of appropriate CITES permits or certificates, together with the inclusion of all relevant trade in national reports to the CITES secretariat, which in turn is publicly reported through the CITES Trade Database.

Related to these matters is the issue of identification, which becomes most challenging when dealing with parts and derivatives such as fins, meat, and oil. To help tackle this issue a number of stakeholders have developed shark identification materials. Although work in this area is still ongoing, all efforts are currently being captured and catalogued in order to appear in the CITES sharks web portal – a tool that also contains a variety of additional technical and administration resources – and will possibly be followed by an assessment of geographical coverage and specialised training for use of the identification materials by selected stakeholders.

### Full steam ahead

CITES was recognised in the outcome document of landmark UN conference on sustainable development held in Rio de Janeiro, Brazil in June 2012 as an important “international agreement that stands at the intersection between trade, the environment and development” and one that “promotes the conservation and sustainable use of biodiversity.” Through the listing of additional sharks and all manta rays at the 2013 Bangkok meet the international community decided to make good use of this pragmatic and effective agreement to help foster sustainability in our oceans. Implementation, however, is always essential to ensure executions of the necessary cumulative actions realise the intended goal. Positive progress towards putting in place implementation infrastructure was made in preparation for the entry into force of the new marine CITES listings. As of last month this work moved from theory to practice. Moving forward, the global collective effort to support Parties in managing these new listings will continue for many years to come.

NATURAL RESOURCES

# Cleaning up the market: Governance initiatives on conflict-prone minerals

J. Andrew Grant

*A number of sought-after minerals come from conflict-prone states. How to regulate these natural resources in order to keep illicit goods from reaching international markets?*

The diamond trade is both lucrative and fearsome. In a bid to curb the potential damage international commerce of these natural resources can cause, a group of countries have outlined a governance process and certification scheme, designed to impose sourcing standards for trade in the precious gem. As a result, the Kimberley Process and its soft international law regulatory instrument – the Kimberley Process Certification Scheme (KPCS) – may be a useful comparison for more recent governance initiatives that seek to regulate the trade of conflict-prone goods from fragile states. This is particularly prescient given the greater recognition of the linkages between peace and security on the one hand and sustainable economic development on the other. Like diamonds, trans-border flows of conflict-prone minerals – coltan, gold, tungsten, and tin – can fund rebel groups, armed militias, and transnational terrorist networks. In response, multi-stakeholder networks and governance initiatives consisting of state and non-state actors have been mobilised to halt such flows. It is against this backdrop that the International Conference on the Great Lakes Region (ICGLR) - Regional Certification Mechanism (RCM) was established in 2013. The value of the trade of such minerals is not only sizable in absolute terms but also important to the economies of numerous producing countries. For instance, the global amount of rough diamonds produced each year normally fetches a value of US\$12 to US\$15 billion. This paper examines the earlier KPCS in a bid to garner lessons to guide and inform the development of the RCM.

### Tackling trade in conflict diamonds

Conflict diamonds – or blood diamonds – first began to make their way from the rebel-held parts of Angola and Sierra Leone to the world market in the late 1980s and early 1990s. Liberian diamonds would soon join this outflow of illicit gems. These conflict diamonds provided vital financial support for rebels and warlords waging war against their respective central governments. By the end of the 1990s media images of the death and destruction occurring in these countries – coupled with non-governmental organisation reports of war crimes and other atrocities being committed in and around the diamond-mining areas – led the UN Security Council to deem conflict diamonds a threat to peace and security. The international body invoked its power to impose sanctions, banning the export of Angolan rough diamonds in June 1998, Sierra Leonean rough diamonds in July 2000, and Liberian rough diamonds in March 2001. By that point *Amnesty International* estimated that as many as 3.7 million deaths could be indirectly or directly attributed to violence that was funded by conflict diamonds. African diamond producers were also concerned about the harmful impact of conflict diamonds on regional and national security. Fears of a consumer boycott of diamond jewellery were also circulating among major diamond producers.

In May 2000 South Africa – one of the largest producers of rough diamonds – decided to convene a multi-stakeholder meeting in order to generate ideas on how to crack down on trade in conflict diamonds. Some 38 diamond-producing and diamond-trading countries attended the meeting, which was held in famous diamond-mining town of Kimberley, South Africa. Due to the complexity of the problem, a number of meetings followed, with these international governance efforts formally dubbed the “Kimberley Process” in honour of the first gathering. In 2003, the participating state and non-state actors produced a regulatory instrument – the Kimberley Process Certification Scheme (KPCS) – to govern



the global trade of rough diamonds and prevent conflict diamonds from entering global markets.

In addition to state representatives from diamond-producing and diamond-trading countries, members of civil society and the diamond industry played a significant role in the development of the KPCS. Industry has also been represented within the Kimberley Process by the World Diamond Council, and has been active in most Working Groups as well as a regular participant on Review Missions.

The KPCS is an international agreement that is politically binding rather than legally binding. Although the KPCS does not have the status of an international treaty, it does carry the political weight of being supported by the national legislation of more than 80 state participants, and various international soft law endorsements including WTO waivers. On three occasions, in 2003, 2006, and 2012, the WTO's General Council has granted a multi-year waiver that endorses the KPCS's restrictions on the trade of rough diamonds. The waiver is consistent with the exceptions allowed under the General Agreement on Tariffs and Trade (GATT) because these restrictions help achieve a more beneficial outcome in the WTO's view – stable and transparent trade flows of rough diamonds – by preventing conflict diamonds from entering world markets. Since KP participants can only trade rough diamonds with other KP participants, it could be argued that the KPCS allows preferential benefits to accrue to their domestic producers. However, this argument has been dismissed on the grounds that more than 99 percent of the world's exporters of rough diamonds are members of the KPCS. The marginal producers of rough diamonds who are not members of the KPCS have yet to challenge the WTO waiver, and most of these producing countries have already had discussions with the Kimberley Process on joining the certification scheme. The KPCS is also transparent about the obligations and regulations that it imposes on its members and the Kimberley Process Secretariat details changes and amendments to the certification scheme as part of its periodic application to the WTO for the aforementioned waiver. Owing to the success of the KPCS in helping to drastically reduce the proportion of conflict diamonds entering the world market, it is expected that the WTO will grant another waiver when the current one expires in December 2018.

The instrument enjoys additional political weight and legitimacy based on the fact that states, civil society, and industry influenced the design of the regulatory scheme and continue to have a say in its revisions and implementation. The KPCS requires its participants to implement and enforce strict domestic legislation concerning the mining, trading, exporting, and importing of rough diamonds. Certificates of Origin are attached to all shipments of rough diamonds so that the gems may be tracked from mine to wholesaler. Although the KPCS applies only to rough diamonds, once such certified diamonds are cut and polished, wholesalers and retailers invoke a chain of warranties representing a pledge to consumers that the rough diamond they purchase come from Kimberley Process-certified sources. While the chain of warranties is voluntary, the World Diamond Council has promised to suspend any of its members found to be trading in conflict diamonds. Given that all the major diamond industry players are members of the World Diamond Council this pledge by industry serves as a considerable deterrent.

Prior to the establishment of the KPCS, however, there was no international coordination or governance to prevent the trade of illicit rough diamonds. This allowed the proportion of conflict diamonds as a total in the rough diamond trade to reach a peak of approximately 15 percent in the mid-to-late 1990s. By the early 2010s, however, this figure had fallen to less than 0.2 percent.❷ The positive economic impact of the KPCS is particularly striking in Sierra Leone. In 1999, during the latter stages of its civil war, Sierra Leone exported approximately US\$1 million worth of rough diamonds. From 2010, Sierra Leone's rough diamonds exports were exceeding US\$100 million per annum. As of 2014, the only suspected source of conflict diamonds are from Central African Republic (CAR), although the country has had its diamond exports suspended by the Kimberley Process since 2013. Relatively small amounts of rough diamonds are thought to be smuggled out of the CAR to neighbouring countries that are not Kimberley Process members and have virtually no

## ICGLR members

Angola  
 Burundi  
 Central African Republic  
 Republic of Congo  
 Democratic Republic of Congo  
 Kenya  
 Uganda  
 Rwanda  
 Republic of South Sudan  
 Sudan  
 Tanzania  
 Zambia

history of diamond production or trade. Like most illicit goods, these conflict diamonds from CAR will have to rely on risky trade networks operated by dishonest traders that will bring marginal returns. The existence of the KPCS has made it much more difficult to trade in conflict diamonds, as the market for such gems is now vastly smaller while the governance regime is now more robust, coordinated, and transparent in comparison to the past.

### Stemming trade in conflict minerals

Since the establishment of an international governance regime for the diamond trade, other national legislative and international governance initiatives seeking to regulate the trade of conflict-prone minerals have arisen, such as the Dodd-Frank Act in the US, ongoing EU legislative efforts to regulate the importation of such minerals, and the Organisation for Economic Co-operation and Development's (OECD) Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. The primary focus of such efforts has been central and eastern Africa, which has witnessed millions of war-related deaths, as well as the internal and external displacement of civilians over the past twenty years. In the early 2000s several countries in the region sought to address the sources of such conflict in order to boost regional and national security. The African Union, the UN, and a loose association of stakeholders referred to as the "Group of Friends" were early supporters of the ICGLR. This multilateral effort resulted in the promulgation of the Pact on Peace, Stability and Development in the Great Lakes Region that was initially signed by 11 African countries<sup>3</sup> in December 2006. The Pact is based on five main themes that focus on a wide range of sustainable development issues such as peace-building and post-conflict reconstruction, good governance, human security and social issues, and economic development. One of the five themes is a set of ten protocols that aim to provide regional and national security for the signatories.

Since previous and ongoing peace agreements, ceasefires, and the presence of UN peacekeepers provided only brief respites from violent conflict, fuelled by conflict-prone minerals just as conflict diamonds had done less than a decade earlier, governments in the Great Lakes region sought to implement a mineral regulatory scheme that was similar to the KPCS.<sup>4</sup> Thus, the ICGLR invited Partnership Africa Canada, one of the founding civil society organisations of the Kimberley Process, to serve as an advisor during the development phase of a conflict-minerals regulatory scheme. Civil society played a significant role in the multi-stakeholder initiative by taking the lead in designing the certification scheme – known as the Regional Certification Mechanism (RCM) – for gold, coltan, tin, and tungsten,<sup>5</sup> which was endorsed by all members in December 2010. The first RCM certificate was issued by Rwanda on 5 November 2013.

In addition to civil society's crucial role, industry has recently lent support to the RCM. In 2012, the Conflict-Free Smelter (CFS) Program was launched by the Electronic Industry Citizenship Coalition-Global e-Sustainability Initiative (EICC-GeSI). The CFS emphasises the importance of being able to track the provenance of minerals. The programme employs independent, third-party auditors to identify the source of conflict-prone minerals that pass through member smelters, recognising minerals containing the ICGLR's RCM certificates as coming from conflict-free sources. The regulatory aspects of the ICGLR in general and the RCM in particular have the additional benefit of directing, at least in theory, the full proceeds of natural resource extraction to legitimate government coffers.

### Lessons from diamonds to minerals

The operation of the Kimberley Process and the KPCS are instructive for current efforts to curb the trade of conflict-prone minerals through certification. While rough diamonds are certainly unique in several respects, the mineral is not so distinctive that governance efforts under the auspices of the KPCS cannot inform the evolution of ICGLR's RCM. The first lesson is that the ICGLR should consider applying for a WTO waiver on the trade of conflict-prone minerals. There is reason to believe that the WTO would grant this request so long as the ICGLR can demonstrate that the RCM will promote the stable and transparent trade flows of coltan, gold, tungsten, and tin while preventing conflict-prone varieties from gaining entry to world markets. The ICGLR's case for a WTO waiver

would be further enhanced if it could affirm that the rules and regulations of the RCM would be transparent to all and that domestic producers of such minerals would not enjoy preferential treatment such as subsidies, protected markets, or guaranteed minimum prices.

The second lesson is that the RCM should not become a government-only initiative. Civil society and industry must continue to play an active role in implementing and refining the RCM. Inclusion within the RCM governance structure means that civil society is more than a mere watchdog offering views from outside. Industry can move beyond platitudes of best practices and promises to promote corporate social responsibility and seize the opportunity to generate greater profit potential by using its insider role and connections to help create the conditions conducive to greater certainty and stability in the procurement of raw materials.

The third lesson relates the number and diplomatic influence of member-states as well as recognising the interests of investors and consumers. The ICGLR should expand membership to include key manufacturing countries and consumer markets, as these are the ultimate destinations for the raw materials extracted from Africa and largest consumer market for the final products such as laptops, smartphones, and other hi-tech electronic devices. The addition of China, Japan, the US, the UK, and other members of the EU would bring much needed visibility and capacity-building to the RCM as well as indirect support for the ICGLR's other peacebuilding initiatives. China, Russia, the US, Malaysia, and Indonesia are the global leaders in terms of location of smelters for conflict-prone minerals. Having these five countries become members of the CFS programme would be invaluable. Increasing membership numbers also reduces the number of markets available for unscrupulous traders who seek to subvert the RCM.

Like conflict diamonds, conflict-prone minerals have the very real potential to contribute to violent conflict both in and beyond the African continent, which constrains the operation of markets, and disrupts internal and international trade flows. Furthermore, shareholders and consumers are increasingly factoring in ethical considerations when weighing what stocks to invest in and products to purchase, ranging from working conditions, to social justice concerns, to environmental impact. As in the case of conflict diamonds, therefore, these stakeholders should not be excluded from the governance equation moving forward.

❶ See Kimberley Process Certification Scheme, Core Document, Kimberley Process: 2003. See also: J. Andrew Grant and Ian C. Taylor (2004), "Global Governance and Conflict Diamonds: The Kimberley Process and the Quest for Clean Gems," *The Round Table* 93, no. 375; Franziska Bieri (2010), *From Blood Diamonds to the Kimberley Process: How NGOs Cleaned Up the Global Diamond Industry* (Aldershot: Ashgate); Ian Smillie (2010), *Blood on the Stone: Greed, Corruption and War in the Global Diamond Trade* (London: Anthem Press); J. Andrew Grant (2011), "The Kimberley Process at Ten: Reflections on a Decade of Efforts to End the Trade in Conflict Diamonds," in Päivi Lujala and Siri Aas Rustad, eds. *High-Value Natural Resources and Post-Conflict Peacebuilding* (New York: Taylor & Francis); J. Andrew Grant (2013), "Commonwealth Cousins Combating Conflict Diamonds: An Examination of South African and Canadian Contributions to the Kimberley Process," *Commonwealth & Comparative Politics* 51, no. 2; and J. Andrew Grant (2013), "Consensus Dynamics and Global Governance Frameworks: Insights from the Kimberley Process on Conflict Diamonds," *Canadian Foreign Policy Journal* 19, no. 3.

❷ Grant, "Consensus Dynamics and Global Governance Frameworks," 333-334.

❸ The ICGLR now consists of 12 members including South Sudan.

❹ Shawn Blore and Ian Smillie (2011), *Taming the Resource Curse: Implementing the ICGLR Certification Mechanism for Conflict-Prone Minerals* (Ottawa: Partnership Africa Canada); and J. Andrew Grant (2015), "South-South Cooperation in the Evolving Architecture of Natural Resource Governance: Insights from Governance Initiatives on Conflict-Prone Minerals and Sustainable Forestry in Africa," in Hany Besada, Evren Tok, Leah McMillan Polonenko, eds., *Innovating South-South Cooperation: Challenges, Modalities and Policies* (Ottawa: University of Ottawa Press).

❺ Rough diamonds, one of the leading conflict-prone minerals, are excluded from the ICGLR scheme because the mineral is already regulated by the KPCS.



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ENVIRONMENTAL GOODS AND SERVICES

# Environmental goods agreement trade talks move forward

*A number of broad environmental goods categories have been agreed upon to facilitate discussion in the trade-liberalising talks.*

A second round of talks towards clinching a tariff-cutting agreement on select environmental goods was held last week in Geneva, Switzerland, with sources reporting significant progress on hammering out the substance of the deal, namely, what types of products to include.

Specifically, the group reportedly reached agreement on a number of categories that will serve as a basis for negotiating the final list of products.

In addition, last week saw discussion on two of these categories, namely around products related to the reduction and mitigation of air pollution and solid and hazardous waste management.

The effort to nail down the planned deal, known formally as the Environmental Goods Agreement (EGA), is being undertaken by 14 WTO members, though that group could expand.

The current group counts some of the world's largest importers and exporters of environmental products in its ranks, including the 28 member states of the EU as one, the US, and China.

"The global challenges we face, including environmental protection and climate change, require urgent action," EGA participants explained in a [joint statement](#) at the initiative's launch in July.

A first round of negotiations was held immediately following the initiative's launch, with participants focusing on the framework and structure of the negotiations. (See BioRes, [10 July 2014](#))

### Categories

While the EGA group is aiming to reach agreement on an ambitious and broad range of green goods, participants have indicated that the selection will also be based on a product's ability to address certain environmental challenges.

As such, the nomination of possible EGA products – and the related discussions – is moving forward based on different environmental goods categories, or sectors.

In addition to the two already discussed last week, the current list of categories set to be reviewed includes goods related to energy and resource efficiency; environmentally preferential products; soil and water treatment; noise and vibration abatement; protection of natural resources; environmental monitoring and analysis; and the scaling up of renewable energy equipment.

Participants will be invited to put forward products relevant to each category, which will then be discussed by the group as a whole, with a view to deciding whether or not it merits inclusion in the negotiations.



Several discussion rounds are scheduled until early next year, at which point delegates are reportedly aiming to have put together a compilation of potential products to be liberalised.

Formal negotiations on tariff lines and the final list are expected to start once each of the sectors has been discussed.

In an effort to bridge the gap between trade negotiators and environmental specialists, the latest round saw experts from the Organization for Economic Co-operation and Development (OECD), the International Energy Agency (IEA), and industry invited to present on various environmental products, their components, and recent market trends.

EGA officials have also explained to BioRes that while the talks will initially focus on tariff issues related to environmental goods, participants have not ruled out returning to issues such as environmental services and non-tariff barriers (NTBs) at a later stage of the negotiations.

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*The nomination of possible EGA products – and the related discussions – is moving forward based on different environmental goods categories, or sectors.*

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**APEC list hurdles**

The EGA group first signalled its intention to pursue a green goods trade agreement in January at the World Economic Forum's annual meet in Davos, Switzerland.

At the time, participants said they would build on a list of 54 environmental goods agreed to by members of the Asia-Pacific Economic Cooperation (APEC) forum. (See BioRes, [28 January 2014](#))

In late 2012, the 21-nation APEC group announced plans to reduce applied tariffs on a list of 54 green goods – including wind turbines and solar panels – to five percent or less by the end of 2015.

While the deal was welcomed as a significant advance at the time, many were quick to note that this commitment is not legally binding, and includes some products that already have low tariffs. (See Bridges Weekly, [12 September 2012](#))

Given EGA participants' stated commitment to secure "global free trade" in environmental goods, trade watchers have suggested that this would envisage the reduction of bound tariffs to zero in these talks, in contrast to the APEC format.

Applied tariffs are the actual duty a country levies on goods at the border, while bound tariffs indicate the maximum ceiling level WTO members could potentially apply.

Ahead of last week's round, the US, Australia, New Zealand, Japan, and Canada – also APEC members – all tabled their initial indicative lists of air pollution and solid and hazardous waste management products that they favour for inclusion in the eventual Environmental Goods Agreement.

In each instance, the nominations are said to feature both relevant products from the APEC list, as well as additional products, consistent with the group's plans outlined in January.

Some of the other members of the EGA group have reportedly indicated that their respective internal consultations are still ongoing and will follow suit in due course.

Experts have also said that, while the APEC 54 list has provided a useful building block for the new initiative, concerns have been raised about how APEC members have implemented the voluntary cuts to their respective tariff systems and some provisions in that regional agreement.

For example, APEC economies have to decide whether or not cut tariffs at the Harmonized System (HS) 6-digit level – a World Customs Organization (WCO) classification used to identify traded goods – or pick and choose more specific products from within these categories, creating the so-called "ex-outs" issue.

Although the EGA will not carry forward the provisions of the APEC agreement but rather just its list, WCO officials were invited last week to brief EGA negotiators on the technicalities of "ex-outs" related to environmental goods and their respective HS classifications, according to BioRes sources.

**New members to join?**

When kicking off the initiative in July, the group stressed that they remained open to working with other trading partners interested in pursuing similar objectives and ambition.

Israel has been the first to take up the group's offer and has expressed an interest in joining.

In order for a new participant to join, however, each existing EGA member will need to undertake necessary domestic consultations for approval.

This includes a possible 90-day notification period to Congress for the US that would preclude Israel taking part in the negotiations until the notification period has ended.

Other WTO members that have reportedly shown an interest in joining are Turkey, Peru, and Chile.

**Next steps**

The third round of the EGA negotiations is slated for the first week of December in Geneva. Goods and technologies related to water and wastewater treatment, as well as the abatement of noise and vibrations, will be under discussion at that stage.

The planned deal is expected to be negotiated as a most-favoured-nation (MFN) style pact, which would extend the eventual benefits of the EGA to the global trade body's entire membership once reaching a "critical mass" of participants.

This would build on the precedent set by the WTO's Information Technology Agreement (ITA), another plurilateral-type initiative whose participants have agreed to eliminate tariffs on select information and communication technology products.

Defining a threshold for a "critical mass," or a significant enough portion of trade in the list of covered goods to stave off potential free riders seeking to benefit from tariff concessions without offering anything in return, is one of the details that will need to be dealt with in due course with this MFN-style agreement.

CLIMATE CHANGE

# World leaders outline plans to tackle climate change

*A UN climate summit was held in September designed to build momentum for a series of international climate talks in the months ahead.*

Last week's much-anticipated UN climate summit in New York saw 125 heads of state take the opportunity to highlight their national climate efforts, while unveiling a raft of new financial commitments in this area.

Among others, these included the mobilisation of US\$200 billion for financing low-carbon and climate resilient development, calls for carbon pricing, a declaration to halt deforestation, and a promise to scale up renewable energy access in Africa and small island states.

The largest-ever gathering of world leaders on climate change took place at the invitation of UN Secretary-General Ban Ki-moon, who urged participants to act in order to "set the world on a new course."

The meeting also aimed to build momentum around a global climate agreement, which governments hope to hammer out by next December. The planned deal, which would take effect from 2020 onward, would be geared towards keeping world temperatures below a two-degree Celsius rise compared with pre-industrial levels.

Conducted under the UN Framework Convention on Climate Change (UNFCCC), the next major round in these talks will be in December in Lima, Peru, with technical meetings set for October. Many leaders last Tuesday reaffirmed their commitment to agree to a meaningful deal through the UN process, including by reaching a first draft in time for Peru, and by outlining their national contributions by the first quarter of 2015. (See [BioRes, 17 June 2014](#))

### Reining in emissions

The climate fanfare follows repeated warning from scientists, such as those from the UN's Intergovernmental Panel on Climate Change (IPCC) on the damaging consequences of ballooning emissions. (See [BioRes, 14 April 2014](#))

A number of countries last Tuesday outlined their current efforts to cut greenhouse gas (GHG) emissions, including calling for these to peak before 2020, and a desire to achieve climate neutrality by the second half of the century.

The EU, represented by outgoing Commission chief José Manuel Barroso, said it would reduce emissions by 40 percent below 1990 levels by 2030. The promise augurs well for an October meeting of EU heads of state where the bloc plans to agree to its climate regime for 2020-2030.

For his part, US President Barack Obama affirmed that his country was on track to cut its emissions by 17 percent by the end of the decade from 2005 levels, and that his Administration would continue to implement climate policies such as the recently-announced move to cut emissions from existing domestic power plants. (See [BioRes, 9 June 2014](#))

Obama said that the new global deal must move past the rich-poor country divide in the current regime to include emerging economies, adding that he had just met with China's vice premier Zhang Gaoli on the subject.

China, whose carbon emissions now outstrip those of both the EU and the US combined, signalled a willingness to make sure its emissions peaked "as early as possible." The Asian giant does not currently have an absolute cap on emissions, an issue that many experts deem critical to the UN climate talks. Media reports earlier this month indicated that Beijing is preparing to put in place a national carbon market from 2016. (See BioRes, [12 September 2014](#))

Carbon prices and market-based emissions trading schemes have both gained traction in recent years as viable policy tools. Ahead of last week's summit, some 73 countries, regional governments, and more than 1000 business figures – collectively responsible for 54 percent of world greenhouse gas (GHG) emissions – signed on to support carbon pricing initiatives.

The New York gathering also saw the announcement of new initiatives to tackle particularly potent and escalating greenhouse gases, including calls by over 20 countries and 10 international organisations for the launch of formal negotiations for an amendment under the Montreal Protocol to phase out the use of hydrofluorocarbons (HFCs).

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*Many leaders last Tuesday reaffirmed their commitment to agree to a meaningful deal through the UN process, including by reaching a first draft in time for Peru*

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**New climate economy**

Fears that strong climate legislation could hinder further growth and development, harm export competitiveness, or cause industries to move overseas to less stringent climate regimes – known as carbon leakage – have been tricky to navigate in international negotiations. Among the thematic discussions held last week, one panel looked at the economic case for climate action. The session drew on the New Climate Economy report, released prior to the conference by a panel of world leaders and experts.

"The New Climate Economy report refutes the idea that we must choose between fighting climate change or growing the world's economy. That is a false dilemma," said former Mexican President Felipe Calderón, chair of the commission that produced the report.

The report argues that the next 15 years will mark a critical phase in world development. Fundamental shifts such as mass migrations to urban centres and rapid technological advances could see up to US\$90 trillion invested in urban, land use, and energy system infrastructure in that period. The direction of these investments will likely determine the shape and health of the global economy.

The study also includes a section on the role of trade agreements in buoying the world's green transformation. Efforts to speed up the resolution of WTO disputes around low-carbon trade are called for, as well as language in regional trade agreements to boost green commerce. Spats around renewables trade have become increasingly frequent both at the WTO and elsewhere, raising questions around how governments design sustainable energy support policies.

A group of 14 WTO members – including the US, EU, and China – is currently in the early stages of negotiating an Environmental Goods Agreement (EGA), which would slash tariffs on select green goods. The move has been billed by participants as an effort from the trade world to contribute to tackling climate change. (See BioRes, [15 July 2014](#))

**Climate cash flow**

As predicted by climate watchers, last week's meet included a number of financial pledges earmarked to scale-up climate action and cope with locked-in impacts.

A combination of announcements from governments, the investment community, and institutions promised US\$200 billion would be made available by the end of 2015. The new financial commitments include US\$30 billion in climate finance from commercial banks in the form of green bonds by 2015 and a promise of US\$3 billion channelled from the EU to developing countries between 2014-2020. A total of US\$2.3 billion in financial pledges was made to a Green Climate Fund (GCF) from six countries, with a further six indicating that a contribution announcement would follow later this year. A new US\$1 billion offer for the GCF from France for 2015-2018 was among the largest made at the summit.

The GCF is designed to boost a low-carbon transition in developing economies and help the world's poorest deal with the impact of climate change. The fund is also supposed to assist developed countries in coming through on a 2009 pledge to set aside US\$100 billion per year by 2020 in climate funds, with US\$10 billion a year as "fast start" financing for the period 2010-2012. It is still not quite clear, however, what portion of the climate finance pledge will be managed by the green fund.

**Good news for forests, agriculture, renewables**

A boon for forests came last Tuesday as more than 130 governments, companies, civil society groups, and indigenous peoples endorsed a New York Declaration on Forests, which for the first time promises to end forest loss by the end of 2030, along with restoring over 350 million hectares of forest and croplands. These actions, if undertaken, could cut between 4.5 and 8.8 billion tonnes of carbon dioxide annually by 2030, according to a UN press release – equal to removing one billion cars from the road.

Other commitments at the summit included over 20 governments and 30 organisations signing up to new actions under UN's Global Alliance for Smart-Agriculture, which seeks to build food systems capable of handling a changing climate.

The summit also witnessed a collective pledge from public and private actors to channel over US\$50 billion away from fossil fuel investments and into new energy sources during the next three to five years. Sending market signals such as shifting funds away from fossil fuel projects plays a role in transitioning to a cleaner energy mix, economists say.

Separately, a coalition of governments and stakeholders announced two initiatives set to expand access to renewable energy for eastern and southern African economies, as well as small island developing states.

**Peru and beyond**

Not all were complimentary of last week's proceedings, with Nelson Mandela's widow Graça Machel among those warning that the rhetoric did not match the scale of the problem.

As the dust settles, time will tell whether sufficient momentum has been built to navigate the tricky climate negotiations ahead.

"Climate2014 Summit closes with a vast array of action announcements. This is wind in the sails of the UNFCCC process!" UNFCCC Secretariat chief Christiana Figueres said on social media site Twitter, seemingly confident of the boost the summit provided.

Meanwhile, French President François Hollande said next year's Paris meeting would be a pivotal moment.

"Paris is a city where a large revolution once took place and in December 2015 there should be another revolution around climate change," the French leader concluded.



# The newsroom

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## Japan disregards whaling resolution

Japan announced its intention to continue whaling in the Southern Ocean – an area encircling Antarctica – despite a recent International Whaling Commission (IWC) resolution to tighten restrictions on whaling for scientific purposes.

The decision, albeit non-binding, was taken during the 65th biennial IWC meet in Portorož, Slovenia, and follows the International Court of Justice's (ICJ) earlier verdict on Japan's scientific whaling finding that the activities were a violation of the country's international commitments.

Japan has undertaken whaling activities under the premise that it is conducting scientific research, consistent with authorised research exceptions to an earlier 1946 whaling treaty, and that its catches are within sustainable limits. New Zealand originally brought the issue to the IWC negotiation table in a bid to place future scientific whaling programmes under the remit of the body's scientific committee. Parties to the IWC eventually voted 35 to 20 with five abstentions, in favour of New Zealand's proposal.

## Post-2015 development agenda progress

UN Secretary-General Ban Ki-moon in early September urged UN members to make a final push to achieve the eight Millennium Development Goals (MDGs) and to simultaneously work towards building a development roadmap for the years ahead. In addition, the UN chief urged the international community to come through on a pledge to deliver a meaningful universal climate agreement, also by the end of next year. The event, held on 11-12 September in New York, US, provided an opportunity for UN members and civil society to review the state of play in the various tracks feeding into a UN process known as the "post-2015 development agenda." The new development framework is set to replace the MDGs when they expire at the end of next year.

Work undertaken towards this end includes, the formulation of a proposed set of sustainable development goals (SDGs); a report on sustainable development financing; and identification of options for a technology facilitation mechanism.

## EU approves free carbon permits

The European Parliament's environment committee voted late September in favour of giving away free carbon permit allowances – equivalent to €5 billion – to a select group of industries within the 28-country bloc, in an effort to discourage them from moving production abroad to countries with lower environmental standards.

The vote follows a European Commission proposal in May that suggested allowing these 175 industry sectors to continue receiving allowances without penalty from 2015-2019 in order to comply with legislation mandated by the EU Emissions Trading System (ETS).

September also saw the new European Commission President-elect Jean-Claude Juncker name his new team of commissioners. The former Luxembourg premier has also made some significant changes to the structure of the EU executive branch, such as merging the climate and energy, as well as the environment and maritime and fisheries policy portfolios.

## Ocean acidification reaches record high

Scientific evidence from the latest World Meteorological Organization (WMO) publication indicates record concentrations of greenhouse gases in 2013. The WMO's annual Greenhouse Gas Bulletin reports atmospheric concentrations – referring to the remainder of emissions after interactions in the atmosphere, biosphere, and ocean – of carbon dioxide (CO<sub>2</sub>) at 142 percent higher than pre-industrial levels.

According to the WMO, a specialised UN agency leading international efforts around meteorology and climate, the current rate of ocean acidification is occurring at a rate faster than at any time in the last 300 million years, caused by increased uptake of CO<sub>2</sub> by the ocean. Research indicates this process has significant repercussions on fish stocks and other marine life. Fish, one of the world's most highly traded food commodities, constitute approximately 17 percent of the global population's annual protein intake with 10 to 12 percent of the world's population depending on fisheries and aquaculture for their livelihoods.

## Russian fish embargo raises EU concern

The European Commission has encouraged EU fishermen who continue to lose business as a result of Russia's ban on European food imports to tap into existing compensation schemes.

In a letter Maria Damanaki, European Commissioner for Maritime Affairs and Fisheries, urged EU governments to consider making use of the European Maritime Fisheries Fund (EMFF) to provide financial support to producers who are unable to sell their fish harvest to Russia.

Damanaki also highlighted states' entitlement to shift unused fishing quotas of up to 10 percent to the following year and added that the possibility to exceed this amount is currently under consideration.

In early August Moscow imposed a ban on imports of food items – including certain fisheries products – from the EU, in addition to the US, Canada, Australia and Norway, following sanctions imposed on Russia in relation to the Ukraine crisis. The ban has had a particularly detrimental impact on European fishermen as Russia is the trade bloc's sixth largest export market for fisheries products.

## Timeline set for seal ban implementation

The EU, Canada, and Norway have signalled that they have agreed to a timeframe for the 28-nation bloc to bring its ban on imported seal products in line with international trade rules.

In separate letters addressed to the Chairperson of the WTO's Dispute Settlement Body (DSB) – the committee that deals with alleged infractions to global trade law – Canada and Norway both said that the EU would have until 18 October 2015 to act on the recommendations of the global trade arbiter. The interval will mark a period of 16 months from the WTO's adoption of the DSB's recommendations and rulings on the case.

Exactly how the EU will amend its legislation, however, is not yet known at this stage.

With its emotive content and passionate advocates on both sides of the debate, the seal ban dispute is among the more high-profile and polarising cases addressed by the WTO in recent years. The case also saw WTO judges confronted with the issue of how to reconcile expressed ethical preferences with international trade rules.

## Ebola poses a threat to African trade

In several African countries including Guinea, Liberia and Sierra Leone, an increasing Ebola death toll has resulted in the tightening of border restrictions and the establishment of quarantine zones, effectively impeding the movement of both goods and people.

As a result, some experts forecast devastating economic losses and heightened food insecurity in the region. In Liberia the price of cassava, one of the region's chief crops, increased by up to 150 percent in the first two weeks of August.

Last week the World Health Organisation (WHO) said that the number of people killed by the rapidly spreading disease in Liberia, Sierra Leone, and Guinea had reached at least 2,909, with more than 6,400 total reported cases.

In September top mining and resource-sector executives in West Africa said the region's travel bans could cause more harm than good, fearing the measures will exacerbate an ongoing humanitarian crisis in an already fragile landscape. According to the African Union, a pan-African body, the removal of travel bans would be up to each individual state.

## Australia and India sign uranium deal

Australia has approved a measure to export nuclear uranium material to India, building upon growing trade relations between the two and formalising budding Indian interest in the deployment of alternative energy sources.

Despite India's status as a non-signatory to the Nuclear Non-proliferation Treaty, a series of safeguards sealed the deal with Canberra, ensuring the materials will be used to propel India's nuclear power sector, rather than its nuclear warheads. The newly-minted agreement follows the former Australian government's overturn of a previous ban on sales of uranium to India in 2012.

Home to approximately one-third of the world's uranium resources, Australia provides only 11 percent of the global supply.

The deal signals resurgence in the atomic energy sector, following years of declining uranium prices due to the 2011 Fukushima nuclear power plant disaster in Japan. For its part Tokyo has lately signalled intent to restart nuclear power plants in the country, to the disappointment of some environmental groups.

# Publications and resources



## Fossil Fuels Subsidies in Developing Countries – ODI – July 2014

This paper, published by the Overseas Development Institute (ODI), aims to provide a review of the organisations and governments involved in supporting other countries to reform their fossil fuel subsidies and the approaches undertaken. The document builds a comprehensive understanding of which actors are working in the area of fossil fuel subsidy reform, what in-country advice and technical assistance is being proposed, planned, and implemented, and finally identifies areas for strategic involvement, including through the use of climate finance.

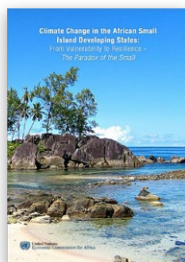
The paper can be accessed at <http://bit.ly/1qfliSv>



## Options and Approaches for Realizing Target 16 of the Aichi Biodiversity Targets – FNI – August 2014

This report, published by the Fridtjof Nansen Institute (FNI), provides options for countries to strengthen national implementation of Target 16 of the Aichi Biodiversity Target, namely putting in place the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization, a goal adopted following the tenth Conference of the Parties to the Convention on Biological Diversity.

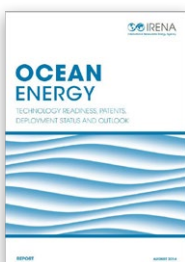
The report can be accessed at <http://bit.ly/1u7vzFj>



## Climate Change in the African SIDS: The Paradox of Small – UNECA, ACPC – August 2014

This report by the United Nations Economic Commission for Africa (UNECA) and the African Climate Policy Centre (ACPC) underscores the role of the blue economy in helping African SIDS to achieve their development aims and to tackle challenges related to economic losses associated with climate change vulnerability. The report discusses five sectors: fisheries, aquaculture, shipping and transport, tourism, and energy, focusing on efforts to build resilience in each.

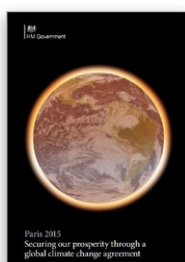
The report can be accessed at <http://bit.ly/1maLeFd>



## Ocean Energy: Technology Readiness, Patents, Deployment Status and Outlook – IRENA – August 2014

The overview report by the International Renewable Energy Agency (IRENA) emphasises the potential of oceans to meet the global electricity demand of the future. The report aims to accelerate and promote the widespread sustainable deployment of ocean energy technologies worldwide by providing a robust, accurate, and up-to-date analysis of ocean energy, focusing on the readiness of the various technologies involved, their deployment status and trends, patent activities in the sector, market outlook, and the barriers to ocean energy employment.

The overview report can be accessed at <http://bit.ly/1wDkHne>



## Paris 2015: Securing our Prosperity through a Global Climate Change Agreement – UK Department of Energy and Climate Change – September 2014

This policy paper by the UK Department of Energy and Climate Change explains why the prospect of securing a successful global climate agreement next year is within reach. The paper outlines the latest climate science on risks and impacts, the benefits of low-carbon action showcasing leading businesses that are already realising the commercial gains of climate action, the gap in global emission reduction efforts to date, and the path to an agreement in time for the 2015 deadline.

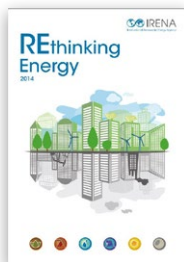
The policy paper can be accessed at <http://bit.ly/Xhdkm5>



**Unlocking the Hidden Value of Carbon Offsetting – ICROA, Imperial College London – September 2014**

This study by the International Carbon Reduction and Offsetting Alliance (ICROA) and Imperial College London demonstrates how voluntary purchasing of carbon credits creates opportunities for economic development, promotes environmental conservation, and improves people's lives by delivering numerous social benefits.

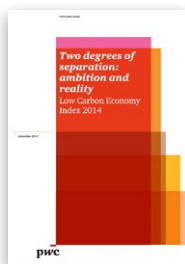
The study can be accessed at <http://bit.ly/1o309fY>



**Rethinking Energy: Towards a New Power System – IRENA – September 2014**

This report, the first edition of a new flagship publication series by the International Renewable Energy Agency (IRENA), argues that a new power system that is based on renewable energy would enhance energy access and security, create jobs, and safeguard health and the environment globally. Examining this renewable energy transformation from different angles, the report charts: its drivers, the evolution of renewable energy technologies, sources of financing, and broader related benefits.

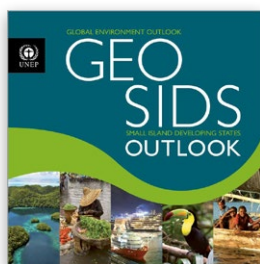
The report can be accessed at <http://bit.ly/1p14dxw>



**Two Degrees of Separation: Ambition and Reality: Low Carbon Economy Index 2014 – PwC – September 2014**

Launched in the run up to a series of international climate meetings and negotiations beginning in September this report, by multinational consulting firm PricewaterhouseCoopers (PwC), explores the level of decarbonisation required to limit global warming to below two degrees Celsius compared to preindustrial levels. The index finds that the global economy would need to cut its carbon intensity by 6.2% a year, every year from now to 2100, more than five times the current rate. The report also finds that the so-called "E7" group of emerging economies cut carbon intensity by 1.7 per cent last year, comfortably outperforming the 0.2 per cent improvement recorded by the G7.

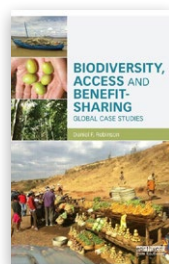
The index can be accessed at <http://pwc.to/XCnxtM>



**GEO SIDS Outlook – UNEP – September 2014**

The Global Environmental Outlook (GEO) Small Island Developing States (SIDS) Outlook by the United Nations Environment Programme (UNEP) describes SIDS trends and outlooks, including challenges related to SIDS's remoteness, climate change, natural disasters, water shortages, and increasing food and fuel prices, among others. The report recommends building a diversified blue-green economy, technological leapfrogging, prioritising island culture, and reconnecting with nature as strategies to sustainably develop SIDS's economies.

The report can be accessed at <http://bit.ly/1s6zdTE>



**Biodiversity, Access and Benefit-Sharing: Global Case Studies – Routledge – November 2014**

This book by Daniel Robinson, a Visiting Research Fellow at the International Centre for Trade and Sustainable Development (ICTSD) and a lecturer at the Institute of Environmental Studies at the University of New South Wales, analyses a number of access and benefit-sharing (ABS) case studies in light of the Nagoya Protocol. The case studies, ranging from plants for medicinal usage to food products from or for development, serve as models for countries to develop national systems which maximise benefits – both monetary and non-monetary – towards conservation and provide support for local communities that hold traditional knowledge.

The book can be pre-ordered at <http://bit.ly/1p1dhLL>

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