

## REFERENCES TO OTHER TOPICS

**Invasive Species Liability Issues Threaten to Go to Court**

*The Standard* (Kenya) reports that a high-level, high-profile legal case appears to be brewing on the issue of invasive species. A particularly noxious weed known as "mathenge" (*Prosopis juliflora*) has taken hold in the Baringo district leading to a lawsuit against the government claiming that it must eradicate the weed since it introduced it initially as an anti-desertification measure. The government denies that it caused the introduction of mathenge, whose thorns are particularly hazardous to humans and livestock, sometimes causing paralysis of the limbs and resulting in amputation. As part of its denial, the government, through its senior State counsel, has claimed that FAO was responsible for the original introduction.



The plant's thorns harm both people and livestock  
Courtesy: BBS News

**UN's Global Compact Deepens Commitment**

Under the Chairmanship of UN Secretary-General Ban Ki-moon, this year's Leadership Summit of the UN's Global Compact offered a strikingly positive view of the future, based on the collective belief that "Business, as a key agent of globalization, can be an enormous force for good. Through a commitment to corporate citizenship and the principles of the UN Global Compact, companies can continue to create and deliver value in the widest possible terms. In this way, globalization can act as an accelerator for the diffusion of universal principles, creating a values-oriented competition for a 'race to the top'." More than 1100 leaders of government, business and industry joined in the "Geneva Declaration" of that meeting, clarifying their commitment to promoting corporate citizenship and social and environmental benefits worldwide.

The declaration can be found online at [http://www.unglobalcompact.org/docs/summit2007/GENEVA\\_DECLARATION.pdf](http://www.unglobalcompact.org/docs/summit2007/GENEVA_DECLARATION.pdf).

**11th Commission on Genetic Resources for Food and Agriculture (CGRFA-11)**

The CGRFA's deliberations in Rome this June demonstrated both that the Commission and the International Treaty for Plant Genetic Resources for Food and Agriculture, in conjunction with the related work in FAO's Agricultural Division, is at the forefront of a very important body of international development – the regulation and promotion of the use of genetic resources (GR) in solving the world's ongoing need for agricultural development. As underscored by many people, including especially Meeting Chair Bert Visser (the Netherlands), the range of topics that need to be addressed in order to apply developing GR legal concepts to agricultural species and activities is enormous, and each issue presents separate challenges that must be specifically addressed. Consequently, manpower and funding discussions formed the limiting factor in the Commission's development of priorities and a multi-year programme of work. In addition, the commission addressed recent and ongoing develop-



"How could they allow the introduction of this tree without knowing the repercussions or the side effects?" Joseph Taparkwe

Courtesy: BBS News

ments in the creation of a *Draft Code of Conduct on Biotechnology*, a set of draft *Strategic Priorities for Action for the Sustainable Use, Development and Conservation of Animal GR for Food and Agriculture*; commencement of discussions regarding the need for an international framework on animal GR; and the initiation of discussions on the "unintended presence of transgenes in *ex situ* collections". A report of the meeting and links to meeting documents can be found at <http://www.iisd.ca/download/pdf/enb09371e.pdf>.

**Kyoto Protocol Parties Sharply Divided in Talks on Second Commitment Period**

Meeting in Vienna to consider "mitigation potentials and the identification of ranges of emission reduction" for the second commitment period (in other words, the reductions that the parties will commit to between 2012, when the first commitment period ends, and 2020), representatives of Kyoto Parties, observer countries, and NGOs began to clarify their respective and very different views on reduction commitments. The talks emphasise that the division among countries is neither strictly north/south nor developed/developing. The EU, which has taken strong measures toward greenhouse gas (GHG) emission reduction, joined with several developing countries with high emission levels, in calling on industrial states to set their reduction targets at somewhere between 25 and 40 percent of 1999 levels by 2020. Other highly developed countries, including Canada, New Zealand, Switzerland, Russia and Japan objected to this range or its use as an "indicative guide" in setting the standard. It is expected that formal talks on the standard will begin at the Kyoto Protocol's COP-MOP 3, this December in Bali.

**UNEP: Asian Workshop on Decreasing the Use of Mercury**

A recent UNEP workshop aimed at reducing the use and release of mercury in products, following decisions in the 24th session of the UNEP Governing Council (EPL 37/4 at page 305), identified several areas in which action could be taken. The primary orientation of the meeting was toward raising awareness of political decision makers as well as consumers and users of mercury through information exchange. Other issues discussed included inventory development and cooperation at the regional and national levels; and capacity-building efforts regarding best management practices, new technologies and substitutes for mercury-containing products. See a report of the proceedings at [http://www.chem.unep.ch/mercury/HG\\_PRODUCTS\\_proceedings\\_final\\_hyperlinks.pdf](http://www.chem.unep.ch/mercury/HG_PRODUCTS_proceedings_final_hyperlinks.pdf).



A drop of mercury Courtesy: UNEP

**UNEP and China: Reinforcing the Environmental Side of Customs Controls**

UNEP Director Achim Steiner noted that the Programme has identified customs controls "from illegal trade in banned or restricted chemicals up to managing movements of living modified organisms and illegal trade in rare and endangered wildlife" as the "frontline" in environmental efforts. Citing both the benefits and risks of the globalised trading System, Steiner underscored the objective of ensuring environmental protection without closing that System down. The remarks were made in an inaugural workshop in China and other Asian-Pacific countries, focused on "training the trainers" who will enable customs agencies throughout the region to join forces with UNEP and Interpol and others to take action on complex environmental controls.

**Review of International Environmental Law**

UNEP convened a meeting of experts on 3–5 September in Geneva to discuss "Montevideo III", the Programme for the De-

velopment and Periodic Review of Environmental Law. The main purposes of the meeting were to review the implementation of the Programme for the first decade of the Twenty-first Century which was adopted by the Governing Council by acclamation in 2001, and to consider possible elements for "Montevideo IV". Consultations among Governments and relevant stakeholders have been tentatively scheduled for the last week of November 2007 in order to address the matter and draft a text for its possible adoption at the 25th session of the Governing Council of UNEP in 2008. The full report of the meeting is listed as document number: UNEP/Env.Law/MTV4/EX/1/3.

### IMO: New Convention on Wreck Removal

The IMO Parties adopted the *Nairobi International Convention on the Removal of Wrecks*. The new instrument addresses a variety of hazards posed by shipwrecks to the marine and coastal environments. It sets financial liability for these hazards on ship-owners and requires them to take out insurance or provide other financial security to cover the costs of wreck removal, giving States a right of direct action against insurers. In addition, the Convention includes provisions on: the report of and location of wrecks; determination of hazards when a wreck is beyond territorial waters; rights and obligations to remove hazardous ships and wrecks; financial liability; and settlement of disputes. Other important IMO developments in recent weeks include the entry into force of the amendments to MARPOL's Annex I; the decision by IMO's Marine Environment Protection Committee (MEPC) to commission a study into the impact of proposed measures to reduce air pollution from ships; and further work on the proposed Ship Recycling Convention.



### OECD Strengthens Rules in Export Credits

Building on its body of expert work and analysis regarding the incentive side of environmental regulation, the OECD has recently adopted a Recommendation calling for stronger environment-related requirements, before export deals can qualify for export credit backing from national export banks. The stronger rule requires Member governments to review projects in terms of the environmental impacts, and to benchmark the results against international standards, as well as to provide greater transparency regarding the results of these analyses. The full recommendation, as drafted by OECD's Working Party on Export Credits and Credit Guarantees, demonstrates OECD's "willingness to keep pace with improvements in environmental policies of other financial institutions" given that the international standards referenced in the decision were those of the World Bank Group. A copy of the Recommendation can be found online at [http://www.oilis.oecd.org/olis/2007doc.nsf/linkto/tad-ecg\(2007\)9](http://www.oilis.oecd.org/olis/2007doc.nsf/linkto/tad-ecg(2007)9).

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CO-OPERATION  
AND DEVELOPMENT



### WHO: Alarming Picture of Link between Environmental Damage and Unnecessary Death

The World Health Organization (WHO) has released a study which reports over 13 million deaths (more than 4 million of them children) attributable to "preventable environmental causes" each year. The report cites four main disease groups that are influenced by environmental factors: diarrhoea, lower respiratory infections, unintentional injury from harmful and polluting substances, and malaria. It ties these causes to the need for safe household water storage, better capacity for hygiene, cleaner/safer fuels, building safety, toxic substance management, and water resource management. The full study is available online at [http://www.who.int/quantifying\\_ehimpacts/publications/preventingdis ease/en/index.html](http://www.who.int/quantifying_ehimpacts/publications/preventingdis ease/en/index.html).



### Five African Countries Collaborate on Protected Area

Environmental wildlife and tourism Ministers from Namibia, Angola, Botswana, Zambia and Zimbabwe are reportedly making good progress in the establishment of an interim secretariat to facilitate the creation and oversight of the Kavango-Zambezi Transfrontier Conservation Area (KAZA-TFCA), set to be the largest transboundary conservation project in the world. The first two years of funding for the KAZA-TFCA has been secured from a combination of institutions – the Kreditanstalt für Wiederaufbau (KfW), Peace Parks Foundation and the World Wide Fund for Nature (Netherlands). The primary focus of these two years will be the development of a longer-term base of sustainable funding.

### USA Department of Agriculture: Considering Stricter Controls on GMOs

Following a string of court cases which have upheld resistance to controls which the public, courts and others perceive to be very lax, the US Department of Agriculture has begun a rule-making process to develop a stricter system for oversight of biotech crops. The system will enable a broader array of responses, depending on the nature of the species involved and its intended use, as well as the USDA's level of prior familiarity with the variety. The new rule-making process is part of a general revision of agricultural species controls that may also include monitoring noxious weeds and other invasive species issues. Further information is available from the biotechnology section of the USDA's website: [http://www.usda.gov/wps/portal/!ut/p/\\_s.7\\_0\\_A/7\\_0\\_10B?navid=BIOTECH&parentnav=LAWS\\_REGS&navtype=RT](http://www.usda.gov/wps/portal/!ut/p/_s.7_0_A/7_0_10B?navid=BIOTECH&parentnav=LAWS_REGS&navtype=RT).

### Further Work on Animal Genetic Resources

The Swiss Government sponsored a key meeting to develop and assess the issues most relevant to the conservation and diversity of animal genetic resources. It focused on the strategic priorities assessed by other organisations, including their sustainable use, development and conservation, the adoption of institutions and policies, capacity building, while the most controversial issues remain the questions of financial support for implementation of these priorities. The report produced the Interlaken Declaration, regarding national commitment of the participating countries in addressing these issues. A report of the meeting can be found at <http://www.iisd.ca/download/pdf/enb09387e.pdf>.

### WIPO-IGC: Meeting Fails to Clarify Objectives

The WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) held its eleventh session in Geneva, operating under a mandate from the 2005 WIPO General Assembly, which called on the IGC to "accelerate its work", "to focus particularly on the international dimension of intellectual property, genetic resources, traditional knowledge [cultural expressions]" and "to exclude no outcome, including the possible development of an international instrument in this field" (WO/GA/30/8, paragraph 93). The meeting's deliberations indicate little change in position. On the one hand, developing countries and indigenous peoples' representatives presenting a united front which generally called for a binding legal instrument designed to protect various rights in genetic resources and especially traditional knowledge and cultural expressions. On the other, developed countries, particularly the USA and Japan continued to insist that it was too soon to address substantive issues, calling for further studies and further work. In particular, the objectives (desired outcomes) of the process remain unagreed. In the final decision, the committee asked the WIPO GA to extend their mandate for an additional two years, offering no closer focusing of options or objectives. The final decision (report) of the IGC is available at [http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=81852](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=81852).

### ECOSOC: 10th Meeting with Bretton Woods Institutions, WTO and UNCTAD

An ECOSOC-hosted meeting between ECOSOC and the three institutions of the Bretton Woods group (the World Bank group, International Monetary Fund and International Bank for Reconstruction and Development), as well as the WTO and UNCTAD focused primarily on the Monterrey Consensus on the need for a global framework to promote good governance, as a "model for multilateralism". Challenges identified include the need

for “comprehensive governance reform”, singling out the need to fight against corruption. Another key discussion was the question of “suitable representation” of developing countries and countries with economies in transition, which grew out of the Monterrey discussions. Concerns about the international trade regime were also voiced, focusing on the possible emergence of “new forms of protectionism, if the Doha Round continues to lag or ultimately fails”. A general summary of the meeting can be found at <http://www.un.org/News/Press/docs//2007/ecosoc6262.doc.htm>.

### WTO/CTE: Wrangles with Inter-agreement Synergy

The WTO's Committee on Trade and Environment (CTE) continues to seek some progress on the suite of environmental issues identified in the Doha round, but with little progress. The most recent meeting's primary positive output was described as follows: “members are reportedly closer to an agreement on the issue of the observer status for MEA Secretariats at the WTO”. Critical agenda items regarding clarifying the inter-relationship between the various key instruments (the GATT documents, and the CBD, Basel Convention, CITES, PIC and POPs Conventions, Montréal Protocol and UNFCCC) saw no noticeable progress in getting past the apparent deadlock. A report of this meeting is available at <http://www.ictsd.org/weekly/07-05-09/story2.htm>.



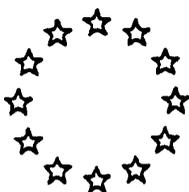
### UNCTAD: Recommends Diversification to End Commodity Dependency

The UNCTAD Commission on Trade in Goods and Services and Commodities recommended that “UNCTAD should continue its work on agricultural, forestry and fishery products, metal and minerals, and oil and oil products as well as on biofuels through the Biofuels Initiative”. It clarified that the focus of this work should be oriented around decreasing developing countries' economic dependency on a small number of commodities. It posits that foreign investment in these sectors would increase the participation of developing and least-developed countries as well as countries with economies in transition to develop infrastructures, in particular in the energy sector. Noting that economic, social and environmental objectives of developing opportunities must be addressed at the interface between trade, environment and development, the Commission called for strengthening of the BioTrade programme and promoting its positive development impact on both the production and exports of biodiversity products and services and its work on the production of and trade in environmental goods and services and organic agriculture. See [http://www.unctad.org/en/docs/c1d88\\_en.pdf](http://www.unctad.org/en/docs/c1d88_en.pdf).



### EU: Financial Commitment to Support Environmental Policy

In support of the themes: “nature and biodiversity”, “environmental policy and governance” and “information and communication”, the Council of the European Parliament voted to make EUR 2,143 billion available for providing specific support for developing and implementing Community environmental policy and legislation for the period 2007–2013. Dubbed “LIFE+” this funding will be provided through grant agreements and public procurement contracts in the spirit of contributing to the implementation, updating and development of Community environmental policy and legislation, including the integration of the environment into other policies to contribute to sustainable development. The text of the Regulation can be found at [http://www.minambiente.it/moduli/output\\_imgagine.php?id=213](http://www.minambiente.it/moduli/output_imgagine.php?id=213). (AL)



### UNECE/FAO: Annual Market Review of Forest Products

UNECE and FAO released their 2006–2007 Review covering forest product markets and policy developments in Europe, North America and the Commonwealth of Independent States. The Report also addresses climate change and energy security concerns, policy dilemmas due to rising bioenergy demand, the influence of China's markets internationally, illegal logging and trade, the USA-Canada Softwood Lumber Agreement, corporate responsibility, Russian forest-sector reform, and research and development. See <http://www.unece.org/trade/timber/docs/fpama/2007/fpamr2007.pdf>.

### Afghanistan Adopts New Law on the Environment

Afghanistan's new Environmental Law has become final. The Afghan system of legislative development gives parliament the right to amend laws which were adopted by Presidential decree prior to the establishment of the national parliament. This process was completed with regard to the Environmental Law, which was adopted by Presidential decree in December 2005, shortly before the National Assembly was constituted. After a lengthy review by both houses of the Assembly, the law was gazetted bearing the date 25 January 2007. The new law addresses a full range of environmental issues, but devotes significant attention to biological diversity (conservation and sustainable use), environmental management and capacity building. An unofficial English translation is available on ECOLEX at <http://faolex.fao.org/docs/pdf/afg63169E.pdf>.

### New Hope in Unravelling International Terminology

As documented in hundreds of examples, within the EPL, international negotiations and, more critically, the implementation of international instruments is increasingly thwarted by linguistic confusion and imprecision. The text agreed by international negotiators in one area or instrument may use identical terms and phrases as used in another instrument, but with very different meanings. Assumptions are often made by negotiators for whom English is a second language, about the precise meaning of an English word or phrase whose meanings are sometimes quite different or subject to many different interpretations. These complexities may multiply, as interpreters (whose expertise is language, rather than law or science) are called to translate each formal draft of an instrument into formal/official translations in as many as six (or more) official languages.

Examples of these problems abound, and are further multiplied when national implementing legislation is continued, and the same questions are faced by a different group of professionals – national lawyers and others involved in legislative drafting. Many basic environmental concepts are suffering this fate, including some, such as “precaution”, which are critical parts of the entire architecture of environmental action and others, such as “genetic resources”, that are central to new frameworks of intensive international interest and controversy.

In this quagmire, a new *Dictionary and Introduction to Global Environmental Governance* attempts to regularise the existing “glossary” of terminology.<sup>1</sup> In doing so, it can help provide a sound basis for negotiating and utilising the terms of environmental action. While not attempting to interpret or identify the current chaotic linguistic situation in international environmental instruments, it provides a single source of terms, enabling a more cohesive approach to their future use. This is a critical first step toward international environmental governance and realisation of the “rule of law” in this field.

The *Dictionary's* primary authors seek to help negotiators do more than “convert the obnoxious into the incomprehensible”, but actually to promote comprehensibility. It provides, *inter alia*, more than 5500 definitions and acronyms, as well as some well chosen analysis and comments on the role of words in global governance. Apart from the rather small typeface, the book offers little to criticise and much to praise. The authors have rightly chosen not to comment on the terminology, only to provide examples of all terms used in a great many multilateral instruments, as a basis for better decision making and interpretation by others. (TRY)

1 Saunier, R. E. and Meganick, R. A., *Dictionary and Introduction to Global Environmental Governance*. Earthscan, UK, 2007.

