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TRADE, ENVIRONMENT AND DEVELOPMENT

Background note by the UNCTAD secretariat

Executive summary

This note focuses on selected trade and environment issues that have received considerable attention in the international debate, as well as in UNCTAD's work since UNCTAD XI. The analysis on environmental goods and services (EGS) builds on recent work carried out with a view to assisting developing countries in dealing with the implications of the mandate provided for in paragraph 31 (iii) of the Doha Ministerial Declaration. It covers UNCTAD's contribution to the work of the Special Session of the WTO Committee on Trade and Environment and includes some considerations relating to renewable energy equipment. The note also analyses the results of studies and policy dialogues concerning environmental requirements and market access for developing countries carried out under UNCTAD's capacity building programme in the area of trade, environment and development, focusing on sectors such as leather and leather products, horticulture and electrical and electronics equipment. It examines work already carried out and future activities of the Consultative Task Force on Environmental Requirements and Market Access for Developing Countries (CTF), a key new project-based activity, as well as ongoing and future work on standards and related issues in the field of organic agriculture. It reports on activities under the Biotrade Initiative. In addition, it highlights recent developments in multilateral environmental agreements that could have important trade and development implications, including the entry into force of the Kyoto Protocol in February 2005. Finally, the note lists some issues that the Commission may wish to address.

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CONTENTS

I. INTRODUCTION

1. At UNCTAD XI, member States agreed that "UNCTAD should continue to provide support to developing countries on issues at the interface between trade and environment, such as market access, agriculture, traditional knowledge, transfer of environmentally sound technology, environmental goods and services, environmentally preferable products, and issues concerning eco-labelling and certification costs, and follow up on trade-related issues contained in the Johannesburg Plan of Implementation. It should strengthen work on the BIOTRADE Initiative and the UNEP-UNCTAD Capacity Building Task Force on Trade, Environment and Development (CBTF)".[1]

2. The implications of the outcome of UNCTAD XI for the secretariat's work programme are described in document TD/B/WP/174.[2] Information on the implementation of this work programme can be found *inter alia* on the Trade, Environment and Development Branch section of the UNCTAD website,[3] as well as in the UNCTAD *Trade and Environment Review 2005*, which contains a chapter with information on technical cooperation (TC) and capacity building (CB) activities, including BioTrade partnerships and the CBTF.

3. This report focuses on selected trade and environment issues that have received considerable attention in the international debate, as well as in UNCTAD's work since UNCTAD XI. The analysis on environmental goods and services (EGS) focuses on identifying environmental goods of potential environmental and trade interest for developing countries. It includes some considerations related to renewable energy equipment, one of the sectors proposed for discussion at the Expert Meeting on New and Dynamic Sectors of International Trade (7–9 February 2005). With regard to the relationship between environmental requirements and market access for developing countries, the report highlights some key issues and summarizes analytical results of UNCTAD's recent work in three sectors (leather and leather products; electrical and electronics equipment; and horticulture). This section also pays special attention to the Consultative Task Force on Environmental Requirements and Market Access for Developing Countries (CTF), [4] a key new project-based activity launched in 2004. Section IV highlights recent activities related to organic agriculture, including activities of the International Task Force on Harmonization and Equivalence in Organic Agriculture and TC/CB activities. Section V reports on BioTrade Initiative activities. Section VI reviews recent developments in multilateral environmental agreements that will have trade and development implications, particularly the entry into force of the Kyoto Protocol. The final section lists some issues that the Commission may wish to address.

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1 São Paulo Consensus, TD/410, 25 June 2004, paragraph 103.

2 Implications of the outcomes of UNCTAD XI for the work programme for 2004-2005, 10 August 2004

3 www.unctad.org/trade_env

4 The Commission, at its seventh session in February 2003, recommended that the secretariat "explore the possibility of creating a consultative group on environmental requirements and international trade, which should closely coordinate and collaborate with relevant work and initiatives in other bodies and involve the private sector, as a project-based activity". The Government of the Netherlands has provided funding support for exploratory work. (See box 1 and www. unctad.org/trade_env/test1/projects/taskforce.htm)

II. ENVIRONMENTAL GOODS AND SERVICES

4. The Doha Ministerial Declaration (DMD) called for the reduction or, as appropriate, elimination of tariff and non-tariff barriers to EGS.[5] UNCTAD XI called for "efforts to identify and promote environmental goods and services of actual and potential interest to developing countries".[6] Recent UNCTAD activities include the Expert Meeting on Definitions and Dimensions of Environmental Goods and Services in Trade and Development (July 2003), policy analysis,[7] statistical analysis and capacity building.[8] Such activities have enabled UNCTAD to assist developing countries in enhancing understanding of the sustainable development implications of trade liberalization in EGS and in their participation in the WTO negotiations, as well as to contribute to the work of the relevant WTO negotiating bodies. At the request of the Committee, the UNCTAD secretariat reported on its work to the Special Sessions of the WTO Committee on Trade and Environment (CTESS), held in April and in October 2004.[9]

5. Recent work in the WTO, UNCTAD and the OECD has paid special attention to environmental goods (EGs). Although many WTO Members may derive sustainable development benefits from freer trade in EGs, there is a need to identify products of current or potential export interest to developing countries. This may include certain products that are already included in the list of EGs prepared by Asia-Pacific Economic Cooperation (APEC), as well as other products such as certain environmentally preferable products (EPPs). In the WTO Committee on Trade and Environment, the chairman has encouraged WTO Members to draw up lists of EGs.

6. UNCTAD defines EPPs as products that cause significantly less environmental harm at some stage of their life cycle than alternative products that serve the same purpose. Examples include natural fibres, organic agricultural products, recyclable and biodegradable products or sustainably produced forest products. UNCTAD's work on EPPs has traditionally focused on identifying opportunities for trade and related internalization of environmental costs. Thus defined, EPPs, put into the context of current WTO negotiations, would nevertheless raise certain systemic issues, such as recourse to processes and production methods (PPMs) as the sole criterion. However, certain categories of EPPs, such as inherently environment-friendly products (i.e. those not based on PPM-related criteria), could be included within the scope of negotiations, provided this does not lead to new non-tariff barriers and additional costs, e.g. for certification. The UNCTAD secretariat has carried out a statistical analysis of trade in an illustrative list of such products that could be of export interest to developing countries.[10]

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[5] Paragraph 31(iii) of WTO document WT/MIN(01)/DEC/1 (20 November 2001).

[6] São Paulo Consensus, paragraph 87.

[7] EGS was a main theme of the UNCTAD *Trade and Environment Review 2003*.

[8] In particular studies and policy dialogues in Central America under the DFID-funded project *Building Capacity for Improved Policy Making and Negotiations on Key Trade and Environment Issues* (DFID-II).

[9] UNCTAD's work on environmental goods and services: Briefing note. WTO document TN/TE/INF/7, 5 October 2004; available at http://r0.unctad.org/trade_env/test1/publications/INF7-E.pdf

[10] The list includes agricultural products. *Environmental Goods: Trade Statistics of Developing Countries*, TD/B/COM.1/EM.21/CRP.1, July 2003.

7. UNCTAD's analysis[11] of trade in products on the APEC and OECD lists indicates that developing countries are not substantial suppliers, but rather net importers, of EGs. The analysis has also revealed a high share of multiple use products in developing countries' imports of EGs, which implies that these countries may face a difficult trade-off between reduced tariff revenues and not-so-certain environmental benefits. On the other hand, applied rates in developing countries are, in practice, often quite low. Negotiating approaches based on the concept of a "complementary" or "development" list may provide some flexibility to developing countries in discussions on the scope for and modalities of the negotiations. National consultations with the industry would be useful in this context.

8. Developing countries are particularly interested in the "technology side" of EGs. There are three areas where transfer and effective use of environmentally sound technologies (ESTs) could be of particular importance over the next few years: addressing domestic environmental problems such as urban pollution; enhancing energy and material efficiency; and complying with environmental requirements in export markets.

9. There are difficulties in defining cleaner technologies and classifying them in the Harmonized System (HS). Clean technology is a concept of relative environmental performance, which is subject to change over time. Also, cleaner production technologies tend to be sector-specific. The problem of relative environmental performance could be overcome either by setting up a proper review mechanism or by including entire plants or technologies in the list. The latter are devoid of the problems associated with multiple use and relativism in time, i.e. a recycling plant remains a recycling plant even if the technology of recycling changes substantially. The same approach could apply to entire technology systems, for example oil recovery systems. In many cases there appears to be a possibility to classify entire systems under a single tariff heading. However, more work is needed to find or create the appropriate tariff headings and to address non-tariff barriers.[12]

10. At the July 2003 UNCTAD Expert Meeting, arguments were made for the inclusion of clean fuels such as methanol and ethanol and a broader range of renewable energy goods than the OECD and APEC lists indicate.[13] The International Energy Agency (IEA) secretariat predicts that over the next 20 years, economically viable renewable resources will increase as a result of cost reductions made possible by technological improvement and expanding markets. Governments of several countries are committed to increasing the share of renewables in total energy supply. Growing renewable energy consumption creates new opportunities for renewable energy technology manufacturing and related installation and maintenance services. While most such opportunities are driven by local needs, they are bound to create new export opportunities as well. India, for example, has large renewable energy programmes and exports renewable

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[11] *Ibid.*

[12] For more information, see*: Report of the Expert Meeting on Definitions and Dimensions of Environmental Goods and Services in Trade and Development* (TD/B/COM.1/59) of 27 August 2003; and *UNCTAD Trade and Environment Review 2003* (UNCTAD/DITC/TED/2003/4), p.51.

[13] There are references to carbon-free, renewable energy and hybrid, natural gas and renewable energy in Qatar's proposal.

energy systems and products, such as wind-powered generating systems[14] and photovoltaic cells. Clean bio-fuels, such as ethanol, represent significant exports for Brazil, Jamaica, Argentina, Bolivia, Costa Rica, El Salvador and Guatemala.

11. The IEA has identified certain HS codes on the APEC list as currently valid for renewable energy equipment, e.g. solar collectors, PV panels and wind chargers, and has argued for the inclusion of other items, e.g. small hydro-electric plants, photovoltaic generators and biomass-related equipment. Six-digit HS subheadings now seem to be available for all major types of renewable energy technology in the marketplace, with the exception of geothermal power systems and components, ocean energy systems, and solar thermal concentrating equipment. An IEA survey shows that tariff rates charged for renewable energy equipment in over 100 countries vary widely.[15]

12. With regard to modalities for negotiations, so far the Negotiation Group on Market Access for Non-Agricultural Products (NGMA) has not decided whether or not to include EGs under a possible sectorial tariff approach. Negotiations on EGs are bound to be different from other possible sectorial discussions in the NGMA, which require the reduction of tariffs in the same and proximate HS chapters. Any agreement on EGs will necessitate dealing with very diverse product groups, based on the recognition of their enabling, service-like role, a recognition supported by the link with the negotiations on environmental services made in the Doha Ministerial Declaration.

13. With regard to EPPs, given the difficulties in capturing some of these in the HS and the low tariffs that often prevail, it may prove more productive to focus the discussions and negotiations largely on non-tariff barriers. For instance, WTO Members may choose to categorize non-tariff barriers affecting EPPs as those that are more issue-specific, e.g. technical barriers to trade (TBT), customs procedures and rules, or more sector-specific. In the short term, there might be merit in focusing the non-tariff barrier dimension in the negotiations, e.g. on simplifying certification procedures for a few selected categories of EPPs. Another issue that may need to be addressed is whether, given the fact that many EPPs of interest to developing countries are agricultural products, there should be an additional negotiating track for agricultural EGs.[16]

14. An increasing number of developing countries have requested assistance, particularly in developing lists of EGs and identifying tariff and non-tariff barriers affecting trade in these goods, as well as considering possible negotiating modalities. With regard to environmental services, UNCTAD will continue to facilitate consultations at the national and regional level, as well as with Geneva-based delegations. In the context of CBTF, a seminar will be held jointly with the secretariat of the Andean Community (Lima, March 2005).

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[14] Indian companies have commercialized both equipment and maintenance services.

[15] IEA, Renewable Energy. http://www.iea.org/dbtw-wpd/textbase/papers/2002/renewable.pdf.

[16] The "July package" refers explicitly only to "…non-agricultural environmental goods covered in paragraph 31(iii) of the Doha Ministerial Declaration". Decision Adopted by the General Council on 1 August 2004, Annex B, paragraph 17.

III. ENVIRONMENTAL REQUIREMENTS AND MARKET ACCESS

Overview

15. In recent years, environmental requirements (ERs) – comprising governmental regulations as well as voluntary private-sector or NGO-created standards and their associated conformity assessment systems – have become more stringent, frequent and complex in certain sectors. Discussions in the CTE, UNCTAD and the OECD have highlighted the fact that ERs should be developed and applied in such a manner as to minimize possible adverse effects on market access for developing countries, while achieving the objectives of environmental policies.[17]

16. For example, in the CTE, India has proposed that importing countries – when developing and applying environmental measures – should ensure that: the special development, financial and trade needs of developing country Members are taken into account; environmental measures are based on the criteria of sound science, transparency and equity; foreign producers are given the opportunity to participate at an early stage in the design of ERs and have adequate time to adjust to new requirements; industries in developing countries can access information on changes in environmental measures and standards through appropriate dissemination of such information; longer time frames for compliance are allowed for products of interest to developing country Members; equivalency is promoted; bilateral technical and financial assistance for compliance is provided and transfer of technology facilitated on preferential terms; and the negative effects of environmental measures on market access should be mitigated or eliminated altogether by providing additional market access to developing countries in these products.[18] It remains a key challenge to operationalize many of the above-mentioned special and differential treatment criteria in the context of ERs and market access.

17. In a recent submission to the CTE, the European Communities argued that "the answer to concerns about reduced market access is not to weaken such standards but rather to enable exporters to meet them."[19] The EC proposed that efforts should focus on improving dialogue and information sharing with developing countries when developing and implementing new ERs with a view to: identifying as early as possible potential market access implications; identifying potential "bridges" between the legislation of importing and exporting countries; and considering technical assistance needs and other means necessary to help affected countries and exporters comply with new requirements while developing their own, where appropriate.

18. UNCTAD's own work in this area has spanned all three pillars of UNCTAD activities: intergovernmental deliberations, research and policy analysis, and technical cooperation and capacity building. UNCTAD convened an Expert Meeting on Environmental Requirements and International Trade in October 2002, and the meeting's outcome was considered by the Trade Commission in February 2003. The second issue of the *Trade and Environment Review*, to be issued in 2005, focuses on this issue. Ongoing UNCTAD work includes considerable policy analysis based on a large number of sector-specific country case studies, which have been

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[17] "Environmental Requirements and Market Access for Developing Countries", Note by the UNCTAD secretariat. TD/(XI)/BP/1, 20 April 2004

[18] WTO document WT/CTE/W/207, 21 May 2002.

[19] WTO document WT/CTE/W/239, 12 October 2004.

discussed in several subregional and national policy dialogues carried out in the context of technical cooperation and capacity building projects. The focus of current work is the Consultative Task Force on Environmental Requirements and Market Access for Developing Countries (CTF), which was launched in June 2004 (see box 1).

Findings from sectoral analyses

19. Under the UNCTAD/FIELD[20] project "Building capacity for improved policy making and negotiation on key trade and environment issues", funded by the UK Department for International Development (DFID), some 20 empirical sectorally focused country studies[21] and 10 training workshops, national policy dialogues and subregional seminars have been carried out on environmental requirements, market access/entry and export competitiveness for three sectors (electrical and electronics equipment, leather and leather products, and horticulture), mainly in six East and South-East Asian countries (Bangladesh, Cambodia, China, Philippines, Thailand and Viet Nam). The project also organized a workshop involving developing country experts, the European Commission and European industry on the consultative process and impact assessment concerning developing countries related to the proposed EU Chemicals Regulation (REACH) in Brussels in October 2004. Documents and presentations from all the activities under this project are available on UNCTAD's Trade, Environment and Development Branch Website at www.unctad.org/trade_env/test1/projects/field.htm.

Leather and leather products

20. Both product- and process-related health and environmental requirements play a role in this sector. The South-East Asian subregional workshop on ERs and market access and export competitiveness for leather and footwear (Bangkok, November 2003) indicated that the recently introduced ban in the EU on some 20 azo-dyes is causing significant adjustment problems in the region, leading to a surge of imports of azo-free dyes, mostly from German companies. Compliance with the EU requirements is often coupled with costly changes in processing technology. The supply of substitute dyes from the region of stable quality and at reasonable prices is inadequate. The workshop proposed that the existing cleaner technology centres in the region (jointly supported by UNIDO, UNEP and UNESCAP) should make a concerted effort to assist in the development and production of azo-free dyes and related chemicals with stable quality parameters. It was also recommended that the EU should provide appropriate technical assistance to allow developing country producers to use the technology for substitutes effectively.

21. As in other sectors, awareness on environmental and health-related requirements in export markets is highest among large companies (i.e. subsidiaries of big international companies and contract manufacturers) and lowest among SMEs. International organizations and national industry associations are playing an important role in raising awareness. Governments need to

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[20] Foundation for International Environmental Law and Development

[21] These studies analysed (a) the level of awareness of national producers, especially SMEs, on environmental and health requirements in key export markets; (b) the gathering, analysis and dissemination of information on ERs; (c) current adjustment measures and proposals for proactive policies to effectively respond to new ERs; and (d) capacity building needs.

step up efforts. There is no systematic information gathering and dissemination on the development of new requirements and the related pre-standard-setting stakeholder consultations in key export markets. However, there is very little follow-up on alert messages, both by TBT inquiry points or private sector associations. This points to the need for more cooperation between public and private bodies on information gathering, analysis and dissemination. Management of information on ERs seems to be more effective in China and Thailand. An early warning system is being established in China through the Association of Leather Industry and the Chamber of Commerce.

Box 1: The Consultative Task Force on Environmental Requirements and Market Access for Developing Countries (CTF)

The CTF was launched at a pre-UNCTAD XI workshop on Environmental Requirements and Market Access for Developing Countries,[22] organized jointly by the UNCTAD secretariat and the National Institute of Metrology, Standardization and Industrial Quality (Inmetro) of Brazil in Rio de Janeiro in June 2004. Participants (from Governments, international organizations, the private sector, NGOs, and academia) saw the particular added value of the CTF in: (a) putting policy and capacity-constraints issues in a holistic and development-oriented context; (b) including in the analysis and discussion voluntary ERs of the private sector and NGOs and thus providing a formal exchange mechanism between these stakeholders and Governments; (c) interfacing the WTO debates in the CTE and the TBT Committee with other discussions at international and national levels; (d) drawing into the discussion key stakeholders normally not involved in WTO debates on the subject; and (e) allowing a regular exchange of information among agencies and initiatives that provide technical assistance and capacity building in those fields relevant to CTF discussions.

The CTF held its first substantive meeting in Geneva on 5 and 6 November 2004.[23] Background documents included (a) a feasibility study on an Internet-based "portal" that would facilitate access to and link existing international clearinghouses, including those run by the private sector and NGOs on ERs and market access, and (b) a study on transparency practices in the public and private sector in selected developed countries regarding pre-standard-setting consultations. Discussions focused on two sectors: electrical and electronic equipment (EEE) and horticulture. The meeting recommended a number of CTF activities to be implemented in 2005, in particular:

- The Centre for the Promotion of Imports from Developing Countries (CBI) in the Netherlands, the FAO and Inmetro were encouraged to form a working group to prepare a feasibility study on technical aspects and prepare a business plan for the creation of a "portal" that would interface existing information systems on environmental and health requirements of the three institutions[24] with a view to facilitating user-friendly access.
- To carry out a project on ERs and market access for electrical and electronic equipment, to be implemented by UNCTAD in cooperation with the secretariat of the Basel Convention, UNESCAP, the UN University and the Sustainable Trade and Innovation Centre (STIC). Work will be initiated within existing extra-budgetary resources and results reported in time for the next CTF session, to be held in June 2005 back-to-back with the CTE.
- To implement a project to assist developing countries in the development of national or subregional codes on good agricultural practices (GAP) for horticultural produce that can be benchmarked to EurepGAP.[25] Work will commence with a feasibility study and three stakeholder dialogues in subregions where national codes on good agricultural practices are already under development. Findings will be reported to the next CTF meeting.
- Additional extrabudgetary funds will be needed to implement the above activities.

[22] The report of the workshop is available as DITC/TED/2004/7.

[23] The report of the meeting is available at www.unctad.org/trade_env/test1/meetings/ctf1.htm

[24] HORTINET, the information service that caters to the needs of horticultural stakeholders in the Philippines, has recently also indicated its interest in joining the working group.

[25] See paragraph 26 below.

Electrical and electronics equipment

22. Electrical and electronics equipment (EEE) represented one of the fastest-growing sectors of international trade in the period 1985-2000. The share of developing countries in world trade has increased significantly, largely due to outsourcing of the production of components and assemblage to developing countries. Four developing countries in East and South-East Asia, i.e. China, Malaysia, the Philippines and Thailand, supplied more than 50 per cent of the value of developed countries' total imports of EEE (excluding intra-EU trade) in 2002. The second issue of the UNCTAD *Trade and Environment Review* (2005) will analyse the experiences of China, the Philippines and Thailand in adjusting to ERs in this sector.

23. Environmental issues play an increasingly important role in this sector. New environmental legislation has been introduced in several countries to address post-consumer waste problems and to phase out hazardous substances that complicate recycling. This includes the Waste Electrical and Electronic Equipment (WEEE) and Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS) Directives in the European Union and the Home Appliances Recycling Law in Japan. Other EU legislation with potentially far-reaching implications is currently under preparation, in particular a directive establishing a framework for setting eco-design requirements for energy-using products (EuP).[26] An important driver behind the proposed EuP Directive is the commitment of the EU to the Kyoto Protocol targets for greenhouse gas reduction by 2012 and the Community Sixth Environmental Action Programme. Private-sector initiatives to meet corporate environmental goals and develop more environment-friendly products as part of strategic marketing initiatives are also drivers of change.

24. Globalized supply-chain management plays a key role in the adjustment to new ERs. SMEs have to abide by requirements set by global supply chains or risk being phased out as input providers. Manufacturers and assemblers in developing countries have to substitute heavy metals such as mercury, lead and cadmium, as well as to respond to requirements of importers and customers downstream in the supply chain with regard to design for recycling and associated material selection. For rapidly industrializing countries, it is advisable to combine adjustment to external requirements for exported EEE with sound national management of EEE waste and second-hand EEE.[27] To achieve this, these countries not only need accurate and timely information, but also assistance in the interpretation of such information to make it relevant to adjustment strategies that maximize developmental benefits and minimize adjustment costs. China and Thailand are implementing national legislation to facilitate adjustment to external requirements for exported EEE, as well as to domestic requirements for sound national WEEE collection and management.

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[26] Proposal available at http://europa.eu.int/eur-lex/en/com/pdf/2003/com2003_0453en01.pdf

[27] In these countries, domestic generation of EEE waste is rapidly increasing. In addition, they are exposed to rising imports of EEE waste and second-hand equipment. The second-hand EEE market accounts for a large share of total domestic EEE sales.

The horticultural sector

25. Recent regulations and private-sector standards in the food sector present new challenges for developing country exporters of horticultural products. In the EU, for example, the General Principles and Requirements of Food Law (EC R 178/02) include provisions on the traceability of all food products as of 1 January 2005. Regulation (EC) 852/2004 lays down general hygiene rules for all feed and foodstuffs of animal and non-animal origin. The Hazard Analysis Critical Control Point (HACCP) system (rules and procedures) will become applicable to all feed and food operators in third countries exporting to the EU. The (revised) Pesticide Regulation (EC Directive 91/414) stipulates that maximum residue levels (MRLs) of pesticides will be set by default at the limit of detection, unless producers outside the EU are able to secure import tolerances upon submission of a complete residue dossier.[28] Concerns have also been expressed about very stringent MRLs recently applied in Japan on various imported horticultural products.[29]

26. In addition to mandatory food safety requirements, large private retailers have introduced stringent product and process standards that require technical competencies, technical support packages and new management methods, symbolizing a move to high-precision agriculture. Quality management and traceability systems must be in place in the entire food chain. The EurepGAP standard,[30] for instance, is likely to become a very important international benchmark for ensuring food safety and consistently high quality of horticultural produce. EurepGAP has replaced or assimilated various regional, product-group and retailer-specific standards and has integrated regulatory requirements on HACCP, MRLs and traceability. Through market dominance, private voluntary standards such as EurepGAP become *de facto* mandatory.

27. To obtain EurepGAP certification, individual growers or produce marketing organizations can either implement the EurepGAP management system and apply directly to any approved certification body or implement a different but comparable management system that has been

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[28] In general, the levels of the MRLs are fixed on the basis of good agricultural practice (GAP). Scientific data showing, in particular, the toxicology of the substance and its effect on human health are also taken into account. However, when no experimental data are available, the MRLs are fixed by default at the detection limit. This is the lowest level that can be measured in laboratory tests. When the MRL is set at the detection limit, it is in practice very difficult to comply with the standards This is often the case for products from developing countries where there are no experimental data as required.

[29] The MRL for chlorpyrifos (a toxic substance found in some pesticides) in mangoes, for instance, has recently been tightened from 0.5 PPM to 0.05 PPM, that is 10 to 20 times stricter than the MRLs applied by other developed countries and the Codex-recommended MRL. For more information, see: Roberto C. Amores, "Environmental concerns, market access and export competitiveness of Philippine fresh mangoes", presentation made at the National Policy Dialogue on Environmental and Health-related Requirements and Market Access for Horticultural Products from the Philippines, Manila, 2-3 December 2004.

[30] The Euro-Retailer Produce Working Group (EUREP) is a European-based trade organization for retailers. Its membership consists of growers, product marketing organizations and growers' cooperatives, food manufacturers and retailers. It includes most large European supermarkets.

benchmarked against EurepGAP to prove that its standard will yield equivalent outcomes to the EurepGAP protocol. For developing countries, one such comparable system has been recognized – the ChileGAP Scheme for fresh fruit and vegetables grown in Chile for export or local consumption. In 2004, the Kenya Flower Council applied for recognition of its Silver Standard.

28. Discussions at an Asian subregional Workshop on Environmental and Health-related Requirements, Market Access/Entry and Export Competitiveness in the Horticultural Sector (Bangkok, September 2004) indicated that even in the non-LDC countries in the region, there may be only two categories of suppliers that can meet the new requirements: large-scale producers, and networks of out-growers that are tightly controlled by large-scale exporters in terms of inputs, outputs and farm practices. Most exporting farmers in the six participating Asian countries face a number of constraints when trying to implement the new requirements, including: infrastructural problems (poor post-harvest infrastructure, lack of efficient internal transport and lack of adequate testing facilities); skill/management-related problems (poor policy co-ordination at central and local levels; no or little experience with environmental management practices); no or poor standardization, metrology, testing and quality assurance; lack of good-quality inputs; lack of a comprehensive institutional infrastructure (education, R&D, extension); and lack of appropriate information management on environmental, safety and quality requirements in overseas markets.

29. The additional costs of meeting the new requirements include initial export losses; costs of national capacity building; and costs of initial and continued compliance at enterprise level. Estimates suggest that the operating costs at enterprise level alone are in the order of 2-10 per cent of the value of exported produce. The problem is aggravated by the fact that EurepGAP requirements do not only apply to exported produce, but also impact locally sourced products acquired by EUREP retailers for the domestic market in developing countries. Non-EurepGAP-compliant suppliers therefore even risk losing domestic market shares. Another serious problem is that currently there are only very few Asian certification institutions for EurepGAP[31] and that there is no national certification scheme in Asia being benchmarked as equivalent to EurepGAP. Smallholders are particularly hard hit by EurepGAP requirements, and many of them will be forced to turn to local (increasingly informal) markets instead of exporting.

IV. ORGANIC AGRICULTURAL PRODUCTS

30. Growing environmental awareness and food safety concerns among consumers and large purchasers (such as supermarket chains and government procurement) have fueled rapid growth of organic agriculture (OA) markets in recent years. This provides interesting trade opportunities for developing country producers and exporters of OA products. On the supply side, the significant adjustment efforts and costs required to meet the above-outlined environmental, quality and food safety requirements for conventional agriculture have increased the attractiveness of "going organic" for many developing country Governments, producers and

[31] Currently there are accredited certification bodies with headquarters in five developing countries: Argentina, Brazil, Egypt, South Africa and Uruguay. In addition, there are provisionally approved certification bodies with headquarters in Costa Rica and Kenya. http://www.eurep.org/fruit/cbs.html

exporters. Moreover, OA provides important national sustainable development benefits. These include improved rural livelihoods (including for women), improved local nutrition and food security, multi-faceted environmental benefits, enhanced agro-biodiversity through in situ conservation of indigenous farmers' varieties, increased employment opportunities, positive gender effects, etc.[32]

31. To seize these export opportunities, however, developing country producers and exporters need to overcome a number of hurdles,[33] including the need to conform to the OA production standards and conformity assessment procedures of the consuming country. OA historically developed in a fairly decentralized manner, with groups of farmers deciding among themselves to produce organically to a certain standard and creating conformity assessment bodies. There are now over 100 private OA standards worldwide. At the international level, IFOAM has been acting as the international umbrella organization for the organic sector, including producers, certifiers, and NGOs. Governments got involved in OA starting in the early 1990s. Currently, some 60 countries have OA legislation approved or in draft form.[34]

32. Evidence suggests that this lack of harmonization in the international OA market may be acting as a brake on the further development of OA production and trade. Direct and indirect losses result for both consumers and producers. For consumers, the costs are in terms of higher prices and less variety. For producers, there are increased costs due to multiple certifications, more paperwork, loss of production or increased costs due to the use of inappropriate standards, delays in marketing, and dependency on importers.[35] There is thus a need for and a general move in the direction of harmonization, equivalence and mutual recognition in the organic sector. The recent European Action Plan for Organic Food and Farming, which highlights the importance of harmonization and equivalence, is an important a step in the right direction.[36]

33. In response to the trade difficulties generated by the plethora of organic regulations and standards described above, UNCTAD joined forces with FAO and IFOAM to launch the International Task Force on Harmonization and Equivalence in Organic Agriculture (ITF) in February 2003. The ITF is an open-ended platform for dialogue between private and public institutions involved in regulatory activities in the OA sector. Its objective is to facilitate international trade and access of developing countries to international OA markets. The ITF has

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[32] See FAO (2002), *Organic Agriculture, Environment and Food Security*, Nadia Scialabba and Caroline Hattam, Eds., available at www.fao.org.

[33] See Twarog and Vossenaar (2003), "Obstacles facing developing country exports of organic products to developed country markets", in *The Organic Guarantee System: The Need and Strategy for Harmonization and Equivalence*, Eds. By C. Westermayer and B. Geier, FAO-IFOAM-UNCTAD.

[34] See Ken Commins (2004), "Overview of current status of standards and conformity assessment systems" in *Harmonization and Equivalence in Organic Agriculture Volume 1, Background papers of the International Task Force on Harmonization and Equivalence in Organic Agriculture.* FAO-IFOAM-UNCTAD.

[35] Els Wynen (2004), "Impact of organic guarantee systems on production and trade in organic products", in *Harmonization and Equivalence in Organic Agriculture Volume 1.*

[36] See, in particular, Actions 19 and 20. SEC(2004)739, Brussels, 10 June 2004. Available at www.europa.eu.int/comm/agriculture/qual/organic/plan/index_en.htm.

met three times. The first meeting (Nuremberg, February 2003) established its terms of reference and initial work plan. The second meeting, hosted by UNCTAD (Geneva, October 2003), reviewed the current situation in the organic sector and models and mechanisms for harmonization, equivalency and mutual recognition drawn from other sectors. Discussions at the third meeting (Rome, November 2004) centred around background papers outlining a possible long-term strategy and short-term actions leading towards harmonization and facilitated international trade in organic products. The work plan for 2005 includes a detailed comparative analysis of Codex and IFOAM standards to identify any potentially difficult areas of compatibility and a study testing consumer awareness of and sensitivity to differences in organic standards. The next ITF meeting is scheduled for 28 February 2005 in Nuremberg (following BIOFACH).[37]

34. The ITF does not have agreed conclusions as such, but nevertheless consensus on certain principles is emerging. For example, there should ideally be one international reference OA production standard (e.g. Codex or IFOAM basic standard), with flexible implementation. Compliance with the international standard could be used as the basis for determining equivalence, ideally at a multilateral level, as this greatly reduces transaction costs. Cooperation among certifying bodies should be promoted and enhanced.

35. As part of the component of the DFID-II project for Central America and Spanish-speaking Caribbean countries, UNCTAD has supported policy dialogues and commissioned a number of case studies to examine opportunities for expanding the production and export of OA products, as well as to identify appropriate policies at national and regional levels in support of such efforts. The results of these activities, including preliminary recommendations, will be discussed at a regional workshop, to be organized jointly with the Ministry of External Trade of Costa Rica and scheduled to take place in San José in February 2005. Recommendations at different levels include:

- *At national level*: Implement national organic standards and regulations, where these do not already exist; collect information on production and international trade in organic products with a view to creating reliable statistics to facilitate informed decisions; promote national strategies for organic agriculture; seek inclusion in the EU third-country list;[38] consolidate associations of organic producers; promote domestic consumption of organic products; incorporate OA in national programmes in support of the agricultural sector, market intelligence and export promotion; continue to strengthen the capacities of producers and the Government in the areas of HACCP and GAP to enhance capacities to sell in premium markets; provide cost-effective incentives consistent with multilateral obligations;
- *At regional level*: Exchange national experiences; explore possibilities for creating regional certification bodies or expanding the regional coverage of national certification

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[37] Further information is available on the ITF website at: www.unctad.org/trade_env/test1/projects/ifoam2.htm.

[38] Costa Rica is already on the list; the Dominican Republic, Guatemala and Honduras have formally requested to be included.

bodies with headquarters in the region; and promote regional cooperation to achieve commercially viable volumes for exports.
- *At multilateral level*: promote harmonization and equivalence.

36.In the framework of the CBTF, several activities have been carried out geared towards promoting production and export of developing country OA products, including workshops in Brussels (2002) and Kingston, Jamaica (2003). A new project on promoting production and export of OA products in East Africa should commence in 2005, following five national and subregional consultations in Kenya, the Republic of Tanzania and Uganda in 2004. These revealed considerable interest in these countries in taking advantage of export opportunities, but equally important in using OA as a tool to contribute to sustainable rural development, food security and poverty reduction. Planned project activities will include:

- Assessment of the current situation regarding OA in these countries, including levels of production, legislation and policies, main production and marketing constraints, etc., and how these things would be affected by a shift towards OA;
- Identification of elements of a national OA policy and action plan, based upon the outcome of the assessments;
- Exploring the development of an East African organic standard that will be tailored to local ecological and socio-economic conditions and also facilitate exports to major markets.

V. BIOTRADE INITIATIVE

37. UNCTAD's BioTrade Initiative supports sustainable development through trade and investment in biological resources in line with the three objectives of the Convention on Biological Diversity (CBD). Through the establishment of partnerships with national, regional and international programmes, it seeks to strengthen the capacity of developing countries to enhance the production of value-added products and services derived from biodiversity for both domestic and international markets.

38. Developing countries, which are often endowed with rich biodiversity, face the great challenge of combining poverty alleviation and economic growth with sustainable use and conservation of biodiversity. They need to find ways for the long-term financing of biodiversity conservation, which is currently financed mostly through external funding. Trade of products and services derived from biodiversity could be part of the solution to this problem. The importance of trade as a positive incentive measure for biodiversity conservation is increasingly recognized at national and international levels, and efforts are under way to promote trade that takes ecological and social issues into account.

39. BioTrade efforts are, among others, directed towards: (i) creating an enabling policy environment at the national, regional and international level that promotes sustainable trade in biodiversity products and services; (ii) increasing the supply capacity of developing countries of goods and services derived from biodiversity, requiring: increasing the levels of productivity, strengthening technical skills, improving technology, augmenting access to finance, and promoting alliances among actors; and (iii) improving market access and forging market creation

for biodiversity goods and services, including enhancing the understanding of the market, facilitating commercial contacts, and raising awareness among consumers.

40. With respect to point (i), UNCTAD has been actively collaborating with the CBD and the Convention on International Trade in Endangered Species (CITES). After UNCTAD XI, a joint programme was developed with CITES which will be implemented from early 2005 onwards. Furthermore, during UNCTAD XI a memorandum of understanding was signed with the Amazon Cooperation Treaty Organization initiating a partnership to develop a regional BioTrade programme for the Amazon region. During a Ministerial Meeting held in Manaus, Brazil, in September 2004, the Ministers of Foreign Affairs of the eight Amazonian countries welcomed this programme.

41. Regarding point (ii), UNCTAD has continued to assist developing countries in the development and establishment of national BioTrade programmes in order to strengthen their institutional capacity to develop policy frameworks in support of BioTrade. Following UNCTAD XI, work has been undertaken on the formulation of programmes with the Governments of Brazil, Costa Rica, Paraguay, Uganda, and Venezuela. Continuous technical assistance has been provided to existing national programmes in Bolivia, Colombia, Ecuador, and Peru to enhance the competitiveness of selected sectors. In 2004, activities focused on the enhancement of quality systems of SMEs in order to meet standards that prevail in the EU market and on institutional strengthening of service providers and private sector associations, as well as the revision of national policies and strategies to promote trade of selected biodiversity products.

42. Finally, with respect to point (iii), UNCTAD continues to cooperate with the Centre for the Promotion of Imports from Developing Countries (CBI), the Swiss Import Promotion Programme and the International Trade Centre on promoting market access for biodiversity products. Various market studies have been prepared, trade fair participation has been facilitated, and training seminars in export promotion have been held. In 2005 these efforts will be expanded. To further facilitate market access, UNCTAD and partners also stepped up efforts to analyse and discuss relevant EU legislation that affects trade of products and services derived from biodiversity, particularly ingredients for cosmetics, pharmaceutical and foods industries.

VI. MULTILATERAL ENVIRONMENTAL AGREEMENTS: RECENT DEVELOPMENTS

43. One of the most important recent developments in the global environmental arena is the entry into force of the Kyoto Protocol on 16 February 2005. Neither the United Nations Framework Convention on Climate Change (UNFCCC) nor its Kyoto Protocol, which sets concrete emission reduction targets for industrialized countries, contain specific trade obligations. However, as Parties implement their climate policies to meet legally binding Kyoto targets, there will be important trade and investment implications for both developed and developing countries. Developing countries are not required to make reductions during this first commitment period, but negotiations are due to start in 2005 that will also encourage developing countries to embark on a lower-emissions path.

44. The Kyoto Protocol itself contains three flexibility mechanisms designed to assist industrialized countries in making the economic shift required to meet their reduction commitments: emissions trading, joint implementation and the clean development mechanism (CDM). The first two instruments are for use by industrialized countries only. The CDM, however, allows an industrialized country to achieve part of its reductions by financing cheaper reduction opportunities in a developing country, thus lowering the carbon intensity of economic growth there. The market potential of the CDM for the five year period 2008-2012 is estimated at roughly US$ 13 billion, or US$ 2.7 billion per annum.[39]

45. UNCTAD work on climate change began in 1999 with its Emissions Trading Programme. Recent work has focused on exploring the economic, trade and investment implications of climate change policies on developing countries and economies in transition and assisting them in their participation in the emerging carbon market by:

- Engaging the private sector in the CDM through workshops bringing together investors and the climate community, participation in climate investment forums, and publications;
- Capacity building to support the establishment of operational public/private entities to facilitate CDM projects in LDCs, such as the Republic of Tanzania;
- Capacity building for CDM project developers and government offices responsible for CDM project approval through e-learning courses, in partnership with the Earth Council;
- Promoting investment in the rubber commodity sector through publications and identification of potential CDM-project investors.

46. The Stockholm Convention entered into force on 17 May 2004. The treaty is designed to eliminate or severely restrict the production and use of 12 persistent organic pollutants (POPs) (with provisions to include additional POPs in future), ensure environmentally sound management and chemical transformation of POPs waste, and prevent the emergence of new chemicals with POPs-like characteristics. The first meeting of the Conference of the Parties will be held from 2-6 May 2005 in Punta del Este, Uruguay.

47. The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade entered into force on 24 February 2004. The Convention establishes the principle that exports of a chemical covered by the Convention can only take place with the prior informed consent (PIC) of the importing party. It also contains provisions for the exchange of information among Parties about potentially hazardous chemicals that may be exported and imported. It covers pesticides and industrial chemicals that have been banned or severely restricted for health or environmental reasons by Parties and which have been notified by Parties for inclusion in the PIC procedure. Severely

[39] This figure was calculated based on Erik Haites (2004), *Estimating the Market Potential for the Clean Development Mechanism: Review of Models and Lessons Learned,* a report commissioned by the World Bank Carbon Finance Business PCFplus Research Program, the IEA and the International Emissions Trading Association. In a related development, the European Union Greenhouse Gas Emission Trading Scheme goes into effect on 1 January 2005. This scheme implements tradable quotas among the EU States. It has been designed to be compatible with the Kyoto Protocol. European companies in the relevant sectors are thus expected to make up a significant part of CDM investment.

hazardous pesticide formulations that present a hazard under conditions of use in developing countries or countries with economies in transition may also be nominated for inclusion in the procedure. The Convention initially covers 22 pesticides and 5 industrial chemicals, but many more are expected to be added in the future. This Convention is directly beneficial to developing countries, as it shields them from unwanted and unknown chemical risks that could have detrimental development impacts.

48. Recent developments and implications of the Stockholm and Rotterdam Conventions have been discussed at the Special Sessions of the WTO Committee on Trade and Environment in the context of WTO negotiations on paragraph 31(i) of the Doha Ministerial Declaration. Related conceptual issues were addressed in UNCTAD's *Trade and Environment Review 2003*.

49. In February 2004, the seventh Convention on Biological Diversity Conference of the Parties (CBD COP 7) agreed to commence negotiations on an international regime on access to genetic resources and benefit-sharing whose scope would include genetic resources as well as traditional knowledge, innovations and practices (TK) (decision VII/19). CBD's Ad hoc Open-ended Working Group on Access and Benefit-sharing was mandated to take the lead on this, with the collaboration of the Working Group on Article 8(j). All relevant stakeholders, including intergovernmental organizations, were invited to submit to the Executive Secretary their views and analysis on elements of the international regime. UNCTAD was invited to examine issues regarding the interrelation of access to genetic resources and disclosure requirements in intellectual property right applications and to prepare a report for submission to the ongoing process of work of the CBD on access and benefit-sharing. In decision VII/29, UNCTAD was also invited to join forces with the CBD Secretariat and the World Intellectual Property Organization to prepare technical studies that analyses the role of intellectual property rights in technology transfer in the context of the CBD. UNCTAD's work in the area of TK was also acknowledged in decision VII/16 on Article 8(j).

50. In 2004, UNCTAD's work in this area focused on identifying possible elements of holistic national *sui generis* (one of a kind) systems aimed at preserving, protecting and promoting TK for development, as well as brainstorming on possible approaches at the international level. An international workshop on this subject was held jointly with the Commonwealth Secretariat (Geneva, 4-6 February 2004). The detailed report of this workshop aims to provide policymakers with a toolkit of options to draw upon when designing holistic national TK policies. The background papers and report are available on the UNCTAD Website.[40] In addition, a collection of 46 papers was published in the book *Protecting and Promoting Traditional Knowledge: Systems, National Experiences and International Dimensions*.[41]

[40] www.unctad.org/trade_env/test1/meetings/tk2/TKworkshop.report.final.2August2004.pdf

[41] UNCTAD/DITC/TED/10, available at www.unctad.org/trade_env.

VII. POSSIBLE ISSUES TO BE ADDRESSED BY THE COMMISSION

51. The Commission may wish to pay particular attention to a number of issues raised in this paper:

- What should be the focus of UNCTAD's future work on environmental goods and services (EGS)? How could UNCTAD best assist interested developing countries in designing national lists of EGs? Which categories of environmentally preferable products could be included in WTO negotiations on EGs, and what should developing country priorities be for negotiations in this area? Also taking into account the possible outcome of the Expert Meeting on New and Dynamic Sectors, what would be the possible benefits for developing countries from trade liberalization in renewable energy products?
- How can the CTF best achieve its objectives? How can proposed project activities (box 1) benefit from other ongoing initiatives? What other additional activities could be considered under the umbrella of CTF in the future?
- What practical steps have developed countries taken or can they take to include developing country trade partners in consultations during the development of environmental requirements?
- How can the concept of technical equivalence be more effectively implemented?
- How can market entry barriers resulting from regulations on, for example, food and consumer safety be minimized for ‘novel’ products derived from biodiversity?
- How can developing countries take full advantage of the clean development mechanism to attract investment and achieve national sustainable development objectives?