Developing Countries, Regulatory Trade Barriers and Sustainable Development

I. *Generally*

The Government of the Netherlands concerning EU regulatory trade barriers:

> "Developing countries in particular find the EU's strict food safety requirements disruptive to trade…*In addition to sanitary and phytosanitary standards, new technical product specifications and industrial norms may, in certain cases, impede the exports of developing countries*…The EU has introduced a series of directives in this regard, varying from technical specifications for cars, weighing machines and toys, to the compulsory labeling of genetically modified organisms (GMOs), eggs and voluntary eco-labels. In addition to Community standards, there are regulations at the member-state level.
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> …*The degree to which this continual flow of new standards helps to restrict imports from developing countries is not properly known. It is clear, however, that WTO notification leads to protests by developing countries*…Some of them expressed their concern…regarding new EU directives on discarded electronic apparatuses proposed by the Commission in 2000. ASEAN countries, Egypt, India and Brazil feared that the export market that they had built up within the EU would be lost if their industries – *usually small or medium-sized firms – were charged with the onus* of recovery and recycling. The Netherlands has raised this question in Brussels, but a definite decision has not yet been reached" (emphasis added).
>
> …Europe has tended to apply [new] SPS norms more stringent than those that previously applied and stricter than those accepted internationally. This change can have disadvantageous consequences for developing countries. *Technical assistance is thus essential to help them satisfy such standards and set them themselves*" (emphasis added).

"European Trade Barriers and Developing Countries", Ministry of Foreign Affairs, Sustainable Development Economic Department, Netherlands Embassy (Aug./Sept. 2003), at pp. 65, 67-68.

A Kenyan commentator about environmentalist causes and regulatory trade barriers:

> "*Why do developed countries impose their environmental ethics on poor countries that are simply trying to pass through a stage they themselves went through*? After taking numerous risks to reach their current economic and technological status, why do they tell poor countries to use no energy, agricultural or pest control technologies that might pose some conceivable risk of environmental harm? *Why do they tell poor countries to follow sustainable development doctrines that really mean little or no energy or economic development*?
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> If only people in developed countries [who] are 'passionate about environmental causes'…could see…the millions who are poverty stricken, sick, starving and even dying because of misguided environmental policies…[B]ut they ignore [them]…*They send us aid, but it would be far better if they let us trade with them, develop our resources, set our own policies and determine our own destinies*. People in developed countries can afford to worry about climate change, endangered bugs and a few hundred more dying of cancer before they are 70. *We have to worry about millions of people dying of malaria, typhoid, dysentery and starvation. Millions of parents in sub-Saharan Africa must worry about where they will get their next meal, whether the water they drink will kill them and whether their babies will live beyond age five…*
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> …[S]ome companies have been forced by lobbyists to engage in activities that make the predicament of people in poor countries even worse…[They]…support organizations and governments that oppose energy and economic development, international trade and the use of DDT. These groups say Africa and India should rely on expensive make-believe energy options, like wind and solar, *that further delays our economic, health and environmental progress*…

> To think long term does not give rich countries a license to restrict poor nations from making use of their resources. *People need access to health care, they need to trade and they cannot do this when science is turned into a political tool to harass the poor*.
>
> African countries face other tough battles, too. ***Europe in particular*** has confined their exports largely to primary products and imposed high tariffs on processed commodities. *Many agricultural products from poor countries face quarantine rules that act as trade barriers, if Africans do not follow strict environmental standards*.
>
> *Even if they use DDT to stop terrible malaria epidemics* or plant genetically modified bananas or sweet potatoes to prevent famines, *these standards block our produce out of the richer markets*. Along with price-distorting domestic subsidies, *these policies have severely impacted economic growth in poor countries*" (emphasis added).

James S. Shikwati , "Lethal Environmental Ethics" (Jan. 24, 2003), Inter Region Economic Network (http://www.irenkenya.org/articles/shikwati_january242003.htm).

II. *DDT, Malaria and the UN POPs Treaty*

South African commentators about environmentalist causes, DDT and malaria in sub-Saharan Africa:

> "[W]hile the Stockholm Convention recognizes the ongoing need for DDT in public health programs, it will most likely severely undermine public health efforts. *The Convention removes decision-making from health experts and scientists in developing countries and burdens poor country governments with excessive reporting and bureaucratic requirements*…[The] DDT issue demonstrates clearly how a green agenda can be turned into international regulation, with little or no consultation with developing countries, *and can result in increased poverty, disease and misery*..." (emphasis added).

Roger Bate and Richard Tren, "Do NGOs Improve Wealth and Health in Africa", at p. 14.

III. *UN Basel Convention and Waste and Recycling Trade in Asia*

Indian commentator about the Basel Convention on Transboundary Movements of Hazardous Wastes and their Disposal and its potential as a regulatory trade barrier:

> "The Basel Convention makes it possible for a minority of countries to ratify and impose measures that will affect the entire global community….In a system of multi-lateral forums *many poorer developing countries do not have adequate funds to support their presence and participation in multi-lateral forums*. *Such poorer countries can become easy recruitment by developed countries for casting votes in favor of measures such as bans*. The Convention can thus…[a]ffect international legal regimes through minority voting! This is clearly undemocratic in practice and spirit (emphasis added)."

Prasanna Srinivasan, "The Basel Convention of 1989 – A Developing Country's Perspective", Liberty Institute, India (Sept. 24, 2001), at p. 7.

Developing Country website about how the EU pressures developing countries to join multilateral environmental treaties:

> "[W]ith environmental treaties, it is common that aid-dependent nations such as those in Africa

become pawns in the game, enticed with money to sign and ratify treaties. Along with the EU, countries like Rwanda often are among the first to sign and ratify such treaties."

"Waste", Sustainable Development Network, at: (http://www.sdnetwork.net/waste.htm).

Indian commentator concerning how the EU is pressuring developing countries to implement the Basel Convention and its Ban Amendment, and how EU industry is using this as a disguised protectionist trade barrier:

> "[It would impose] an immediate *ban* on the export from OECD to non-OECD countries of 'hazardous waste' intended for final disposal…[and provide for] the phase-out of waste exports intended for recovery and recycling…[Although it is not yet in force]…some countries, *notably the EU countries*… [continue in their]…attempt[s] to enforce the ban…" (emphasis added).

Prasanna, Srinivasan, "The Basel Convention of 1989 – A Developing Country Perspective", at p. 4.

> "[The Ban Amendment has been promoted by] "protectionist industries… [and] …trade unions… *in the European Union*…[as well as by] organizations such as Greenpeace and the Basel Action Network ('BAN')" (emphasis added).

Prasanna Srinivasan, "Let the Trade in Waste Continue", Liberty Institute, New Dehli, India, Wall Street Journal Asia (Dec. 16, 2002).

Indian commentator about how the Basel Convention, its Ban Amendment and 'green' group campaigns will disadvantage critical indigenous developing country industries:

> "*The measures proposed under the Convention will have a significant and adverse impact on many developing economies*. These measures are being strengthened under the influence of groups like Greenpeace, who have no direct accountability for their actions, especially to those whose environment and health they ostensibly seek to protect…The current actions of the Basel Convention, as perceived by a developing country like India, clearly indicate that it is possible for groups with no accountability…to significantly influence international treaties and laws that significantly affect the economies of the developing and least developed countries. *Such detrimental economic effects will also have detrimental environmental effects and effects on human well-being in such countries*. This is clearly unacceptable" (emphasis added).
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> *…Trade controls [that] cut off developing countries from international markets for important materials supplies, [will result in the] loss of economic growth opportunities [and will have] profound [and adverse] implications for environmental quality*. Economic growth is essential for the creation of wealth, which provides the resources necessary for environmental protection…Impoverished populations and stagnating economies are much less likely to be able to afford cleaner energy resources, and have less money to spend on improving environmental amenities…Trade restrictions prevent countries from competing with each other on the basis of comparative advantage. The maintenance of trade barriers thwarts efficiency gains which free trade generally brings to the economy. With economic growth, market economies as a whole tend to become more resource-efficient (less resource-intensive) over time. Countries which compete in international markets are better able to integrate technological innovations to reduce waste. Trade regulation interferes with this vital process, doing greater damage to environmental quality in the end…*Some developing countries resent this kind of treatment as a form of ecological imperialism*" (emphasis added).

Prasanna Srinivasan, "The Basel Convention – A Developing Country's Perspective, at p. 16.

> "The domestic lead industry in India uses up to 50% of its needs through imports of recyclable

> waste…Similarly, ship-breaking contributes about 25% of the input raw materials for the steel industry in India…[The] recycling of photographic film also has long been an unorganized sector practice in India. There is silver recovery from the photographic film while the recycler makes profits from the plastic recovered from the process. It is a thriving cottage industry in India….
> [Lead and steel] could potentially be covered by a ban…[A]…ban on trade of these two commodities will only increase the use of primary resource in India…[For example, an additional amount of ore would need to be mined for the steel industry without the inputs from recycled ship steel.]…This will eventually create a greater pool of waste material that has to be disposed of, given the lack of access to international trade…Increased primary resource use [therefore] would work against the Convention's stated objectives…*The Basel Convention fails to recognize that recovery from waste is an inherent part of poor, developing economies and that economic growth will eventually support good environmental and public health practices. The Convention instead favors measures such as trade bans that will impede economic activity and livelihoods [and] that will work contrary to improvement of environment and public safety*" (emphasis added).

Prasanna Srinivasan, "The Basel Convention of 1989 – A Developing Country's Perspective", at p. 10-11 and 20.

> "Garbage recycling in India, vis-à-vis segregation of waste and their eventual sale to recyclers have been a long-standing practice that has provided employment to thousands for several decades. The technologies employed in recycling are compatible with the price line for such waste inputs in the market place… Handling and working circumstances of people in the trade would not meet developed countries' standards of 'health and environment'. About a decade ago, DANIDA funded a project in India on urban waste recycling using machinery that had to be abandoned. The quality of the waste was found unsuitable. This was because all recyclable materials had been removed through the indigenous network of waste collectors.
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> [T]he smaller waste quantities generated in a developing country like India would not justify machine intensive 'safe' technologies in many product categories. For example, the high power committee in India found that the environmentally friendly lead smelters would [not] be viable for the quantities handled by the sector in India. The availability of large-scale waste eventually permits development of better technologies that are machine-intensive, with better labor and environmental conditions. By legislating 'developed market' conditions in a 'less developed' economy, the outcomes are either that the market goes underground thus offering even less protection for labor, or that it dies and significant employment is lost…."
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> "The ban on access to recyclable waste materials under the garb of being hazardous will restrict access of such waste in developing countries while increasing access in developed countries…[which] by virtue of their own laws will not be able to export the waste…For example, the US Government ha[d] a ban on export of ships owned by it for disposal. There are no domestic buyers for the used ships…[A]n estimated [150-]180 ships of the US government are lying around awaiting disposal…The prevalence of large quantities of waste that have no competitive value (as they cannot be traded) or domestic value (due to strict environment laws) will create a circumstance of government subsidized development of safe disposal technologies in developed countries…*In the long run, developed countries will own 'safe disposal' technologies because of such trade interference. Developing countries will yet again have to acquire these technologies from developed countries…Consequently, by denying poor countries access to industrial wastes, the [Basel] Convention is reducing their ability to develop appropriate technologies*" (emphasis added).

Prasanna Srinivasan, "The Basel Convention of 1989 – A Developing Country's Perspective", at p. 11-12 and 15.

> "The ban on import of used batteries will either result in increased production of primary lead in India and/or increased smuggling for lead. Lead acid batteries are collected through a fairly disaggregated system of automotive maintenance stations…The governments' stipulations of end-user authorization for collection will render most of the smaller capacity units unable to comply with regulations. These will either close down or flourish illegally. Smaller availability of quantities domestically will discourage development of appropriate scale technology on handling, recycling, and disposal of lead/lead waste. Actions pursuant to the Basel Convention will actually harm the environment in the long run through greater use of primary lead plus illegal recycling of lead using 'banned technology' in the unorganized sector…This would be contrary to what

the Convention seeks to promote. It would also interfere with the market mechanisms that enable recycling of lead and lead batteries."

Prasanna Srinivasan, "The Basel Convention of 1989 – A Developing Country's Perspective", at pp. 15 and 21.

IV. *The Developing World Response to the EU's Proposed REACH Regulation*

Asia-Pacific Economic Cooperation Secretariat comments against EU Commission's REACH chemicals regulatory proposal:

> "We remain concerned over the possible impact of the REACH system on APEC economies… *Europe is a major market, taking annually from APEC economies on average over $400 billion in goods; over $350 billion in manufactures; and $50 billion in chemicals*… Enhancing the level of environmental protection surrounding chemicals should be done in a way that *minimizes the impact on trade and industry and takes into account the financial implications for small and medium enterprises (SMEs)* in the chemical industry. In addition, special consideration should be made of *the potential impact on downstream industry sectors* that might be affected by *increased costs of inputs and product specification changes*. *We are concerned that the potential regulatory requirements of the REACH system could have a burdensome impact on APEC developing economies.* REACH regulations should be WTO consistent…[I]t is unlikely that any one jurisdiction or regional organization will be able to meet this challenge in a reasonable time-frame within its own resources…" (emphasis added).

Ambassador Piamsak Milintachinda, Executive Director, Asia-Pacific Economic Cooperation Secretariat, REACH Comment Letter.

Individual developing country government comments against the EU Commission's REACH chemicals regulatory proposal:

Thailand

> "In addition to [seeking] to regulate and standardize the complexity concerning chemicals [in order to] protect [the] safety of the public health and the environment…*it is also essential to take into account the economic and social well-being*…[T]he application of REACH…should be…non-discriminatory and [should] not im[pose] unnecessary obstacles to trade…Thailand is concerned…how [REACH will be applied.]…The practical solution [would] be to…avoid the far reaching impacts that extend beyond the chemical industry sector [to] cover every branch of industry, including all stakeholders [(users)] of the chemical products...[T]he proposed strategy *would [not only] have [a] significant impact on trade between Thailand and the EU, it would also adversely affect the revival of the Thai economy, particularly the small and medium enterprises.* Most of them are downstream [from]…the industries who will bear increasing costs of inputs and product specification changes. *Large number[s] of existing substances from the EU may not be available for Thai local industries, which would force them to switch to higher priced substances for production* catering to the EU market. *It will cause their products…[to be]…disadvantage[d] and non-competitive.*
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> *…REACH regulations will become technical barriers to trade for the developing countries such as Thailand, particularly due to the proscriptions on production and process methods…[T]he system['s]…focus on data generation rather than risk management would lead to higher costs of production [for] exporters…*With inadequate funds and [a] limited level of economic development, the European Union should allow developing countries, including Thailand, an extended period of time to adapt before the EU measures and legislation come into effect...*Technical assistance on capacity building for developing countries such as Thailand remains crucial.* They should be equipped with technical and scientific laboratory facilities to perform the required testing and risk assessment of its products prior to entering the EU market...Regarding ***the precautionary principle***, the European Union should not proceed, until these issues are taken up and resolved by appropriate international bodies such as the WTO" (emphasis added).

"Official Comments of the Royal Thai Government on the Proposed Strategy of the Future Chemicals Policy of the European Union", at pp. 2-8.

Malaysia

"*Malaysia also registers it concerns that the proposed new [REACH] policy and legislation will have adverse effects on EU-Malaysia bilateral trade in terms of trade restrictions [and] increase[s] in costs, particularly to SMEs* and [will] negate harmonization efforts… Although in the chemicals and chemical products sector the value of exports is small, *the total trade involving other sectors which use chemicals such as E&E [electrical and electronic equipment] and textiles is about 70%...Chemicals [are] used in almost all sectors* such as consumer electronics (12%); semi-conductors (33%); medicines (84%), carpets and rugs (47%); clothing (28%); boots and footwear (35%); computer peripherals (13%) compact discs and tapes (44%); and plastic bottles (78%)…[The] value of chemical and chemical products exports to the world in 2002 totaled RM 16,731,000,000 [Malaysian Ringgits, or approximately U.S.$ 4.425 billion], [while] the value of chemicals and chemical products exports to [the] EU in 2002 amounted to RM 1,053,000,000 [Malaysian Ringgits, or approximately U.S. $ 278.6 million]…" (emphasis added).

"…*The duty of care*…requirement…to indicate…not only [the] producers'…own use [but also the] intended use by downstream users…[This is] unfair to manufacturers as they may not know all intended uses of a chemical…*Malaysian companies trading on the international market will have difficulties in obtaining adequate downstream user information, as the line of sale is often long and indirect*. For these cases, the downstream user will have an obligation to register or access the chemical [itself]…therefore… imported products [will be put at a market disadvantage…"[T]he mandatory testing on health and environmental effects exceeds [their] existing laboratory capacity…[There is a]…*lack of capacity in resources, in terms of human, technical and financial, especially [in] developing countries* [to prepare the]…detailed technical dossier on chemical safety assessment… [The EU should]…provide more flexibility for manufacturers, especially SMEs, in developing countries…[and should] provide financial and technical assistance to developing countries and capacity building programs (seminar/workshop/briefing) to developing countries" (emphasis added).

"EU REACH System – Comments From Malaysia", Ministry of International Trade and Industry, Government of Malaysia, APEC Chemical Steering Group, Phuket, Thailand, 2003/SOM/III/CDSG/014, (Aug. 16-17, 2003), at pp. 2, 3-4, and 5-6.

Singapore

"REACH places substantial regulatory burdens and costs not just on the chemical industry but also on downstream users of chemicals. *REACH could thus have adverse effects on a wide range of Singapore exports to the EU. In particular, the brunt of the cost impact appears to be on the SMEs, which typically have [fewer] financial resources*…The requirements of testing and registration are not only onerous but also add to the costs of the chemicals and their end-use products…This is not just in terms of the chemicals involved in REACH. *The disappearance of certain chemicals would have potentially adverse consequences on downstream users*, who will have to adjust to this…[Also]…there appears to be a *discriminatory impact* of REACH on WTO Members as it appears to favor domestic EU chemical manufacturers over foreign chemical imports …*It is highly likely that, combined with the discriminatory application of REACH, many of our domestic chemical companies (especially the SMEs) would be unable to compete and would lose out on market share to the EU*" (emphasis added).

"In addition, as there is currently no international standard denoting the hazardous nature of all the chemicals under REACH, we are concerned that the measures proposed by the EU may be more onerous than necessary to address the perceived threat to the health, safety and environment of the EU…The EU purports to use the *precautionary principle* to justify the taking of such measures. *However**, the precautionary principle** is not an accepted principle at the World Trade Organization…REACH, which is based on the precautionary principle, seems excessively onerous and unnecessarily trade restrictive*. It thus seems to be in contravention of

the TBT Agreement provisions of Articles 2.2 and 2.5…*This could be an infringement of the EU's obligations towards Singapore at the WTO*" (emphasis added).

"Government of Singapore's Comments on the EU REACH Regulation", Ministry of Trade and Industry, Government of Singapore, APEC Chemical Dialogue Steering Group, Phuket Thailand, 2003/SOM/III/CDSG/007, at pp. 5-6 (Aug. 16-17, 2003).

China

"[The] Chinese government also attaches great importance to coordinating the relationship between economic development and the protection of [the] environment and human health for realizing *sustainable development*. However, it is our opinion that *a balance should be kept between environmental and human protection and economic and social benefits….Expensive registration cost[s] will place the small and medium-sized enterprises at an unfavorable position when competing with large ones*. Moreover, enterprises of developing countries, SMEs and downstream users are unable to submit the required information for registration timely. Expensive registration and testing cost *will also have an adverse impact on [the] innovative ability of chemical enterprises…This will seriously restrict R&D input for new products and weaken the innovative ability of chemical enterprises…in developing countries, especially SMEs*…

[It is suggested that, the EU] provide special and differential treatment to developing countries and SMEs…*The Consultation paper hasn't taken into account…the big gap between developing and developed countries in their chemical production technology and technical levels*. *The REACH system fails to give a sufficient evaluation on the adverse effects on the chemical industry of developing countries*. [It is suggested that] the European Commission *reevaluate the possible effects on developing countries* once the REACH enters into force, and add to the REACH system provisions on special and differential treatment towards imported chemicals from developing countries. [F]or example, [the EU should] provid[e] a longer transitional period for developing countries to meet the requirements of REACH, and provid[e] both financial and technological supportive measures" (emphasis added).

"Chinese Comments on the EU REACH System", submitted by the Ministry of Commerce, P.R. China, General Administration of Quality Supervision, Inspection and Quarantine of P.R. China (AQSIQ), (2003), at pp. 2-4, and 6.

Mexico

"Mexico is aware of the importance of maintaining a safe environment, one in which consumers not only have access to quality products at competitive prices, but products that also meet the highest standards on safety and environmental [protection]…Nevertheless, *those objectives must be accomplished alongside the multilateral trade framework*, and governments must ensure that trade flows are not impeded through the establishment of onerous regulations. *The World Trade Organization (WTO) has established clear guidelines on market access, rules of origin, technical barriers to trade and technical cooperation, in order to guarantee the free flow of goods*…Mexico believes that the requirements and procedures that [the REACH system] would establish might prove harmful to international trade in chemicals. The proposed REACH legislation would create a new bureaucratic apparatus to deal with chemicals trade, and [it] would prove burdensome for exporters. Mexico, for example, exports U.S. $665 million worth of chemical products...Mexican industry considers that the [resulting] cost increases could prove to be prohibitive, thus hindering our export activity to the EU…*Mexico is concerned that the regulations established…[do not] take into full account the effects on prices, international competitiveness and employment*" (emphasis added).

"Comments of the Government of Mexico to the European Commission's proposal for the management of chemicals, referred to as Registration, Evaluation and Authorization of Chemicals (REACH)", Office of the Secretary of the Economy, (July 9, 2003), at pp. 4-5, 9.

Developing Country mining industry association comments against the EU Commission REACH chemicals regulatory proposal:

South Africa

> "Members of the Chamber of Mines of South Africa export metal-containing minerals, ores and concentrates to the EU. Including them [with]in the scope of the [proposed regulation] would impose a very large administrative burden (and therefore increased costs) on these mining companies with questionable benefit to the EU…As the *mining industry* is unable to set the price it receives for its products, the additional costs that would be imposed on the industry…would directly affect its profitability and therefore *the number of people it employs*. These numbers are high – *more than 400,000 people in South Africa alone, in addition to their many dependants*. The EU has made a commitment to assist Africa's *sustainable development*. This seems to be at odds with the current proposals" (emphasis added).

Chamber of Mines of South Africa, (Trade Union) REACH Comment Letter (2003).

Peru

> "Our organization…is a Non Ferrous products manufacturer [that] exports…worldwide to more than 47 countries – directly to end-users, traders or through agents. *One of our main products is Zinc Oxide, and almost 35% of our production is exported to Europe*…(Belgium, the Netherlands, Germany, Spain, France, U.K., Ireland, Italy). Also we export to non-EU member states that also trade & distribute this raw material to EU members (such as Switzerland, Czech Republic, Poland, Norway)…[W]e think that…the REACH…will bring many problems not only to us but to all our customers, distributors and end-users in the EU…We would possibly have to sell our material at a much higher price due to the costs involved [in] registering your product. This could then…[make]…our prices…[non-]competitive in [the] European market and we could lose considerable business…*The registration costs will cause…[us]…to lose staff members and employees in order to cover the costs of registering*. Smaller manufacturers of certain products outside the EU could go out of business and large European manufacturers that can afford the registration costs would dominate the European market and increase prices to whatever level they wish[ed]…*It will [also] restrict free trade among foreign countries (Latin America, Andean Pact, Mercosur) with the EU, going against the WTO regulations.*
>
> *The EU Regulation (White Paper) will not help Europe/Peru/Colombia/Bolivia [to] fight against the drug traffic*, since, many organizations in Latin America depend on their sales to the European market…[I]f their prices are not competitive, they will have to close and…people will be unemployed. *GSP granted from EU to our countries will have no sense to exist and will motivate more 'drug dealers' worldwide where Europe is a target market*" (emphasis added).

Javier Rivero, Managing Director, Zinc Industrias Nacionales S.A. – Zinsa, REACH Comment Letter (2003).

Western Hemisphere

> "[The REACH] system should be developed in a way that do[es] not affect to a critical extent the access of products and services to the markets, *but rather stimulate[s] free trade and sustainable development. Countries of the Americas are making serious efforts to progress in their economic, social and environmental development. In this regard, their exports to global markets are, in many cases, the principal source of income to finance such efforts. That is the case [for] countries which are highly dependent on its exports of minerals and metals where one of their most important markets, the European Union, is at risk by the future impact of the REACH system on their economies* as a result of the high cost to industry.
>
> …It is easy to appreciate that the additional costs that will be required for minerals and metals added to the already high costs of transportation due to the long distance from the sources to the European market, will severely increase the production costs and may lead to the loss of market share in the European Union and to higher product prices. *As a consequence, trade of minerals and metals from the Americas with*

European countries may decrease and surplus may result in the closing of mines and in high unemployment, frustration and poverty" (emphasis added).

Hernan Hochschild Alessandri, Chairman, Sociedad Interamericana de Mineria, REACH Comment Letter to Reinhard Schulte-Braucks, European Commission, Enterprise Directorate-General and Mrs. Eva Hellsten, European Commission, Environment Directorate-General, (July 8, 2003). (SIM represents members from Colombia, Bolivia, Argentina, Ecuador, Mexico, Venezuela, Republica Dominicana, Nicaragua, Brazil, Peru, Canada and Chile).

V. *Africa's Response to Europe's GM Moratorium*

An African scientist's comments about how biotechnology can help resolve African food production shortages:

> "[Previously,] African farmers were besieged by high costs of farm inputs and high crop and animal losses due to diseases and pests, providing the rationale for the use of biological technologies, including genetic manipulation, to address these problems."

Catherine Mgendi, "Local Scientists Snub the West in Biotech War – "Need for Biotechnology in Africa is Very Clear", Africa News Service (Oct. 21, 1999), at: (http://www.agbioworld.org/biotech_info/topics/agbiotech/local_scientists.htm), citing Dr. Wafula.

Another African scientist's comments about how African countries are being forced by the EU to choose between expanding their agricultural exports globally via biotechnology or retaining their GM-free EU markets:

> "[L]ow-income developing countries that wish to employ an agriculture-led export growth strategy will be faced with the choice between adopting modern biotechnology in agriculture or maintaining *the possibility of GM-free food exporting to the EU*. In view of the tremendous importance of productivity increases in agriculture in low-income developing countries for both the rural and urban poor, it is hard to believe that any low-income developing country would refrain from utilizing appropriate modern biotechnology in agriculture within reasonable biosafety limits" (emphasis added).

Per Pinstrup-Andersen, "Agricultural Biotechnology, Trade, and the Developing Countries", AgBioForum – Vol. 2, No. 3&4 – 1999, at pp. 216-217.

The International Society of African Scientists comments about the opportunities presented by biotechnology:

> "[A]gricultural biotechnology represents a major opportunity to enhance the production of food crops, cash crops, and other agricultural commodities in Africa, the Caribbean and other developing nations…The production and marketability of important cash crops must be promoted to enable African farmers to raise their standards of living."

"Position Statement on Agricultural Biotechnology Applications in Africa and the Caribbean", International Society of African Scientists, October 5, 2001 Technical Conference, at pp. 1-2, at: (http://www.monsantoafrica.com/reports/ISAS/ISAS.html).

An, African scientist's comments about how African countries possess a comparative advantage in biotechnology.

> "Africa has comparative advantages in biotechnology. These include its enormous genetic diversity and prior scientific knowledge in agriculture. Biotechnology offers new opportunities to transform rural agriculture without undermining local ecologies and socioeconomic landscapes."

"Africa Needs Biotechnology Tools to Aid in Sustainable Development and Disease Control", Joint AfricaBio – Europa Bio Press Release, citing Dr. John Mugabe (Brussels June 21, 2001).

African commentators concerns about preserving developing countries' ability to develop indigenous biotechnology capabilities:

> "As countries dependent on imports of food products and of materials necessary for agricultural, fish, and livestock production, the developing countries face a dilemma of reliance on foreign exports and legitimate concern for potential adverse impacts on health and environment…In the long term, it is imperative for developing countries to develop and strengthen their indigenous capabilities in biotechnology…As parties to multilateral negotiations on GMOs, labeling and safety issues, the developing countries will seek to obtain increased market access for their products and technical assistance in the monitoring of imports and/or development of their own biotechnology capacity."

A.H. Zakri, "International Standards for Risk Assessment and Risk Management of Biotechnology", International Center for Trade and Sustainable Development, Workshop on Biotechnology, Biosafety and Trade: Issues for Developing Countries" (July 18-20, 2001), at: (http://www.ictsd.org); Joseph M. Gopo, "Biosafety and Trade Issues for Developing Countries", at p. 5.

The United Nations' Human Development Report 2001 predicted that "Opposition in richer countries to genetically modified crops may set back the ability of the poorest nations to feed growing populations":

> "The current debate in Europe and the United States over genetically modified crops mostly ignores the concerns and needs of the developing world…Western consumers who do not face food shortages or nutritional deficiencies or work in the fields are more likely to focus on food safety and the potential loss of biodiversity…"

Barbara Crossette, "Move to Curb Biotech Crops Ignores Poor, U.N. Finds", New York Times, (July 8, 2001).

A Kenyan scientist's comments about how Africa needs biotechnology to survive:

> "The use of high-yielding, disease-resistant and pest-resistant crops would have a direct bearing on improved food security, poverty alleviation, and environmental conservation in Africa… Biotechnology in Africa hinges on averting mass starvation and alleviating rampant poverty…Agricultural biotechnology can improve nutrition and combat diseases such as Vitamin A deficiency and anemia…[And] agricultural biotechnology, because it can require less capital for small farmers to expend on synthetic pesticides, herbicides, and fertilizers, and because of demonstrated higher yields for many staple crops, can aid farmers in producing food beyond subsistence levels… with a population expected to triple over the next 25 years and an agricultural sector that has maintained a downward trend, Africa would have to seek refuge from biotechnology to fast-forward the production of large amounts of food in order to meet the needs of its peoples…as a result of maintaining a low profile in food production, Africa has the lowest per capita food availability in the world."

See: "Africa Needs Biotechnology Tools to Aid in Sustainable Development and Disease Control", a Joint AfricaBio – Europa Bio Press Release, at p. 1; Catherine Mgendi, "Local Scientists Snub the West in Biotech War – "Need for Biotechnology in Africa is Very Clear", citing Dr. John Wafula, of the Kenya Agricultural Research Institute (KARI).