

# A Situation Analysis on Trade and Biodiversity

## From Knowledge to Action

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IUCN – The World Conservation Union  
Policy, Biodiversity and International Agreements Unit

### Executive Summary

...Another challenge arises from goods that are harmful to biodiversity. WTO rules require sound scientific evidence to allow restriction of trade in these goods. A precautionary approach to regulation might face a defeat in WTO's dispute settlement.

The Doha Development Agenda mandates negotiations on enhanced market access for “environmental goods and services”. While there is substantial disagreement about the definition of this term, it is most likely that these goods and services incorporate biodiversity conservation and the use of biological resources.

...Certification and labelling schemes are an important means to promote sustainably managed products, most prominently for forest, agriculture and marine products. Their compatibility with international trade rules remains unclear, and many countries fear that these instruments might limit their access to foreign markets.

...An increasing number of Multilateral Environmental Agreements (MEAs) includes trade measures to achieve their objectives. The outcome of a legal dispute on the relationship between WTO and MEAs is unclear, and the WTO's Doha Agenda includes the clarification of some related issues.

(Pages 5 and 6).

### ...VII. Summary of Recommendations

#### ...A. Strengthen environmental policies

International environmental regimes are often perceived as relatively weak in comparison to the trade regime and only cover parts of the environmental agenda. It is essential that effective multilateral measures are taken to control and influence the international marketplace so as to promote conservation of biodiversity and sustainable use of biological resources.

#### ...B. Improve understanding of the link between trade and biodiversity

...Lastly, there is a considerable need to contribute scientific expertise to help defining “environmental goods and services” and to develop markets for sustainably produced goods and services.

#### ...C. Voice conservation concerns in trade forums

...To start integrating trade and biodiversity, the conservation community needs to get involved in trade, presenting its analysis and recommendations in policy formulation and implementation. It can establish itself as a resource to be called upon during dispute settlement and submit *amicus briefs* where appropriate.

...The conservation community also needs to consider the trade policy aspects of its work on the precautionary principle, convene stakeholders to resolve conflicts and promote the use of the principle in multilateral contexts.”

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#### “...4. Precautionary Approach

The Precautionary Principle, or Precautionary Approach, is especially important in implementing the Convention on Biological Diversity (CBD) (e.g., in preventing and controlling alien invasive species) and the Biosafety Protocol. **At the WTO, there has been one case, Meat Hormones, which ruled on the precautionary principle in relation to the Agreement on Sanitary and Phytosanitary (SPS) Measures. In that case, the European Union had invoked the precautionary principle in defense of its risk assessment procedures that departed from the applicable standards agreed by Codex Alimentarius and which were specified in the SPS Agreement. The WTO Appellate Body ruled that although the precautionary principle might be reflected in the SPS Agreement, the precautionary principle could not be used to justify the EU trade restrictions. The precautionary principle has also been the subject of debate in several WTO for a, such as the SPS Committee and the Committee on Trade and Environment (CTE).** In the SPS Committee, there has been at least one instance where the EU has withdrawn a precautionary principle measure relating to pests after complaints were made by other Members that these measures were contrary to the SPS Agreement. **In the CTE, the EU had introduced its Communication on the Precautionary Principle, which was met with criticism by developed and developing countries, who fear its use to justify trade restrictions.**

The conservation policy community needs to consider the trade policy aspects of its ongoing work on the precautionary principle and its application to key issues, such as controlling the movement of alien invasive species. However, given the precautionary principle’s vague formulation, contributions can be made to diminishing trade conflicts over its use by:

- Convening key stakeholders to resolve conflicts over the interpretation and application of the precautionary principle in specific texts;
- Promoting and guiding the implementation of the precautionary principle in multilateral contexts...”

(p. 15)

#### “...1. World Trade Organization

...**The discussions in the TBT and SPS Committees** appear to be focused on resolving specific problems and cases, rather than addressing major policy issues. **The reactions to the EC Communication on the Precautionary Principle revealed that deep political divisions remain within those bodies...**”

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