Unit 55

Hand-out 4:

News reports

**A Sustainable Tourism Master Plan in Ethiopia[[1]](#footnote-1)**

*Note: The Intergovernmental Authority on Development (IGAD) in Eastern Africa was created in 1996 to supersede the Intergovernmental Authority on Drought and Development (IGADD), which was founded in 1986. The countries involved are Djibouti, Ethiopia, Kenya, Somalia, Sudan and Uganda. The State of Eritrea became the seventh member after attaining independence in 1993. South Sudan was admitted in 2011.*

The Inter-Governmental Authority on Development (IGAD) adopted a Sustainable Tourism Master Plan (the STMP) to which it strongly recommends that member states align their respective tourism development instruments. The ISTMP was informed by a regional tourism study done by the United Nations Economic Commission for Africa, Sub-Regional Office for Eastern Africa (UNECA SRO-EA) in 2010. The IGAD STMP was officially launched at the IGAD Tourism Inter-Ministerial forum held in Nairobi, Kenya after its approval in 2011 by the Intergovernmental Committee of Experts of SRO-EA.

The Federal Democratic Republic of Ethiopia is in the process of formulating its Sustainable Tourism Master Plan (STMP). This has entailed extensive field missions across the country, in-depth interviews with key stakeholders drawn from various sectors including public, private, professional organisations, civil society, regional government officials and academia. In addition, two regional consultative meetings have already been held in Mekele and Dire Dawa. It is expected that following the field missions, interviews with stakeholders and the consultative meetings, a first draft of the STMP will be prepared within one month; it will then be reviewed in a national validation meeting before the preparation of the final draft.

The tourism industry is being prioritized in the country’s development agenda, as illustrated by the establishment of a National Tourism Transformation Council (chaired by the Prime Minister) and of the Ethiopian Tourism Organisation which is to spearhead tourism product development and marketing. The tourism industry is identified as a key sector in Ethiopia’s first and second Growth and Transformation Plans. Although it is believed that the sector’s potential remains largely untapped, tourism still contributes 12.3% of GDP, is a leading foreign exchange earner and a key sector for both domestic and foreign investment valued at ETB 16.38 billion in 2013. The industry is also a leading employer, generating over 2.4 million jobs both directly and indirectly.

**South Africa’s Traditional Courts Bill[[2]](#footnote-2)**

First drafted in 2008, South Africa’s Traditional Courts Bill aimed to replace an outdated law about the role of traditional courts in the country's legal system, affecting rural citizens, numbering around 18 million South Africans. Seeking to strengthen traditional court structures, the bill was criticized because it:

* made traditional leaders (such as chiefs) presiding officers in the court, thereby granting them sole administration of customary law;
* did not allow citizens to voluntarily affiliate with traditional structures (thus breaking with the Constitutional principle of one law for one nation and denying citizens the right to determine their own cultural identity and customary affiliation);
* excluded women from contributing equally to the development of customary law (failing to address discrimination against women in customary contexts [around land and property](http://www.opensocietyfoundations.org/voices/calling-un-leadership-women-s-property-rights)); and
* was drafted in a top-down manner and without adequate consultation with rural people.

As a result of these criticisms, the bill was moved from the National Assembly for local review at the National Council of Provinces. This move was intended to allow greater public input at the provincial level before advancing the bill to final consideration. The National Council of Provinces (NCOP) is one of the two Houses of Parliament in South Africa, alongside the National Assembly. The NCOP is constitutionally mandated to ensure that provincial interests are taken into account in the national sphere of government. This is done through participation in the national legislative process and by providing a national forum for consideration of issues affecting provinces.

In May 2012 the government began public consultations about the bill in every province. This process was intended to educate and inform the public, particularly those affected by pending legislation—notifying them of all hearings about it, including dates, times, and venues, and to offer them a space to participate.

The Women’s Legal Centre, particularly concerned with the bill’s impact on rural women, joined with other nongovernmental organizations to form the Alliance for Rural Democracy in April 2012, leading a public campaign against the bill. They argued that the government did not follow procedures and that many people affected by the bill remained uninformed. They published literature, reached out to the media, held public events including the monitoring of government hearings on the bill, and actively engaged both members of government responsible for the bill and residents of rural communities most affected by it.

In the end, five of the nine provinces rejected the bill outright, and only two provinces supported it. It is very rare that a majority of South Africa’s provinces do not support legislation. Without popular or provincial support, and subject to growing pressure from civil society to withdraw the bill, the parliament scrapped it from consideration in February 2014. This is not the first time the bill has been withdrawn; the possibility remains that a similar bill may be reintroduced at a later stage.

## **Egypt: controls over import of souvenirs[[3]](#footnote-3)**

Egypt’s Trade and Industry Minister Mounir Fakhry Abdel Nour has decided to ban the import of products of an artistic and folkloric nature, as well as archaeological models to preserve Egypt's popular artistic heritage and its intellectual property rights.

According to the Ministry, the move aims to preserve Egypt’s artistic heritage and promote the purchase of locally made souvenirs and products. Mounir explained that the intellectual property rights law grants the culture minister the right to follow up on financial and literary rights related to national folklore.

Among the types of gifts and souvenirs which have been banned from import are products like paintings, sculptures, products made of wood, mosaic, metals, jewels, textiles, carpets, musical instruments, models and pictures of Egyptian artifacts and photos of archaeological sites.

The decision to ban the import of foreign made souvenirs comes as the tourism industry is slowly recovering. According to Egypt’s new Tourism Minister Khaled Ramy, the government hopes to raise $20 billion in revenue from tourism by 2020 by attracting 20 million visitors. Visitors to Egypt often encounter souvenirs made in China, which are often of a lesser quality than Egyptian produced souvenirs. The influx of Chinese-made souvenirs had also impacted local businesses and contributed to unemployment, said the minister.

The minister added that a team will be formed from the ministries of trade, culture and antiquities to create an outline that guarantees the protection of the country's intellectual property rights.

## **The Tripartite Free Trade Area in Africa**

The Tripartite Free Trade Area (TFTA) between the member states of three African regional economic communities – SADC, EAC, and COMESA – has been heralded as one of the most important developments in African regional integration. The agreement aims to create a free trade area between 26 African countries, from the Cape in the South to Cairo in the North, creating a combined market of up to 625 million people. While there has been much hype around the launch of the TFTA, the anticipated benefits from the agreement are likely to be many years away. In the interim, speculation is rife regarding how realistic the agreement is, what the potential benefits are, and who will get to share in the spoils, if at all.[[4]](#footnote-4)

The Heads of State and Government of the Common Market for Eastern and Southern Africa (COMESA), East African Community (EAC) and Southern African Development Community (SADC) met on 10 June, 2015 in Sharm El Sheikh, Egypt at the Third Tripartite Summit to officially launch the COMESA-EAC-SADC Tripartite Free Trade Area (TFTA). Twenty four Member/Partner States have signed the Declaration; only Libya and Eritrea have not signed. The TFTA Agreement has been signed by the following 16 member countries: Angola, Burundi, Comoros, Democratic Republic of Congo (DRC), Djibouti, Egypt, Kenya, Malawi, Namibia, Rwanda, Seychelles, Sudan, Tanzania, Uganda, Swaziland, and Zimbabwe.[[5]](#footnote-5)

#### **Annex 9: Annex on Intellectual Property Rights under Article 27(1) of the Agreement[[6]](#footnote-6)**

Article 3: Cultural and Creative Industries (revised Dec 2010)

Tripartite Member States undertake to:

1. Adopt effective policy and legal frameworks to promote and protect cultural and creative industries, and derive the maximum benefits from these industries;
2. Improve and strengthen Tripartite Member States capacities for creating, producing, distributing, marketing, branding and exhibiting cultural industry goods or products as well as facilitating better access to foreign markets;
3. Reduce dependence on the copyright and cultural industries products and goods produced outside the region; …

Article 4: Traditional Knowledge

Tripartite Member States undertake to:

1. Promote the use of traditional knowledge (TK), genetic resources (GR) and folklore including the recognition of the rights of TK, GR and Folklore holders and actively ensure they are duly rewarded;
2. Secure the protection of TK, GR and Folklore through IP or sui generis systems, to prevent misappropriation, misuse, and exploitation;
3. Create systems to govern protection, promotion, utilization and further development of TK, GR and Folklore such as creation of databases, development of guidelines for access benefit sharing (ABS), and Prior Informed Consent (PIC) …

## **Trade agreements and the ‘cultural exception’[[7]](#footnote-7)**

The EU is negotiating a trade and investment deal with the US – the Transatlantic Trade and Investment Partnership. This agreement aims, among other things, to remove customs duties and other barriers to trade. The negotiations also include protecting an agreed list of EU geographic indications, with rules to stop other producers misusing them.

The EU has a legal obligation under the [2005 UNESCO Convention](http://www.unesco.org/new/en/culture/themes/cultural-diversity/diversity-of-cultural-expressions/the-convention/convention-text/%22%20%5Ct%20%22_blank) (which the US has [not signed](http://www.unesco.org/eri/la/convention.asp?KO=31038" \t "_blank)) to protect and promote the diversity of cultural expressions, a principle also enshrined in the EU Treaties ([art. 167 TFEU](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12008E167" \t "_blank)). Moreover, in relation to trade agreements, individual member states have a veto in areas related to culture and the audiovisual sector if an agreement threatens ‘cultural and linguistic diversity’ ([art. 207 TFEU](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12008E207" \t "_blank)).

The concept of ‘cultural exception’ (or exemption) was introduced by France in the General Agreement on Tariffs and Trade (GATT) negotiations in 1993. The idea is that culture should be treated differently from other commercial products, and that cultural goods and services should be left out of international treaties and agreements. The goal is to protect and promote domestic artists and other elements of domestic culture, which in practice translates into protectionist measures limiting the diffusion of foreign artistic work (via quotas, e.g. [French television channels](http://www.cnc.fr/web/en/regulation-of-film-television-relations%22%20%5Ct%20%22_blank)) or into subventions to the cultural sector, e.g. [cinema](http://www.culture.gouv.fr/culture/europe/cnc/comparatif.htm%22%20%5Ct%20%22_blank).

The European Parliament voted on May 23 2013 for ‘the exclusion of cultural and audiovisual services, including those provided online, to be clearly stated in the negotiating mandate’ for TTIP. On 14 June 2013 the Council agreed that audiovisual services would not be covered in the mandate, but this could be subject to revision. In April 2015, the Committee on Culture and Education of the European Parliament made the following recommendations to the European Commission:

*Affirming the EU’s commitment to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions …*

*Recalling that it is standard practice to exclude subsidies, in particular for the cultural and educational sectors, from EU trade agreements …*

*[recommends that the Commission ensure that parties to the agreement] … reserve the right to adopt or maintain any measure (in particular of a regulatory and/or financial nature) with respect to the protection or promotion of cultural and linguistic diversity, media pluralism and media freedom, and to preserve or develop, in accordance with the principle of technological neutrality, a regime for audiovisual services in line with democratic, social and cultural requirements*

*reaffirm that services with a strong cultural component will not be challenged by the TTIP agreement …*

*specify that nothing in the agreement applies to subsidies or government support with respect to cultural, educational and audiovisual services*

## **Navajo Nation sues Urban Outfitters over 'Navajo' trademark[[8]](#footnote-8)**

FLAGSTAFF, Arizona (US) – The Navajo Nation has sued Urban Outfitters (a clothing company) months after the Navajo sent a cease-and-desist letter to the clothing retailer, demanding it stop using the ‘Navajo’ name, seeing monetary compensation and an order permanently preventing Urban Outfitters from using the name ‘Navajo’ or variations on its products.

The Navajo Nation filed a lawsuit in the U.S. District Court in New Mexico alleging trademark violations and violations of the federal Indian Arts and Crafts Act, which makes it illegal to sell arts or crafts in a way to falsely suggest they're made by American Indians when they're not. The group has at least 10 registered trademarks on the Navajo name that cover clothing, footwear, online retail sales, household products and textiles. Navajo justice officials say they're intent on protecting what they believe are among the tribe's most valuable assets. ‘The fame or reputation of the Navajo name and marks is such that, when the defendant uses the “Navajo” and “Navaho” marks with its goods and services, a connection with the Navajo Nation is falsely presumed,’ the lawsuit says.

Urban Outfitters set off a storm of criticism last year with its line of Navajo-branded clothing and accessories – particularly underwear and a liquor flask, which the group said was ‘derogatory and scandalous’, considering the sale and consumption of alcohol is banned on the reservation that spans parts of northeast Arizona, southeast Utah and northwest New Mexico. The company removed the products from its website after acknowledging receipt of the cease-and-desist letter. But the Navajo Nation says in its lawsuit that products with the ‘Navajo’ name still are sold through other company brands, like ‘Free People’, in catalogues and retail stores. The clothing boutique's website features several pieces of jewellery labelled vintage ‘Navajo’ with turquoise stones and silver. A description for a handmade cuff says it originally was sold at a trading post, and it has etched arrow detailing with a ‘sterling’ stamp on the back.

Urban Outfitters did not immediately respond to messages seeking comment. Spokesman Ed Looram said in an email last October that Urban Outfitters had no plans to alter its products. ‘Like many other fashion brands, we interpret trends and will continue to do so for years to come’, he said. ‘The Native American-inspired trend and specifically the term 'Navajo' have been cycling through fashion, fine art and design for the last few years.’ He later declined further comment, saying the matter was in the hands of legal counsel.

The Navajo Nation successfully forced cancellation of a ‘Navaho’ trademark last year that was used by a French company doing business in the United States. They argued the name was phonetically identical and infringed its trademark. The group licenses its name to other businesses in exchange for a share of their profits, and it has identified about two dozen companies it believes are violating the Navajo trademark.

1. . Text adapted for the UNESCO workshop from ‘Implementation of the IGAD Sustainable Tourism Master Plan starts in Ethiopia’ Addis Ababa, 29-31 July 2014 <http://igad.int/index.php?option=com_content&view=article&id=924:implementation-of-the-igad-sustainable-tourism-master-plan-starts-in-ethiopia&catid=44:economic-cooperation&Itemid=127> [↑](#footnote-ref-1)
2. . Text adapted from ‘A Victory for the Rights of Women in Rural South Africa’ May 7, 2014, by Sithuthukile Mkhize <http://www.opensocietyfoundations.org/voices/victory-rights-women-rural-south-africa> [↑](#footnote-ref-2)
3. . Text adapted from the following sources: <http://egyptianstreets.com/2015/04/08/egypt-bans-import-of-all-foreign-made-egyptian-souvenirs/> and <http://www.egyptindependent.com/news/minister-bans-importing-folkloric-products-protect-intellectual-property-rights> [↑](#footnote-ref-3)
4. . *What Does the TFTA Really Mean for Regional Integration in Africa?* by Mark Schoeman, South African Institute of International Affairs, 18 August 2015 <http://allafrica.com/stories/201508191695.html> [↑](#footnote-ref-4)
5. . <http://www.tralac.org/resources/by-region/comesa-eac-sadc-tripartite-fta.html> [↑](#footnote-ref-5)
6. . <http://www.tralac.org/images/Resources/Tripartite_FTA/TFTA%20Annex%2009%20IPR%20Revised%20Dec%202010.pdf> [↑](#footnote-ref-6)
7. . Text adapted from the following sources: <http://trade.ec.europa.eu/doclib/docs/2015/july/tradoc_153635.pdf>; <http://cultureactioneurope.org/news/ttip-culture-in-the-european-parliament/> and <http://epthinktank.eu/2014/08/29/ttip-and-the-cultural-exception/> [↑](#footnote-ref-7)
8. . Text adapted from Felicia Fonseca, <http://usatoday30.usatoday.com/money/industries/retail/story/2012-02-29/navajo-trademark-urban-outfitters/53299172/1> © Associated Press, 2/29/2012 [↑](#footnote-ref-8)