

### LEAD STORIES

MANDELSON STEPS DOWN AS EU TRADE REP	1
WORLD BANK CHIEF CALLS FOR A 'NEW MULTILATERALISM'	3

### OTHER NEWS

WTO MEMBERS REVIVE AG TALKS THROUGH CHAIR'S 'WALKS IN THE WOODS'	4
SECRETIVE ACTA NEGOTIATIONS UNDER SCRUTINY	5

### IN BRIEF

US CONGRESS MAY PUT TRADE DEALS ON HOLD FOR 2008	7
US HOUSE, SENATE VOTE TO EXTEND ANDEAN PREFERENCES	7

### WTO IN BRIEF

WTO PANEL RULES AGAINST US ON EU 'ZEROING' COMPLAINT	8
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### EVENTS & RESOURCES

EVENTS	9
RESOURCES	10

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## LEAD STORIES

### MANDELSON STEPS DOWN AS EU TRADE REP

Two months after the collapse of world trade talks at the WTO, EU Trade Commissioner Peter Mandelson, a key player in those negotiations, announced he would step down from his post as Europe's chief trade official to join the cabinet of embattled British Prime Minister Gordon Brown.

Some trade delegates indicated that Mandelson's departure spelled doom for the Doha Round of trade talks, which have stumbled repeatedly since the round was launched in the Qatari capital in 2001. "This is the final nail in the coffin," a Geneva-based official said. "I think that would mean the end of the Doha Round."

Since the failure of ministerial-level talks at the end of July, senior officials from seven major trading nations have continued to meet in an effort to breathe new life into the negotiations. But persistent disagreement scuppered those talks at the end of September, and now Mandelson's departure means that the cast of players has shifted significantly.

Mandelson's replacement, Catherine Ashton, previously the leader of the British House of Lords, filled the Trade Commissioner post almost immediately on 6 October, but will no doubt struggle to get up to speed in time to negotiate a trade deal before US citizens go to the polls in less than four weeks' time. The presidential and congressional elections on 4 November mark a key political deadline for the conclusion of a framework agreement to lower tariffs and cut subsidies worldwide, analysts say.

Thanks to the recent setbacks, coupled with upcoming elections in the EU and India next year, it will be "at least 2011" before a global trade deal can be reached, the trade official said. "For the next three years, the round is gone."

But Jeffrey Schott, a senior fellow at the Peterson Institute for International Economics, offered a somewhat more optimistic view. While acknowledging that a framework deal on global trade was no longer a possibility this year, Schott stressed that Geneva-based officials should "keep to the task" of narrowing gaps in the talks, and that the change in the leadership of the EU Trade Commission would not put an end to the negotiations. "Though Europe is a key player, the Europeans have put most of their cards on the table," he said. "The real question is whether the US, India and China find some sort of agreement."

But Schott suggested that Mandelson's departure could have an impact on the prospects for a bilateral trade deal between the EU and Korea. The EU Trade Commissioner launched those talks in May 2007, but

the negotiations have stumbled recently. "The remaining areas of disagreement are politically sensitive," Schott said. "I don't know whether Mandelson would have been able to provide a political spark" to spur the talks to a conclusion.

Mandelson's exit also affects the negotiations of Economic Partnership Agreements, or EPAs, bi-regional trade deals between the EU and several coalitions of African, Caribbean and Pacific states. Negotiations on the deals have moved slowly; no agreement has been finalised to date.

An African trade official told Bridges that the staff change at the commission would pose a challenge for the contentious EPA negotiations, saying that the talks would suffer from the loss of "a good negotiator, a tough negotiator." "I believe he will be seriously missed," the official said.

### **Mandelson's record**

A committed free trader, Peter Mandelson's four-year stint as EU Trade Commissioner was marked by great ambition, fierce advocacy for a global trade deal, and more than a few political spats.

Soon after assuming the post, Mandelson became a key figure in a long-running fight over European tariffs on imports of Chinese textiles, what the British press dubbed 'the bra wars'. Even within the 27-nation EU, the world's largest trading bloc, Mandelson often struggled to balance divergent views on trade. Indeed, he made an enemy in French President Nicolas Sarkozy, who earlier this year blamed Mandelson's hard push for a world trade deal for driving Irish voters to reject the Lisbon Treaty in a national referendum. France, joined by southern EU countries such as Greece and Italy, frequently argued that the more liberal trade regime that Mandelson sought would imperil the livelihoods of European farmers.

Many EU-based non-governmental organisations have also criticised Mandelson's approach, particularly in relation to how his agenda for more liberal trade would impact developing countries.

"Mandelson's term as EU Trade Commissioner leaves a bitter taste," said Charly Poppe, trade campaigner at Friends of the Earth Europe. "Mandelson's agenda failed almost on all lines, and where it succeeded, it was at the expense of the environment and poor countries."

Luis Morago, the head of Oxfam's Brussels office, agreed. "Under Commissioner Mandelson, the

European Commission did not pass the 'development test' in the WTO's Doha round of world trade talks," he said.

But Mandelson earned the respect of his colleagues at the WTO for his toughness and unbending resolve to fight for a world trade deal. "I think he was very effective, he made a good contribution," a developing country trade official said. "We have lost a good team member."

### **Mandelson and Brown: 'Two scorpions in a bottle'**

The former European Trade Commissioner is no stranger to British politics. Indeed, Mandelson's return to London to serve as Business Secretary under Gordon Brown will mark the third time that he has held a cabinet position in a Labour government. And working with Brown in the 1990s, Mandelson helped shape the 'New Labour' party, which eventually propelled Tony Blair into office in 1997.

But Brown and Mandelson have not always seen eye to eye. The current Prime Minister had hoped to win Mandelson's support for his bid to head the Labour Party in 1994, but at the last moment Mandelson refused, choosing instead to throw his backing behind Blair. Brown, stung by the rejection, supposedly never forgave Mandelson for the slight. At one point, tensions between the two grew so strained that a Labour Party colleague called the men "scorpions in a bottle," implying that only one would get out alive.

But relations between the two Labourites seem to have warmed recently. Brown visited Mandelson in Brussels in May, and the former trade commissioner has reportedly been informally advising the Prime Minister on economic affairs in recent months.

"We have had our ups and downs," Mandelson said in an interview with *The New Statesman*. "But remember we have known each other for over 20 years."

And this time around, Mandelson's contribution to the Labour government will be especially critical. Brown is in a fight for his political life, as polls show that his popularity has plummeted, and some in his own party have called for him to step down.

The worldwide financial crisis has certainly raised the stakes for the embattled Prime Minister. Mandelson will figure prominently in the new National Economic Council created to manage the government's response to the global financial crisis. The former trade commissioner's experience in global economic affairs is

seen as a key asset in pulling Britain out of financial turmoil.

"Our economy, like every other, is facing a very hard challenge," Mandelson said, according to BBC News. "In a sense it's all hands on deck."

And Mandelson claimed that he has changed since his last stint in the British government.

"I've been away for four years," Mandelson said in an interview with The Financial Times. "Time and distance have given me a different perspective."

ICTSD reporting. "Mandelson's return is a 'no brainer,'" THE FINANCIAL TIMES, 5 October 2008; "Interview: Peter Mandelson," THE NEW STATESMAN, 1 October 2008; "Business backs Mandelson's Return," BBC NEWS, 3 October 2008.

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## WORLD BANK CHIEF CALLS FOR A 'NEW MULTILATERALISM'

World Bank President Robert Zoellick called for the break-up of the G-7 and the creation of "a new multilateral framework" on Monday, saying that the global financial crisis has shown that world leaders need to adopt a more flexible and inclusive approach to managing the global economy.

"The G-7 is not working," Zoellick said, referring to the Group of Seven Western industrial powers that have traditionally taken the lead in structuring the world financial system. "We need a better group for a different time."

"Until we build a more inclusive globalisation, the world will remain unstable, no matter how big the financial rescue packages," he said.

Finance ministers and central bank governors from the G-7 countries - Britain, Canada, France, Germany, Italy, Japan and the US - are set to meet in Washington on 10 October. Annual gatherings of the International Monetary Fund and the World Bank are scheduled for the following day. Zoellick's comments, made in a speech at the Peterson Institute for International Economics in Washington, are expected to set the tone for those meetings.

At those gatherings, the finance ministers will grapple over how best to respond to a financial crisis that has stunned markets the world over and, in Zoellick's words, pushed many developing countries to an economic "tipping point."

"September's financial shock waves in the United States are reverberating in the world economy," the World Bank chief said. "The stark reality is that developing countries must prepare for a drop in trade, capital flows, remittances, and domestic investment, as well as slow-down in growth."

Pointing to other arenas in which multilateralism has faltered of late, the former US Trade Representative said that the WTO "has entered dangerous waters," and that the Doha Round of trade talks is "gasping on life support." In the absence of a global deal to liberalise trade, Zoellick said that countries should focus on forging regional agreements "linked to global disciplines," and that they should try to use trade facilitation measures to decrease the costs of cross-border commerce.

At the multilateral level, Zoellick said that the world leadership structure should be expanded to include Brazil, China, India, Mexico, Russia, Saudi Arabia and South Africa. The larger group would account for 56 percent of the world population, 70 percent of global GDP, and would include all of the major carbon emitters and regional players.

"But this steering group would not be a G-14," Zoellick said. "We will not create a new world simply by remaking the old," he said. "It should be numberless, flexible, and over time it could evolve. Others may be added, especially if their rising influence is matched by a willingness to help shoulder responsibilities."

Not only did the World Bank chief call for an expanded set of actors at the multilateral level, he also urged the group to update its agenda.

"We must redefine economic multilateralism beyond the traditional focus on finance and trade. The changing world economy demands that we think more broadly. Today, energy, climate change, and stabilising fragile and post-conflict states are economic issues. They are already part of the international security and environmental dialogue. They must be the concern of economic multilateralism as well."

ICTSD reporting.

## OTHER NEWS

### WTO MEMBERS REVIVE AG TALKS THROUGH CHAIR'S 'WALKS IN THE WOODS'

The chair of the WTO's committee on agriculture, Crawford Falconer of New Zealand, outlined a strategy to work on outstanding issues in the agriculture negotiations at an informal meeting on 1 October open to all of the organisation's Members. The meeting was the committee's first since world trade talks collapsed in Geneva at the end of July. No objections were raised or speeches made at the open-ended informal meeting held by Ambassador Falconer.

Ambassador Falconer told delegates that he planned to consult informally with Members on issues of specific interest to them. In particular, Falconer outlined that he wanted to start on issues "furthest away from agreement." Among those to be covered in the negotiations are tariff rate quota creation, tariff simplification, sensitive products, the Special Safeguard Mechanism (SSM), green box, blue box and cotton. After small-group and private consultations, Falconer hopes to convene a 'Room D' meeting of 36 representative delegations to be followed by a meeting of the full membership. At the informal open-ended membership meeting, which Falconer predicted would be "not very far away," he said that he hoped that the membership would engage on "matters of substance."

Through the 'walk in the woods' process, the term given to the small-group meetings that take place away from the WTO, the chair intends to move discussions in a multilateral direction. The current 'walks' are being held at the ambassadorial or senior-official level and are not expected to iron out technical details. The chair began holding the private consultations as a means of allowing Members to offer ideas in an informal, non-committal manner over the summer to help resolve what were considered key topics in preparation for the July mini-Ministerial.

The debate on tariff rate quota creation is an area that has not been explored in detail during formal negotiations. It centres on whether countries that use the sensitive product partial exemption from full-fledged tariff cuts can extend that exemption to tariff lines that were not declared tariff rate quotas during the Uruguay Round. This would allow import-sensitive countries such as Japan and Switzerland to better protect farm goods of interest to them with tariff rate quotas. A source close to the discussions on tariff rate quota creation noted that the usual strong opposition to the

measure, especially from exporters, was not present because the "scenario is different now," thanks to the repeated collapse of farm talks.

Tariff simplification is another subject that many Members are eager to address. Discussions on this matter will focus on determining how to convert non-ad valorem tariffs to ad valorem tariffs, or from non-percentage measures to percentage tariffs. In cases where tariff calculations are extremely complex, Members would simplify them to the specific tariff level, or a predetermined tariff-per-unit measure.

Some Members have criticised WTO Director-General Pascal Lamy for focussing the July ministerial-level talks among the G-7 group of major trading powers - Australia, Brazil, China, the EU, India, Japan and the US. That group reconvened in September in an attempt to overcome the differences that led to the July collapse. According to some delegates, volatile issues such as cotton, among others, were not sufficiently discussed in the September G-7 meetings, and too much emphasis was placed on the Special Safeguard Mechanism (SSM), a controversial protection tool that many say triggered the collapse of the July talks. A delegate noted that resolving the overlap between the G-7 discussions and the "walk in the woods" was going to be a difficult task.

Falconer's strategy was put into play on 2 October, when key delegations began meeting in small groups and holding private consultations. First on the agenda was tariff quota creation - or non-creation - and tariff simplification. Green Box domestic subsidies were scheduled to be discussed the following day.

This week's schedule includes the controversial SSM, cotton subsidies, sensitive products and Blue Box headroom.

At the meeting Falconer said that he had created his schedule after getting input from Members at a recent Green Room meeting, in one-on-one talks, and in various consultations held with around 25 delegations at the New Zealand embassy.

Countries involved in the discussions have described them as informal and said that they have not led to any concrete progress.

Falconer will leave the WTO and return to his home country in December. Among farm trade officials, opinions of Ambassador Falconer continue to be positive. "Falconer will do his job until the end," one delegate said.

ICTSD reporting.

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## SECRETIVE ACTA NEGOTIATIONS UNDER SCRUTINY

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Have you ever downloaded music off the internet for free? If so, do you feel like a criminal?

Digital rights activists are concerned that an intellectual property rights enforcement treaty being negotiated in secretive talks by a handful of mostly industrialised countries could criminalise file sharing over the internet even if it was not done for commercial purposes.

The prospective Anti-Counterfeiting Trade Agreement (ACTA), they warn, could cause travellers' laptop computers and iPods to be subject to border searches for illicit music or movies. The fair use of copyrighted materials could be threatened, impeding innovation, and internet service providers could be required to monitor customers' use, at the expense of privacy. Internet company Google "believes strongly" that the treaty should not address internet issues at all.

Generic drug manufacturers and public health groups warn that if improperly structured, the ACTA could conflate dangerous counterfeit drugs with medicines that have been controversial for separate reasons related to intellectual property, thus impeding access to low-cost copies of patented drugs produced under compulsory licence, or drugs obtained by 'parallel importation' from countries where they are cheaper.

Strong support for the ACTA comes from the movie and recording industries, which cite major losses due to piracy and counterfeiting.

Governments involved in the talks insist that the accord's main target would be commercial-scale activities, on the grounds that existing rules on intellectual property enforcement do not suffice. Australia, Canada, the EU, Japan, Jordan, Korea, Mexico, Morocco, New Zealand, Singapore, Switzerland, the United Arab Emirates, and the US are involved in the discussions.

Each of the developing countries participating in the negotiations has already signed a bilateral free trade agreement with Washington, typically including intellectual property protections that go beyond what is provided for in WTO rules. China, which the US has repeatedly fingered for counterfeiting and piracy, is not part of the talks.

The negotiations started in earnest earlier this year, with a focus on developing a legal framework as well as provisions for cooperation on intellectual property rights enforcement. The Group of Eight leading industrialised nations' summit in July urged negotiators to reach a deal by the end of 2008.

Critics of the ACTA negotiation process openly acknowledge that their concerns could well be unjustified; it's just that the secrecy of the talks makes it impossible to find out.

"Because the text of the treaty and relevant discussion documents remain secret, the public has no way of assessing whether and to what extent these and related concerns are merited," said a letter to the ministers of the participating countries signed by dozens of individuals and civil society groups from all over the world, including Essential Action, the Electronic Frontier Foundation, Knowledge Ecology International, Médecins Sans Frontières, and Third World Network.

The letter, dated 15 September, said that "public review of the texts and a meaningful ability to comment would, among other benefits, help prevent unanticipated pernicious problems arising from the treaty. Such unforeseen outcomes are not unlikely, given the complexity of the issues involved." In addition to criticising the lack of transparency in the negotiations as "fundamentally undemocratic," the letter points to a "public perception that lobbyists from the music, film, software, video games, luxury goods and pharmaceutical industries have had ready access to the ACTA text and pre-text discussion documents through long-standing communication channels."

A few days later, two of the organisations, Electronic Frontier Foundation (EFF) and Public Knowledge, filed a lawsuit against the US trade representative's office demanding information about the ACTA negotiations, including records about the USTR's discussions with other governments and pro-ACTA business groups.

In their complaint to the US district court for the District of Columbia, EFF and Public Knowledge said that they had not received any response from the USTR's office to their June and July requests for such information under the Freedom of Information Act. Neither group has received a response to the lawsuit thus far.

Even the US Senate's influential Judiciary Committee has expressed some qualms about the ACTA negotiations, though applauding the move to strengthen intellectual property protections. In a 2 October letter to USTR Susan Schwab signed by Democratic Chair Patrick Leahy and Arlen Specter, the ranking Republican, the committee expressed an "institutional"



concern that ACTA, "if not drafted with sufficient flexibility, could limit Congress's ability to make appropriate refinements to intellectual property law in the future." This concern was "compounded... by the lack of transparency inherent in trade negotiations and the speed with which the process is moving."

While government officials almost invariably negotiate trade agreements behind closed doors, based on the logic that negotiators need the privacy to make trade-offs that hurt some sectors but are beneficial overall, the degree of secrecy varies. For instance, draft negotiating texts at the WTO are now made public almost immediately upon release. This is not the case for most bilateral free trade agreements.

USTR officials say that there is no comprehensive draft ACTA text yet, since it is still in the middle of negotiations.

Asked about the absence of publicly available negotiating documents from the ACTA talks, Scott Elmore, a spokesperson for the US trade representative's office, told Bridges that "we are treating these negotiations similarly to FTA processes." In those negotiations, he explained, future treaty language is only made public "after the parties have agreed to the actual text."

As for the information requested by EFF and Public Knowledge, Elmore said that the USTR's office had received no less than nine intellectual property-related Freedom of Information Act requests in June, and was working "diligently" to respond to all of them.

Elmore said that the USTR had been working closely with lawmakers on the ACTA negotiations. "We are confident we can find ways to build vital disciplines for combating intellectual property theft while fully respecting existing US law and legislative prerogatives," he said. "The IP enforcement provisions of our FTAs have succeeded in this regard, and so will the ACTA."

Many of the concerns about the contents of a potential ACTA were voiced at a public hearing held by the USTR's office on 22 September. The concerns were spurred by copyright-owning industry submissions to the USTR, as well as one of relatively few documents on the negotiating framework to come to light: a four-page [discussion paper](#) posted in May on Wikileaks, an online repository of leaked sensitive documents.

The measures suggested in that paper include authorising governments and border officials to take action against intellectual property right infringers without a prior complaint by the right holders, or to seize and destroy IPR-infringing goods and their

components. Also proposed was a legal regime "to encourage internet service providers to cooperate with right holders in the removal of infringing material," albeit with safeguards from liability.

In its submission to the public hearing, EFF warned that one proposal from a "major copyright owner industry group" to require internet services providers to adopt "technical measures" such as filters and network monitoring would "directly threaten citizens' privacy rights." And since such filters could be defeated by encryption technology, it said that they may not even be effective at curbing copyright violations. Furthermore, it said that adopting such measures would make it more likely that internet service providers would be "deemed to have constructive knowledge" of copyright violations taking place on their networks, thus disqualifying them from protective 'safe harbours' in US law. Google said that safe harbours should be outside the scope of the ACTA talks, and that if included, "passive carriers" such as search engines and blogs should remain covered.

The Senate Judiciary Committee letter had specifically urged Schwab "not to permit the agreement to address issues of liability for [internet] services providers or technological protection measures."

Knowledge Ecology International warned that the ACTA could effectively curb a type of compulsory licensing ordinarily permissible under WTO intellectual property enforcement rules (TRIPS Agreement Part III). In response to patent holders seeking court injunctions to get others to stop using their intellectual property, courts in the US and elsewhere have in certain cases awarded them royalty payments - but nothing more. This is tantamount to a compulsory licence - but could be prohibited if ACTA rules on injunctions turn out to be more restrictive than WTO law (as the EU has sought in other trade agreements).

The International Trademark Association and BASCAP, the International Chamber of Commerce's anti-counterfeiting and piracy initiative, expressed "continued support" for the US' involvement in the ACTA talks. In a June submission to the USTR, the groups called for expanded power for law enforcement and customs authorities to initiate criminal actions on their own initiative as well as at rights holders' behest. (Criminal offences can carry jail time; civil offences typically involve fines.)

Quite aside from the content of the prospective treaty, IP Justice, a San Francisco-based civil liberties group, has called ACTA "imperialistic," criticising the fact that it is being negotiated primarily among industrialised nations. The organisation, whose stated purpose is to promote balanced intellectual property law and freedom

of expression, claims that ACTA "attempts to regulate global IPR enforcement from the perspective of the world's wealthiest and to the detriment of the needs of developing nations and the global public interest." It said that developing countries "will be expected to abide" by ACTA's terms.

IP Justice said that ACTA would require governments to spend billions of dollars' worth of taxpayers' money on local and national law enforcement, border agencies, customs controls, and local courts, with the benefits accruing to a relatively narrow number of intellectual property holders.

A "fact sheet" on the USTR website says that the ACTA would be a "leadership agreement," anticipating future participation by countries "that aspire to strengthen IPR enforcement." It said that ACTA would strengthen "the international fight against pirates and counterfeiters who steal from businesses and workers, discourage innovation and creativity, threaten health and safety, provide an easy source of revenue, and cause loss of tax revenue."

The next round of talks on the ACTA is set to take place in Tokyo from 8-10 October.

ICTSD reporting; "Transparency needed on ACTA," TORONTO STAR, 9 June 2008; "Anti-Counterfeiting Trade Agreement: Fact or Fiction," WIRED.COM, 15 September 2008.

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## IN BRIEF

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### US CONGRESS MAY PUT TRADE DEALS ON HOLD FOR 2008

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Despite efforts by the Colombian and Panamanian governments to gain US approval of their respective Trade Promotion Agreements (TPAs), it appears that any discussion on the trade deals will be further delayed as US lawmakers turn their attention to the upcoming presidential and congressional elections, now less than four weeks away. Three trade agreements - with Colombia, Panama and South Korea - are currently awaiting Congressional approval.

But US domestic issues - including the elections and the recent financial crisis - are expected to fill Congress' agenda over the next month, leaving little room for commercial affairs. House Majority Leader Steny Hoyer, a Democrat, said that "no action" was expected on trade issues before the elections on 4 November.

If Congress fails to vote on the agreements by the end of the year, it might be "a long time" before the treaties are approved, Frank Vargo, vice president for international economic affairs for the National Association of Manufacturers told Reuters. Congressional approval may be elusive well into 2009 while the new US President and new legislators work to find consensus on trade issues.

But Bill Reinsch, president of the National Foreign Trade Council, which represents multinational corporations in the US, remains optimistic. He argues that it is still possible that legislators could adopt the agreement with Colombia or Panama after the elections but before the end of the year.

US Trade Representative Susan Schwab urged legislators to act quickly to approve the deals. "Congress should approve the FTAs with Colombia, Panama and Korea, which would reduce or eliminate tariffs faced by American goods and services sold in those countries," she said in a statement released. "Opening markets around the world to US goods and services can only help boost our economy and create new, and higher-paying jobs," she said.

Achieving US adoption of the TPA became a priority of Colombian President Álvaro Uribe, who toured the US in late September in an attempt to garner support for the deal. The TPAs have even received the collective backing of the leaders of 10 Latin American nations who issued a letter on 30 September urging Congress to approve the TPAs.

ICTSD reporting; "Pactos comerciales EEUU podrían languidecer otro año," REUTERS, 2 October 2008; "Presidente Uribe inicia gira por Estados Unidos," EL PAÍS, 18 September 2008; "10 gobiernos americanos piden a Bush que ratifique dos TLC," PATAGONICO, 30 September 2008.

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### US HOUSE, SENATE VOTE TO EXTEND ANDEAN PREFERENCES

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The US Senate approved on 2 October an extension of existing trade preferences to Bolivia, Colombia, Ecuador and Peru, making only small changes to the bill that was passed by the House of Representatives four days earlier.

Under the Senate's version of the update to the Andean Trade Promotion and Drug Eradication Act (ATPDEA), Colombia and Peru would be granted another year of easier access to the US market, while Bolivia and Ecuador would be given an additional six months, with

the possibility of a further extension if certain conditions are met.

The extension periods in the Senate bill differed from the version approved by the House of Representatives on 28 September, which would grant a one-year extension to all involved.

The ATPDEA was forged in 1991 to jointly increase efforts on the war on drugs in the Andean Region and to provide preferential trading conditions for the countries involved.

Under the Senate bill, both Bolivia and Ecuador can get ATPDEA benefits for a second six-month extension if the US President finds that the countries are meeting the eligibility criteria set out in the ATPDEA.

Ecuador will most likely have little trouble obtaining the additional six months, but Bolivia faces some significant hurdles. Indeed, US President George W. Bush has not endorsed the six-month ATPDEA extension for Bolivia on the grounds that La Paz has not lived up to its commitments to fight drug trafficking. In Bush's view, the fact that Bolivia has driven out officials from both the US Agency for International Development and the US Drug Enforcement Agency (DEA), coupled with a "marked" increase in coca plantations and illegal markets for coca, means that Bolivia has not worked hard enough to combat drug trafficking.

The possible suspension of the benefits garnered from the ATPDEA is a major concern for the Bolivian business sector, which could lose access to the sizeable US market. More than 500 Bolivian companies shipped exports worth an estimated US\$ 412 million to the US in 2007.

But the Bolivian government maintains that only 17 percent of exports to the US would be affected by a suspension of ATPDEA, thanks to the US' Generalised System of Preferences (GSP), which allows a wide range of products to enter the US duty free and which was also recently extended. Furthermore, the EU, whose representatives visited Bolivia last week, reportedly stands ready to absorb the demand for Bolivian products affected by the suspension of the ATPDEA.

Although the Bolivian Institute of Foreign Trade considers it imperative that Bolivia show a cooperative attitude in the fight against drug trafficking, the country's president, Evo Morales, has publicly denied the DEA's request for access to the entire territory of Bolivia. Morales said that any exclusion from the benefits of the ATPDEA is nothing more than the US government's "revenge" for the expulsion of the US ambassador to

Bolivia, Philip Goldberg, in mid-September. Moreover, the head of the Bolivian Special Force to Fight Drug Trafficking (FELCN), Colonel Rene Sanabria, claimed that FELCN has carried out 8,900 anti-drug operations this year, and that over 23 tons of cocaine have been seized - five more tons than were confiscated in 2007. Sanabria said that these numbers are higher than those of other Andean countries.

ICTSD reporting; "ATPDEA extension facilitates Peru-US FTA implementation, says chancellor," ANDINA, 5 October 2008; "Bush continúa el trámite para suspender la Atpdea," LOS TIEMPOS, 2 October 2008; "Morales rechaza pedido de la DEA para sobrevolar territorio boliviano," AGENCIA BOLIVIANA DE INFORMACIÓN, 2 October 2008; "Policía boliviana confisca 100 kilos de cocaína destinados a Chile," EFE/LAFA, 2 October 2008; "Acuerdos con los EEUU deberían ser de largo plazo," HOY, 1 October, 2008; "Diputados de EE.UU. extienden vigencia del ATPDEA y SGP hasta 2009," BOLPRESS, 29 September 2008; "EEUU: Cámara Baja extiende ATPDEA a Bolivia pese a pedido contrario de Bush," AGENCIA BOLIVIANA DE INFORMACIÓN, 29 September 2008.

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## WTO IN BRIEF

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### WTO PANEL RULES AGAINST US ON EU 'ZEROING' COMPLAINT

A WTO dispute settlement panel has found largely in favour of the EU in a dispute over how the US calculates anti-dumping duties that affect a wide range of European goods. The WTO panel ruled against the US' use of 'zeroing' in administrative reviews, upholding earlier rulings of the WTO's Appellate Body.

The dispute settlement panel ruling, made public on 1 October, found that Washington "acted inconsistently with its [WTO] obligations" by using the controversial method of 'zeroing' to determine whether its trade partners are selling goods more cheaply abroad than in their home markets, a practice known as dumping. Under WTO rules, a Member may apply 'anti-dumping' measures on goods that are dumped in its home market and that subsequently cause or threaten injury to its domestic producers.

Critics of zeroing argue that the practice distorts dumping calculations and is inconsistent with the WTO Anti-Dumping Agreement (ADA) because it ignores ('zeroes out') instances in which prices are lower at home than in the export market, and takes into account only cases where the 'dumping margins' are positive. Brussels maintained that the US' use of zeroing had



inflated 'dumping margins', thus allowing Washington to impose inappropriately high anti-dumping duties on competing imports.

In a series of decisions against the US, the WTO's Appellate Body and WTO panels have consistently ruled that zeroing violates the ADA, which requires the "fair comparison" of export prices and home market prices in dumping calculations. In particular, it is generally accepted that zeroing during original investigations contravenes the agreement. Indeed, in this case the US did not contest the EU claims on this matter.

But notably, this was the first WTO panel to rule that zeroing in administrative reviews is not acceptable. Three prior panels had found zeroing during reviews acceptable under the ADA, but each time this finding was overturned on appeal by the Appellate Body. While the panel said in its decision that it was "inclined to agree" with the US claim that zeroing in administrative reviews is a "permissible" interpretation of the ADA, it did not rule in this way. The panel reasoned that the Appellate Body has continually overturned panel rulings on this matter and that consistency was necessary to develop a predictable body of case law.

The office of the US Trade Representative has given no indication as to whether it will appeal the ruling.

ICTSD reporting; "WTO slaps US on EU 'zeroing' complaint," THE CALTRADE REPORT, 7 October 2008; "WTO supports EU in fight against US 'zeroing' practices," LAW AND TAX NEWS, 6 October 2008; "Zeroing panel rules against US in explicit deference to Appellate Body," INSIDE US TRADE, 3 October 2008; "WTO condemns US charges on European products," ASSOCIATED PRESS, 1 October 2008.

## EVENTS & RESOURCES

### EVENTS

For a more comprehensive list of events in trade and sustainable development, please refer to ICTSD's web calendar at: <http://www.ictsd.org/cal/index.htm>. If you would like to submit an event, please email [events@ictsd.ch](mailto:events@ictsd.ch).

#### Upcoming Events: 9 - 15 October

13-14 October, Portland, Oregon, US. NGWA INTERNATIONAL CONFERENCE ON NON-RENEWABLE GROUNDWATER RESOURCES. This Conference is convened by the National Ground Water Association (NGWA), in association with the Institute for Water and Watersheds at Oregon State University, the UNs Education

and Cultural Organisation's International Hydrological Programme (UNESCO-IHP) and the World Bank. The first international meeting on non-renewable ground water resources aims to facilitate the sharing of information and management approaches among water professionals from around the globe. For more information, please contact: Michael Campana; e-mail: [Michael.Campana@oregonstate.edu](mailto:Michael.Campana@oregonstate.edu); Internet: <http://www.ngwa.org/DEVELOPMENT/conferences/details/0810135055.aspx>

13-16 October, Accra, Ghana. INTERNATIONAL CONFERENCE ON TRADITIONAL FOREST-RELATED KNOWLEDGE AND SUSTAINABLE FOREST MANAGEMENT IN AFRICA. This conference will highlight the importance of traditional forest-related knowledge towards achieving the Millennium Development Goals and sustainable forest management. It is organised by the Forestry Commission, the Council for Scientific and Industrial Research and the University of Ghana in association with the International Union of Forest Research Organisations. For more information, please contact: Alfred Oteng-Yeboah; e-mail: [otengyeboah@yahoo.co.uk](mailto:otengyeboah@yahoo.co.uk); Internet: <http://www.iufro.org/download/file/2595/95/ghana08-tftfk-1st-announcemt-call-upd.doc>.

13-17 October, Bangkok, Thailand. FAO GLOBAL CONFERENCE ON SMALL SCALE FISHERIES. This Conference is co-organised by the Thai Department of Fisheries and will have a broad scope allowing for the discussion of a wide range of issues including, inter alia, wider social and economic development and human rights issues, governance, fisheries policy processes and systems, fisheries management approaches and market access aspects and means of increasing post harvest benefits. A special focus of the conference, however, will be on the issue of securing access and user rights by small-scale fishers, indigenous peoples, and fishing communities to coastal and fishery resources that sustain their livelihoods. For more information, please contact: Rolf Willmann or Rebecca Metzner; e-mails: [rolf.willmann@fao.org](mailto:rolf.willmann@fao.org) or [rebecca.metzner@fao.org](mailto:rebecca.metzner@fao.org); Internet: <http://www.4ssf.org/>.

13-17 October, Geneva, Switzerland. WIPO IGC-13. Geneva, Switzerland. The thirteenth session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore of the World Intellectual Property Organisation (WIPO) is taking place in October 2008. For more information contact: tel: +41-22-338-8161; fax: +41-22-338-8120; e-mail: [grtkf@wipo.int](mailto:grtkf@wipo.int); Internet: <http://www.wipo.int/meetings/en/>.

14-17 October, Auckland, New Zealand. 15TH ANNUAL MEETING OF THE COMMISSION FOR THE CONSERVATION OF SOUTHERN BLUEFIN TUNA. For more information contact: Mari Warren or Rie Connor; tel: +61-2-6282-8396; fax: +61-2-6282-8407; e-mail: [sec@ccsbt.org](mailto:sec@ccsbt.org); Internet: <http://www.ccsbt.org/docs/meeting.html>.

14 - 17 October. Rome, Italy. FAO COMMITTEE ON WORLD FOOD SECURITY. The UN Food and Agriculture Organisation (FAO) will host the 34th session of the

Committee on World Food Security from 14-17 October 2008, at FAO headquarters in Rome, Italy. This Committee will assess the current global food situation and implications for the future. Special events will also be organised to consider the impact of high food prices on nutrition and the theme of high prices, food security issues and policy responses. For more information contact: Kostas Stamoulis; e-mail: [FAO-CFS@fao.org](mailto:FAO-CFS@fao.org); Internet: [http://www.fao.org/UNFAO/Bodies/cfs/cfs34/index\\_en.htm](http://www.fao.org/UNFAO/Bodies/cfs/cfs34/index_en.htm).

15-18 October, Thessaloniki, Greece. **FOURTH INTERNATIONAL SYMPOSIUM ON TRANSBOUNDARY WATERS MANAGEMENT.** The objectives of this International Symposium are to: assess the state of the art and the progress recently made in the sustainable management of transboundary waters; review current major international programmes concerned with the assessment and management of transboundary water resources; and promote interdisciplinary approaches for integrated transboundary water resources management. For more information contact: Conference Secretariat; tel: +30-2310-252-103; fax: +30-2310-252-104; e-mail: [info@toplinetravel.gr](mailto:info@toplinetravel.gr); Internet: <http://www.unesco.org/water/pdf/twm4.pdf>.

### WTO Events

An updated list of forthcoming WTO meetings is posted at: [http://www.wto.org/meets\\_public/meets\\_e.pdf](http://www.wto.org/meets_public/meets_e.pdf). Please bear in mind that dates and times of WTO meetings are often changed, and that the WTO does not always announce the important informal meetings of the different bodies. Unless otherwise indicated, all WTO meetings are held at the WTO, Centre William Rappard, rue de Lausanne 154, 1211 Geneva, Switzerland, and are open to WTO Members and accredited observers only.

8+10 October: TRADE POLICY REVIEW - KOREA

8-9 October: COMMITTEE ON SANITARY AND PHYTOSANITARY MEASURES

9 October: COMMITTEE ON BUDGET, FINANCE AND ADMINISTRATION

9 October: COMMITTEE ON RULES OF ORIGIN

13+17 October: NEGOTIATING GROUP ON TRADE FACILITATION

14 October: GENERAL COUNCIL

### Other Upcoming Events

27-30 October, Manila, the Philippines. **SECOND GLOBAL FORUM ON MIGRATION AND DEVELOPMENT (GFMD).** This second GFMD, chaired by the Government of the Philippines, is expected to build on the achievements and recommendations made at the Brussels Forum 2007 regarding policy and institutional coherence in linking migration and development, but will also place special emphasis on the human face of migration. The theme of the

Manila GFMD 2008, "Protecting and Empowering Migrants for Development," reflects a focus on human rights and empowerment of migrants on the ground. Three roundtable discussions have been proposed on: migration, human rights and development; secure, legal migration can achieve greater development impact; and policy and institutional coherence and partnerships. For more information, please refer to <http://www.gfmd-fmmd.org/en/press-release/philippines-prepares-way-gfmd-manila-october-2008-report-first-fof-meeting>.

20-24 October, Europe. **EUROPEAN FOREST WEEK.** European Forest Week 2008 celebrates the contribution of European forests in mitigating climate change, providing wood and renewable energy, securing the supply of fresh water and protecting our environment. During the week of 20-24 October, a series of meetings will be held at the Food and Agriculture Organisation Headquarters in Rome, Italy. The Rome events will bring together hundreds of individuals from governments, non-governmental organisations, research institutions, regional and international networks, United Nations agencies and the private sector. Senior forestry and other sector-related officials from all over Europe will attend. The meetings will provide a unique opportunity for diverse stakeholders and forest managers to share perspectives and seek solutions to some of the most challenging issues facing forests and forestry today: climate change, energy and water. In conjunction with the Rome meetings, a high-profile European Union Presidency event will be held in Brussels (20 October) and a number of national and local events will take place in participating countries throughout Europe. For further information, please refer to [www.EuropeanForestWeek.org](http://www.EuropeanForestWeek.org).

3-4 November 2008, Paris, France, **OECD POLICY DIALOGUE ON AID FOR TRADE.** The OECD with the support of the European Commission and the German Marshall Fund of the United States is organising a Policy Dialogue on Aid for Trade on 3-4 November 2008 in the OECD Conference Centre. The main objectives of this two-day event is to discuss between policy makers, practitioners and academics how the developing community can help developing countries to build trade capacity and address supply-side constraints, in order to realise the full benefits from their integration in the world economy. Participation to this event is by invitation only. For more information, contact: e-mail: [aft.dialogue@oecd.org](mailto:aft.dialogue@oecd.org); fax: +33 1 44 30 61 59; Internet: <http://www.oecd.org/trade/aftdialogue2008>.

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## RESOURCES

**ECONOMIC DEVELOPMENT IN AFRICA 2008.** UNCTAD, September 2008. This report, published by the UN Conference on Trade and Development (UNCTAD), indicates that, despite of removal of trade barriers and two decades of trade liberalisation, Africa's market share has fallen from 6 percent of world exports in 1980 to about 3 percent in 2007. The report notes that Africa's inability to produce quantity and quality to meet the demands of the global market has been affected by the lack of: a well-trained workforce; investments in research and development skills; investments and banking services; and adequate infrastructure, such as reliable electricity and transportation. To access the report, please

refer to  
<http://www.unctad.org/Templates/webflyer.asp?docid=10370&intlItemID=2068&lang=1&mode=downloads>.

**FUELLING DESTRUCTION IN LATIN AMERICA: THE REAL PRICE OF THE DRIVE FOR AGROFUELS.** Friends of the Earth International, September 2008. This new report - 'Fuelling Destruction in Latin America' - looks at current and proposed developments in a number of Southern and Central American countries, all of which are scaling up agrofuel production at alarming rates to meet domestic and, increasingly, export demand to supply diesel and gasoline to Europe and the US. To access this report, please refer to <http://www.foei.org/en/media/archive/2008/real-price-of-agrofuels-revealed>.

**LOW-CARBON ENERGY PROJECTS FOR DEVELOPMENT IN SUB-SAHARAN AFRICA: UNVEILING THE POTENTIAL, ADDRESSING THE BARRIERS.** World Bank, September 2008. This report "Low-carbon Energy Projects for Development in Sub-Saharan Africa: Unveiling the Potential, Addressing the Barriers," released during the Africa Carbon Forum in Dakar, Senegal, estimates that the current minimal share of clean development mechanism (CDM) projects by the African region (1.4 percent) could be greatly enhanced. It estimates a potential for greenhouse gas emissions reduction projects in Africa that could be tapped through the CDM, amounting to 740 million tons of carbon dioxide equivalent per year, more than the region's current annual greenhouse gas emissions (680 million tons of carbon dioxide equivalent). This report can be accessed at <http://carbonfinance.org/Router.cfm?Page=News&NewsID=42646>.

**RECENT BILATERAL INITIATIVES FOR CLIMATE FINANCING: ARE THEY MOVING IN THE RIGHT DIRECTION?** The Overseas Development Institute, September 2008. This short opinion explores the worldwide debate by Governments on how best to respond to the many challenges set by climate change. Within this debate there is growing recognition that national funding efforts need to be complemented by additional finance at the international level. Over the past year, a whole range of traditional donor countries have created new funds to support climate change in developing countries. The impetus behind these new financial mechanisms has been, partly, a frustration with existing frameworks for technology transfer and investment that are not sufficiently responsive to the global challenges of climate change. However, these initiatives raise some important questions about the underlying relationship between the North and the South. To access the article, please refer to <http://www.odi.org.uk/publications/opinions/112-climate-change-bilateral-financing.pdf>.

**RELATIONS BETWEEN EUROPE AND LATIN AMERICA AND THE CARIBBEAN: THE PARTNERSHIP PHASE.** The Overseas Development Institute, September 2008. This short opinion investigates trade between Latin America and the European Union and reflects on the Fifth EU-Latin American and the Caribbean summit held in May this year. To access the opinion, please refer to

<http://www.odi.org.uk/publications/opinions/107-europe-latin-america-caribbean-relations.pdf>.

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