



Bridges Weekly Trade News Digest

Weekly trade news from a sustainable development perspective

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LEAD STORIES

WTO Report Finds 'Limited Evidence' of Protectionism amidst Economic Crisis

WTO Members have not resorted to full-fledged protectionism amidst the ongoing global economic turmoil, a report from the office of WTO Director-General Pascal Lamy concluded earlier this week. But as the crisis continues, countries could still raise new trade barriers to protect domestic industries even while respecting their WTO commitments, Lamy warned in the 14-page report that was distributed to WTO Members.

Despite widespread fears to the contrary in recent months, Lamy's report says that "there has been only limited evidence so far of increases in tariffs or non-tariff barriers, or increased resort to trade remedy actions."

Many analysts had feared that governments struggling to shield domestic producers from the brunt of the economic crisis might try to close their borders to competing imports. But economists warn that such policies ultimately stifle trade and serve to exacerbate and prolong economic crises. Indeed, many blame the rapid spread of protectionism in the 1930s for transforming what began as a recession into the deepest economic depression of the 20th century.

"In today's very interdependent world the go-it-alone solution does not work," Lamy said in an interview this week with the UK's Channel 4 News. "You have to work on this collectively, you have to consult with others and you have to abide by the rules of the international system."

To that end, the Director-General continues to push for the conclusion of the seven-year-old Doha Round of trade talks at the WTO, which he

says is necessary to ensure that the international flow of goods and services does not grind to a halt as the global economy slows. Stronger multilateral disciplines could “reduce the scope for increased trade restriction,” and provide a bulwark against protectionism amidst growing economic troubles worldwide Lamy wrote in the report.

“We all know that when the world decides to turn itself towards protectionism, the most vulnerable will suffer the most,” Lamy said in a speech in London last week. “It is therefore safe to conclude that the WTO insurance policy is even more indispensable for the poor at this juncture.”

‘Nothing Dramatic’ in Members’ New Trade Policies

Although, as Lamy admitted to Channel 4, “nothing dramatic” has happened in terms of an increase in protectionism since the start of the crisis in the fall, the report he issued earlier this week describes several policies that WTO Members have recently enacted that restrict or distort trade.

“The most significant action taken, mostly in developed countries, has been increased state aid to particular industries, notably the automobile industry,” the report said, noting that Argentina, Australia, Canada, China, France, Germany, Russia, Sweden and the US have all introduced packages to support domestic automakers. Specific provisions include consumer incentives, higher duties on car imports, as well as loans and tax cuts or exemptions for automakers and dealers.

Although Lamy acknowledged in the report that it remains to be seen how such measures will affect international trade, the Director-General told Channel 4 that there can be no doubt but that rich-country bailout packages – in the auto sector and otherwise – discriminate against developing countries that cannot afford to provide domestic producers that level of support.

“Let’s not make a system we have been trying in recent years to make more development friendly, let’s not make it development adverse,” Lamy said in the interview.

The report also noted specific instances in which countries have raised tariffs in recent months.

Ecuador recently raised tariffs on some 940 products, but insisted that the duties are consistent with its WTO commitments. The higher tariffs are projected to provide Quito with an additional US\$ 85.5 million in revenue, the government said.

India restricted imports and increased duties on some steel products in November, the report said, while Indonesia has restricted the number of ports and airports that can accept international imports.

Meanwhile, the EU recently announced plans to reinstate export subsidies on some dairy products, a move that has drawn harsh criticism from the Cairns group of farm-exporting countries (see related story, this issue).

Trade observers warn, however, that protectionism should not simply be equated with higher tariffs; it can also manifest itself in an increased number of retaliatory actions at the WTO.

But so far, the DG’s report concluded that in fact “there has been no dramatic increase in the number of anti-dumping investigations initiated in the past few months,” although the report noted that some observers expect the number of such inquiries to rise in 2009. Members instigate anti-dumping probes when they believe a trading partner to be selling their exports at artificially low prices, a practice known as ‘dumping’ in WTO parlance.

More seriously, however, Lamy warned in the report that the continued short supply of trade financing – effectively the grease in the wheels of global commerce – could be devastating for trade, especially in countries that already struggle to qualify for the loans they need to ship their goods (see Bridges Weekly, 19 November 2008, <http://ictsd.net/i/news/bridgesweekly/33962/>).

“The cost of trade credit has been tripling in some emerging economies, with scarcity of supply gaining ground in the developing world,” Lamy wrote in the report. The gap between supply and demand reached roughly US\$ 25 billion in November, according to private sector sources, the report said.

But significant steps have already been taken to begin addressing the shortfall in financing. Brazil's Central Bank reacted quickly by providing US\$ 1.62 billion in new trade loans in October, all major export credit agencies have increased short-term credit guarantees, and the US and China announced in December that they would jointly provide US\$ 20 billion to finance trade (see Bridges Weekly, 10 December 2008, <http://ictsd.net/i/news/bridgesweekly/35964/>). But even these actions may not be enough.

"Despite these efforts, it is unclear whether private sector financing will be able to meet demand, particularly in developing countries, in a situation of rapid deterioration of risk perception," the report said.

'A Work in Progress'

Although the report is billed as 'purely factual', Lamy himself acknowledged in the introduction that the quality and comprehensiveness of the data that it contains should not be taken for granted.

"The information on changes in trade policies and trade-related policies contained in this report has been collected by the Secretariat from a variety of public and official sources," he wrote. "In some cases it has been possible to verify the information through formal channels, but in most cases it has not."

Thus, Lamy is calling the report a 'work in progress' and has promised to follow up in coming months.

ICTSD reporting; "Beware protectionism", says WTO head," CHANNEL 4 NEWS, 27 January 2009.

WHO Executive Board Grapples with IP Issues

Intellectual property was one of the contentious issues debated at the recent World Health Organisation Executive Board (EB) meeting, which concluded on Tuesday after just over a week of talks. Discussions centered on the WHO

report and draft resolution on counterfeit medicines and on the Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property.

Controversy over Counterfeit Medicines

The recent seizure of a shipment of generic medicines, headed to Brazil, by the Dutch customs officials energized debate on the issue of counterfeit medical products. Brazil expressed "great concern" over the action by the Dutch authorities and indicated that it would consider further action in response, including at the WTO, as the problem evolved (see related story, this issue).

This debate also sparked questions regarding the definition of the term 'counterfeit', especially as it relates to the WHO mandate. Some developing countries, as well as an NGO, pointed out that as it stands the term 'counterfeit' is associated with trademark violations as defined in the WTO's Trade-related Aspects of Intellectual Property Agreement (TRIPS). The Swiss delegate suggested that perhaps given the mandate for WHO in the protection of public health, the term 'counterfeit medical products' is more appropriate.

At the same time, however, some members questioned why the WHO is focusing on the definition of 'counterfeit' rather than directly addressing health issues associated with spurious and substandard drugs. Furthermore, a source present at the meeting suggested that some delegates were apprehensive to use the term 'counterfeit' as it can be used to facilitate and expedite the IP enforcement measures under the guise of working to combat the falsification of medical products and other such practices that are a risk to public health.

Concerns about IMPACT

Some members, primarily developing countries, expressed some concerns over the role and working methods of the IMPACT, which was launched in 2006 following a WHO conference in Rome. Included in the mandate of IMPACT, as outlined in the Rome Declaration, is the task of raising awareness among national authorities and decision-makers about counterfeit medicines, and

calling for effective legislative measures to combat the spread of the spurious drugs. The taskforce is also charged with promoting coordination among different anti-counterfeiting initiatives.

Members' concerns focused on the fact that the chair of IMPACT's working group on technology is also the Director General of the International Federation of Pharmaceutical Manufacturers and Associations (IFPMA), an association of multinational companies.

Developing countries and several NGOs were also uneasy about the fact that the WHO Secretariat's report and draft resolution for the Executive Board meeting were propelled largely by the work of its partnership with IMPACT. One non-governmental source expressed concern that such endorsement could establish a significant precedent of private sector involvement in WHO activities.

Given these issues, many members were not keen to adopt the proposed resolution. Paraguay on behalf of the group of Latin American and Caribbean Countries (GRULAC) stated that its members were not ready to support the draft in its current form. Ultimately, members agreed that the WHO Secretariat should prepare further reports on the impact of counterfeit medicines on public health, as well as a new document, without resolution, on the way forward to the World Health Assembly in May of this year.

Public Health, Innovation and IP

While the issue of counterfeit medicines gave rise to extensive discussions, the agenda item on the Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property was dealt with more swiftly.

The WHO revealed the costing estimates for the implementation of the WHO strategy on global public health and intellectual property, giving a detailed breakdown of the funding required from 2009 to 2015 to "carry out the activities associated with each specific actions at two levels: national and international." The activities include building and improving innovative capacity, promoting the transfer of technology, and improving the application and management of IP. The total cost

of the estimated needs (excluding research and development) exceeds US \$2 billion; national-level activities constitute approximately 60 percent of this total figure.

On research and development the funding is expected to be as much US \$147 billion. Those funds will cover R&D, the education of R&D workers, R&D infrastructure, and support units. Taken together, the implementation of the strategy and action plan is budgeted at US \$149 billion, or US \$20 billion per year.

These estimated funding needs were one of the outstanding components of the plan of action that the member states had requested the Director General to finalise during this meeting of the EB.

The Medecin Sans Frontieres' Campaign for Access to Essential Medicines contended that "further work is needed" by the WHO Executive Board on this issue. James Arkinstall, an MSF spokesman, called for specific actions on this front, and urged the EB to adopt qualitative indicators as part of Global Plan of Action. "It's not just the number or the process that needs to be measured, it is the effect and the impact," the spokesman said.

Barbados and Bolivia presented a proposal on ways to use the 'prize fund model' to encourage research with respect to diseases that disproportionately affect developing countries. Both countries requested confirmation from the Secretariat that the proposals would be examined by the expert working group the Director General had established. The Secretariat indicated that the proposals would be examined at the second meeting of the working group later this year. The WHO has also encouraged other member states to submit proposals on ways to encourage research into diseases that disproportionately affect developing countries.

Discussions on counterfeit medical products and on the implementation of Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property are likely to receive significant attention at the next meeting of the World Health Assembly (18-27 May 2008).

ICTSD reporting; “India may drag EU to WTO on Seizure of Drugs,” HINDUSTAN TIMES, 18 January 2009; “Brazil to object to Dutch Seizure of generic drug,” REUTERS, 23 January 2009; “Dr Reddy’s Consignment of Drugs to Brazil Seized,” THE MINT, 15 January 2009; “WHO Puts nearly \$150 Billion Price Tag on Global R & D Strategy for Neglected Diseases,” IP-WATCH, 22 January 2009; “Hope for Consensus on WHO and Counterfeits Moves to May assembly,” IP-WATCH, 27 January 2009.

IN BRIEF

Dutch Seizure of Generic Drugs Sparks Controversy

The recent seizure of a shipment of generic drugs by Dutch customs authorities sparked controversy at the World Health Organisation’s Executive Board meeting this week and elicited a strong reaction from Brazil and India (see related story, this issue). Some observers warned that the actions of the Dutch authorities could set a negative precedent for the delivery of affordable medicines to the developing world.

Although the exact facts and details have yet to be fully established, the incident, according to news reports, involved customs authorities in Rotterdam seizing shipments of the generic drug Losartan, which is used to treat high blood pressure - manufactured in India and in transit to Brazil. It appears Dutch authorities were acting on the request of a company that allegedly has patent rights over the drug in the Netherlands. Losartan is not under patent protection either in India or Brazil and thus can be imported freely in Brazil. The drug shipment has been returned to India.

In a particularly contentious exchange at the WHO meeting, the Brazilian ambassador criticised the seizure. She stated that the “Brazilian Government considers that the decision by the Dutch authorities to detain an input which is strategic to public health in a developing country, and exported in conformity with the existing international norms, represents a grave drawback

in the treatment of the issue of the universal access to medicines

The Netherlands’ decision represented a “distorted use of the international intellectual property system, supposedly upheld by European Union legislation, and contrary to the spirit and provisions of the Doha Declaration on TRIPs and Public Health,” the ambassador added.

Brazil indicated that “other possible reactions will be taken into consideration according to how this problem evolves, including within the World Trade Organisation (WTO)”.

Reports indicate that India’s commerce department also reacted strongly to the seizure of the medicines. Indian Commerce Secretary G.K. Pillai said the action by the EU customs officials was unnecessary and that his department has raised the matter with the European Commission, The Mint, an Indian business newspaper, reported. Further reports from the Hindustan Times added that the Indian ministry indicated that it “may have to take the issue to the WTO and challenge it.”

A number of stakeholders and experts, particularly public health advocates and NGOs, are concerned that the Dutch seizure of the generic drugs might set a bad precedent for public health by creating yet another barrier to the delivery of quality, affordable generic drugs to developing countries.

According to Frederick Abbott, Professor of Law at Florida State University, the seizure of the generic drugs is “troubling on several accounts.”

“It is particularly unfortunate that customs authorities in The Netherlands are now taking a position diametrically opposed to the principles of the Doha Declaration on the TRIPS Agreement and Public Health that the Dutch government so strongly supported,” Abbott told Bridges.

“As a general matter, if European Union member states take the position that legitimate goods in transit through EU ports are subject to the full European regulatory regime – including internal EU IP regulation – this will create enormous impediments to global trade and operate precisely contrary to the preamble of the TRIPS Agreement

‘to ensure that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade’,” Abbott said.

The situation will no doubt continue to generate commentary from both perspectives of the controversy, as observers consider the full implications of the seizure.

ICTSD reporting; “India may drag EU to WTO on seizure of drugs,” HINDUSTAN TIMES, 18 January 2009; “Brazil to object to Dutch seizure of generic drug,” REUTERS, 23 January 2009; “Dr Reddy’s consignment of drugs to Brazil seized,” THE MINT, 15 January 2009.

India-ASEAN Trade Pact to Be Finalised Soon

India is poised to sign a free trade agreement with the Association of Southeast Asian Nations (ASEAN) during the group’s upcoming February summit in Thailand. The agreement will give the ten-nation bloc a massive trading partner, and will create a free trade area of over 1.7 billion people, with a combined gross domestic product of roughly US\$2.3 trillion.

Under the FTA, the two entities will slash their trade barriers – aiming to eliminate Indian tariffs on 3,666 imported items produced by Southeast Asian nations by the end of 2012. Some of the items included are refrigerators, jewelry, ornamental goods and rubber products, although roughly 600 Indian agricultural goods will be excluded.

Leaders from both sides expect the partnership will significantly increase levels of trade between New Delhi and the ASEAN bloc. Kamal Nath, India’s trade minister, projected a “quantum jump” in overall India-ASEAN trade from the present level of US\$ 38 billion, and predicted that the 2010 target of US\$ 50 billion would be “surpassed.”

Many observers expect the move to promote greater economic stability in the region.

“The agreement will strengthen the market, exports and investment flows, in a sense you create an island which has lesser dependence on the volatility of the West,” said Rajeev Chandrasekhar, president of the Federation of Indian Chambers of Commerce and Industry.

Notably, the constitution of ASEAN member Thailand requires parliamentary approval of all international agreements, a final prerequisite for the FTA. However, all other members of the bloc have already agreed to the deal, and Bangkok has signaled its confidence that its lawmakers will follow suit.

“I always believe in the good judgment of parliamentarians...There is no reason to postpone the summit,” Deputy Prime Minister Suthep Thaugsuban said.

The pending agreement with New Delhi comes amid a flurry of activity from ASEAN, which took a significant step towards creating an integrated regional community with the signing of a charter in December (see BRIDGES Weekly, 17 December 2008, <http://ictsd.net/i/news/bridgesweekly/36580/>).

The main objective of the charter is to establish a single market for the free flow of goods, services, investments and skilled labour by 2015, a goal likely to be significantly advanced by the agreement with India.

ICTSD Reporting; “ASEAN, India to ink FTA soon, boost trade by 30%,” JAKARTA POST, 27 January 2009; “ASEAN pacts 'on track' for passage,” BANGKOK POST, 27 January 2009; “ASEAN-India free trade agreement depends on Thailand,” THE ECONOMIC TIMES, 26 January 2009; “India, ASEAN clinch a free trade agreement,” THE HINDU, 29 August 2008.

EU, Central America Aim for Free Trade Deal This Year

The European Union and six Central American countries are meeting this week for the sixth round of negotiations aimed at establishing a comprehensive agreement on lowering trade barriers and increasing political dialogue between the two regions, the EU said on Friday.

The EU also announced a £15 million aid package intended to bolster regional institutions and strengthen the voices of civil society actors in Central American countries of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama.

European Trade Commissioner Catherine Ashton said that officials will strive to wrap up negotiations on the far-reaching 'association agreement' before the end of 2009.

"With the right mix of energy and political commitment we should be in a position to conclude the Association Agreement between the EU and Central America this year," Ashton said.

"I am committed to do everything possible in order to achieve this."

More than 300 delegates and civil society actors from Central America will attend the negotiations in Brussels this week. Both private and public sector representatives will be in attendance at the EU-CA Private Sector Forum focusing on agriculture and agribusiness sectors, as well as business opportunities that exist for Central America.

The meeting will be somewhat overshadowed by the ongoing economic crisis, which has taken a toll in both regions.

"This year promises to be both very eventful and full of challenge," Benita Ferrero-Waldner, European Commissioner for External Relations and Neighbourhood Policy, said before the negotiations began. "We have to deal with an unprecedented economic crisis and to avoid any protectionist tendencies... in this specific context, the European Union underlines its commitment to greater stability and prosperity in Central America."

The negotiations toward an association agreement were begun in mid-2007.

ICTSD reporting; "CentAm, EU Arrange Association," PRENSA LATINA, 23 January 2009; "W-2008/6: The European Union and Central America: negotiating and interregional agreement," BEATRIZ VELIZ ARGUETA, 10 January 2008.

WTO IN BRIEF

Ruling in US-China Piracy Dispute Raises Controversy

A highly anticipated ruling by a WTO dispute settlement panel brought by the US against China has been issued this week, concluding that some of Beijing's copyright and trademark policies contravene multilateral trade-related rules protecting intellectual property.

The panel also did not agree with one of Washington's most serious allegations: that Chinese law is lax on commercial-scale counterfeiting because it sets too high a bar for the criminal prosecution of copyright violations. This finding has prompted some analysts to argue that, contrary to some immediate reactions, the ruling is in fact anything but a clear-cut win for the US.

US motion picture, music, publishing, and software companies claim that they lose billions each year to piracy in China. Washington initiated the WTO case in April 2007, claiming that bilateral talks had been unsuccessful at getting China to do enough to enforce copyright and trademark protection.

The panel's final report, dated 26 January, largely corresponds to the conclusions of an interim

ruling it released last October (see BRIDGES Weekly, 16 October 2008, <http://ictsd.net/i/news/bridgesweekly/31205/>).

According to the dispute panel, a provision in China's copyright law denying protection to work that failed official censorship review contravened the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS), as the US had charged.

Also at fault, according to the panel, were some – but not all – of the Chinese government's practices for dealing with counterfeit or trademark-infringing goods confiscated by its customs authorities. Existing Chinese policy allows customs authorities to destroy confiscated goods, donate them to charity, to sell them back to the rights holder, or to auction them once the trademark infringing characteristics (say, a fake Nike swoosh) have been removed. The panel ruled that the last of these – returning goods to standard commercial channels, albeit without trademark infringing characteristics – was insufficient for WTO requirements. The US had argued that the TRIPS agreement required Chinese law to do more to empower customs authorities to destroy confiscated goods.

Crucially, the panel found that Washington failed to provide adequate evidence that China's thresholds for the criminal prosecution of producers and sellers of counterfeit goods are so high as to be WTO-inconsistent.

The TRIPS Agreement (Article 61) specifies that countries must provide for criminal penalties for counterfeiting or copyright piracy “on a commercial scale” – but does not define what this entails.

Chinese law stipulates that the unauthorised reproduction or distribution for profit of 500 or more copies of books, CDs, movies, software programmes, or other works qualifies for criminal prosecution, including the possibility of jail time.

Acting US Trade Representative Peter Allgeier described the ruling as “an important victory” that confirmed the importance of the protection and enforcement of intellectual property rights. While describing the decision about China's thresholds

for prosecution as “disappointing,” he said that “the United States is encouraged that the panel... set forth a market-based analytical approach that should help WTO Members and panels avoid or resolve future disputes concerning obstacles to criminal enforcement against counterfeiting and piracy.”

“We will engage vigorously with China on appropriate corrective actions to ensure that US rights holders obtain the benefits of this decision,” Allgeier added.

Chinese commerce ministry spokesperson Yao Jian “welcomed” the verdict on criminal thresholds, reports Xinhua, the state news agency. Yao expressed “regret” about the unfavourable aspects of the ruling, and said that the government was “making a further assessment of the Dispute Settlement Body panel report.”

It is not uncommon for both sides to claim victory in response to the WTO's often-complex, nuanced rulings. But Michael Geist, a professor at the University of Ottawa, says that Washington's victories were restricted to the least important aspects of the case. “The US did not win this case, but rather lost badly,” he wrote on his blog. “China is required to amend elements of its copyright law, but on the big issues of this case – border measures and [intellectual property] enforcement – almost all of the contested laws were upheld as valid.”

Describing the Chinese system for enforcing intellectual property rights as “a huge issue for the US,” Geist argued that the panel's rejection of Washington's arguments about China's thresholds for criminal prosecution constituted a “major loss.”

Peter Yu, a professor of intellectual property law at Drake University in Des Moines, Iowa, said that “this panel report is important not for its conclusions, but for the reasoning behind those conclusions.”

A more practical question than who won or lost, he said, is “How can the resolution of this dispute be translated into substantive improvements in intellectual property protection and enforcement

in China? Unfortunately, the panel won't give you an answer."

For his part, Professor Frederick Abbott of Florida State University added in a comment to BRIDGES: "It was foreseeable that WTO dispute settlement would be a problematic way for the United States to accomplish the enforcement objectives its industry groups laid out. There is doubtless some value that everybody thought about TRIPS enforcement rules a bit." Ultimately, in his view "there is no country in the world that can claim a mantle to purity of TRIPS implementation. Inconsistencies can be found in all WTO Members."

WTO dispute settlement rules allows for appeal of such a ruling but at this time is not yet clear whether any parties will consider such course of action.

ICTSD reporting; "China expresses mixed feelings over WTO ruling on IPR protection," XINHUA, 27 January 2009.

EU Dairy Export Subsidies Draw Fire from Cairns Group

Citing a decline prices for farm goods, the EU has re-introduced export subsidies for some dairy products after two years of suspending the payments. The Cairns Group of agriculture exporters at the WTO responded vocally, decrying the subsidies as "not the leadership we require from key economies at this point in time."

The EU's 'export refunds' are focused on dairy products such as butter, cheese, and milk powder but will also apply to several other goods, including frozen poultry and eggs. The payments to farmers will cover the gap between domestic 'floor' prices and international prices. The EU will provide subsidies of up to 50 percent on dairy exports and increase subsidies by one third and one half for frozen poultry and eggs, respectively.

Export subsidies have long been one of the most controversial trade-distorting measures used by rich countries. Many farm exporters expected that a Doha Round deal would eliminate such

subsidies by 2013, as per an EU commitment made in 2005. Draft modalities of a Doha trade agreement have included such a provision since that time.

Officials in New Zealand and Australia, among leading dairy exporters, have been very vocal in their criticism of the measures. Tim Groser, the former chief WTO negotiator for New Zealand and current Trade Minister, commented that "it is clear that unless we move forward soon, unsubsidised producers like those from New Zealand will continue to bear the cost of the trade-distorting measures of others." Among developed countries, New Zealand is one of the most market-oriented agricultural exporters, having eliminated subsidies almost entirely since reforms began in 1984.

A Cairns Group statement on the issue called for a return to the negotiating table for a "fair and market oriented agricultural trading system" and the elimination of the subsidies because "farmers in many developing countries, which cannot afford to engage in subsidy wars, stand to suffer most from increased distortions in world agricultural markets."

According to the EU's Agriculture Commissioner, Mariann Fischer Boel, the current measures are being taken because European "exporters are no longer able to compete." Moreover, Boel argues that "this situation is aggravated by the already existing difficulties...as a result of the financial credit crisis."

Delegates in Geneva expressed concern for the measures. However, some exporters remain hopeful that the 2013 deadline for the elimination of export subsidies will be met. As one developed country trade official noted, "there is no sense that the EU would move away from 2013."

ICTSD reporting; "Subsidies move rocks dairy farmers," NEW ZEALAND FARMERS WEEKLY, 26 January 2009.

US Takes Aim at EU Poultry Ban

The United States announced last week that it was filing a WTO complaint against a long-running European Union ban on imports of chemically treated poultry. For more than a decade, Brussels has barred the import of chicken treated with anti-bacterial chemicals such as chlorine dioxide, a practice that the US contends is safe and effective.

The latest request for consultations comes one day after the outgoing Bush administration announced changes to retaliatory trade sanctions relating to the EU's ban on hormone-treated beef, further increasing pressure on Brussels to resolve the long-standing agricultural disputes (see BRIDGES Weekly, 21 January 2009, <http://ictsd.net/i/news/bridgesweekly/38184/>).

"The poultry treatments at issue have been widely and safely used in the United States for many years" then-US Trade Representative Susan Schwab said in the announcement. "We have tried to address this issue through dialogue with the EU for more than eleven years, and neither the European Commission nor EU Member States have offered any legitimate, science-based reason for continuing to block our poultry."

Brussels prohibits the import of poultry treated with any substance other than water unless that substance has been approved by the EU. But the US alleges that the EU has not published or otherwise made available the process it uses to approve a substance. Washington also alleges that Brussels has not approved the use of four pathogen-reducing chemicals in the nearly seven years since Washington's formal request for approval in 2002, to the frustration of US industry leaders.

"The EU's ban has no scientific basis," said Shaun Donnelly, a Senior Director at the US trade group National Association of Manufacturers (NAM). "US poultry has been thoroughly tested and judged to be safe for consumers and for the environment by both US and European food safety authorities."

For its part, though, the EU expressed its assurance that the ban is justified. "We regret the US decision to resort to WTO dispute settlement on this issue," said Peter Power, an EU spokesperson. Power denied that the ban

specifically discriminates against US imports: "we apply our regulatory measures to both domestic and imported goods alike," he said. "We will carefully study the US claims and will engage in consultations in good faith," Power said.

Washington's decision to file the complaint was hailed by the US poultry industry, which has been battered during the recent economic crisis as prices for both chicken and feed have fluctuated greatly. US poultry exports have greatly expanded since the EU ban took effect in 1997 and the industry is looking to continue its growth by accessing the EU market. Current exports stand at roughly 16 percent of production.

Under WTO rules, Washington and Brussels will have 60 days to hold formal consultations. If the parties fail to reach a resolution by the end of that period, the complainants may ask a WTO dispute settlement panel to consider the case.

ICTSD reporting; "US poultry industry cheers WTO flap with EU," WALL STREET JOURNAL, 16 January 2009; "US challenges EU's ban on poultry imports at WTO," BLOOMBERG, 16 January 2009.

Canadian Delegation in Brussels to Stop Proposed Seal Ban

Canadian officials were in Brussels last week in an attempt to persuade the European Union to abandon its proposed plan to ban imports of seal products. If passed, the proposal would ban seal products from countries whose hunting practices involve 'unnecessary pain'.

Rumours of a vote on the EU proposal are not new. However, recent moves from Canada suggest that they feel a vote is imminent. Canadian officials say that the EU may attempt a vote before its annual seal hunt gets underway in March of this year. However, similarly timed sabre-rattling from Brussels took place in April 2008 but no vote ultimately took place (see [Bridges Trade BioRes, 4 April 2008](#)).

The Canadian delegation's arrival in Brussels is the country's second major move in recent weeks to convince the EU that hunting practices are not as cruel as lobbyists would have them believe. In December the Canadian government issued new rules governing the way in which hunters determined whether seals were, in fact, dead before skinning them.

The proposed EU ban is meant to "ensure that products derived from seals killed and skinned in ways that cause pain, distress and suffering are not found on the European market." Canada's new rules, published in the Canada Gazette – the country's official government publication of laws – on 27 December, are specifically designed to appease European concerns.

"The method of harvesting seals in the current Regulations...would fail to meet the derogation criteria presented in the proposed European ban on seal products," the document reads. "As a result, Canada could face a potential ban of its seal products to Europe, which would represent a loss for an export industry worth \$13 [million] and a critical element of the livelihood of 6,000 sealers in rural communities across Atlantic Canada, Quebec and the North."

The existing rules require hunters to perform a 'blinking reflex test', to determine whether a seal is unconscious before skinning. This test has been replaced by a 'three-step process' of stunning, checking, and bleeding seals for 60 seconds before processing.

Loyola Sullivan, Canada's ambassador for fisheries conservation insists that the changes take into account recommendations of the International Veterinarians' Working Group – a panel of nine veterinarians from Canada, France, the United States, the United Kingdom and the Netherlands. Sullivan says that Canada is already considering retaliatory trade options. "Canada strongly believes that what's proposed is in violation of WTO and GATT provisions," Sullivan said recently. "There's a whole host of aspects we think violates their obligations."

The EU already has a ban on fur imports from white-coated pups. Canada lodged a complaint at the WTO dispute mechanism over the EU bans in

September 2007 (see [Bridges Trade BioRes, 5 October 2007](#)). However, no panel has been established and no settlement has been notified. Belgium and the Netherlands have already independently banned imports of seal products. While Canada is in a position to challenge the bans at the WTO, officials say they hope to resolve both the existing and proposed bans through dialogue.

"Canada 'Tweaks' Seal Hunt Rules to Avert EU Trade Ban," ENVIRONMENT NEWS SERVICE, 30 December 2008; "New Seal Regs Aim to Stave off EU Ban," THE HILL TIMES, 14 January 2009; "Canadian delegation asks EU to drop proposed seal product ban," CBC NEWS, 21 January 2009.

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.

Coming up: 22-28 January

28-30 January, Bangkok, Thailand. CAPACITY DEVELOPMENT WORKSHOP ON IMPROVING AGRICULTURAL PRODUCTIVITY, WATER USE EFFICIENCY AND STRENGTHENING RURAL LIVELIHOODS. This workshop seeks to share experiences and best practices in combating rural poverty. Organised by the United Nations Department of Economic and Social Affairs (DESA/DSD) in collaboration with the UN-Water Decade Programme on Capacity Development (UNWDPC) and the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), this seminar will host academics, practitioners, policy makers and government officials. Specific objectives include the implementation of policies relating to sustainable agriculture, rural development and

irrigation water management with a specific emphasis on the reduction of rural poverty. For more information contact: Mr. M. Aslam Chaudhry; e-mail chaudhry@un.org; and refer to the website: http://www.un.org/esa/sustdev/calendar/work_bkk09.htm.

28 January- 1 February, Davos-Klosters, Switzerland. THE WORLD ECONOMIC FORUM ANNUAL MEETING 2009. Bringing together heads of state and government to connect NGO's, business leaders, experts from a wide range of fields and trade unions. During the five-day Meeting, over 2,500 participants from 96 countries will gather in Davos. The mission of the Annual Meeting 2009 is a comprehensive and efficient approach to improve the state of the world in a manner that integrates all stakeholders of global society; discussion on topics of managing the current global economic crisis and shaping the post-crisis agenda, ranging from economic reform to climate change. For further information, please refer to <http://www.weforum.org/en/events/AnnualMeeting2009/index.htm>.

WTO events

An updated list of forthcoming WTO meetings is posted 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.

3-4 February: GENERAL COUNCIL

Other Upcoming Events

26-27 January 2009, Bonn, Germany. FOUNDING CONFERENCE OF THE INTERNATIONAL RENEWABLE ENERGY AGENCY (IRENA): Nearly 80 member countries have committed to participation in this conference. The large focal point of this

conference is for member states to sign the founding treaty, the statutes will be sent to all member states prior to the conference. For further information, please refer to <http://www.irena.org/>.

24 February, Geneva, Switzerland. JOINT CONFERENCE ON THE IMPACT OF GLOBALISATION ON TRANSPORT, LOGISTICS AND TRADE: THE UNECE WORK. This conference, taking place during the annual sessions of the Committee on Inland Transport and the Committee on Trade, will examine ways in which stakeholders within the trade and transport communities may work together, particularly on issues of supply chain competitiveness and measuring border crossing performance. Hosted at the Palais des Nations, the conference will highlight the resources available to governments and businesses through the conventions and recommendations of the United Nations Economic Commission for Europe. For more information please contact: Ms. Martine-Sophie Fouvez; e-mail: infotransport@unece.org; and refer to the website: <http://www.unece.org/jointconference2009.htm>.

10-12 March, Copenhagen, Denmark. CLIMATE CHANGE: GLOBAL RISKS, CHALLENGES AND DECISIONS. This international scientific conference, hosted by the University of Copenhagen, will bring together a diverse array of international scholars and governmental leaders in cooperation with nine other universities. As part of the run up to the United Nations Climate Change Conference (COP-15), this event will expound upon current and emerging thinking in science, technology and policy with the goal of developing strategies for long term sustainability. For more information and registration, please refer to <http://climatecongress.ku.dk>.

Resources

GLOBAL ECONOMIC PROSPECTS. The World Bank, January 2009. This report presents current economic developments relevant to low and middle-income countries. Finding the global economy transitioning from a period of strong growth to an improbability as the financial crisis

derived in high income countries influenced financial markets worldwide. To access this report, please refer to http://siteresources.worldbank.org/INTGEP2009/Resources/10363_WebPDF-00Overview.pdf

RAINFALL SHOCKS, MARKETS, AND FOOD CRISES: EVIDENCE FROM THE SAHEL. By Jenny Aker, Centre for Global Development, December 2008. Examining the effect of weather on grain market in Niger suggests that grain markets in Niger respond to supply shocks and those markets are more integrated during drought years. The solution should focus on the spatial impact of drought and monitor prices in important forecasting markets during harvest periods. To access this study please refer to <http://www.cgdev.org/content/publications/detail/1417887/>

THE GLOBAL POLITICS OF PHARMACEUTICAL MONOPOLY POWER. By Ellen F.M. 't Hoen, January 2009. New patent rules are making it difficult for developing countries to secure newer medicines due to increased cost. Hoen, an expert in intellectual property rights, analyses the effect of pharmaceutical patents on low- and middle-income countries. The book release brings hope for increased efforts, such as a patent pool, to provide better access to medicines for countries in need. To access this book please refer to <http://www.msfaccess.org/main/access-patents/the-global-politics-of-pharmaceutical-monopoly/>