



# Bridges Weekly Trade News Digest

*Weekly trade news from a sustainable development perspective*

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## LEAD STORIES

### Lamy Calls for Text-Based Talks, Delegates Express Frustration

Delegates need to move to text-based negotiations if they want to spur progress toward a global trade deal, WTO Director-General Pascal Lamy stressed to a meeting of WTO officials on Friday. The mood among delegates was grim, with many complaining of back-sliding and a lack of transparency in the negotiating process, but Lamy remained optimistic.

"The past week has seen useful engagement in focused and constructive discussions. There has been no backsliding on the level of ambition," he told the informal meeting of the Trade Negotiations Committee.

Lamy briefed delegates on his consultations in all of the major negotiating areas and offered his take on prospects for a deal. On agriculture – a primary pillar of the round – Lamy said that it was his sense "that there is a collective endeavour to not lowering the current level of ambition."

"But at the same time," he continued, "we have not yet seen tangible progress in the negotiations and, overall, I would say that the current speed with which we are advancing is too slow to arrive at modalities ... by early next year." These 'modalities' would be the skeleton of a global deal to cut tariffs and subsidies; if they are not agreed in the next few months, WTO officials will almost certainly fail to meet their goal of wrapping up the Doha Round by the end of 2010, Lamy stressed, adding: "This is the reality."

To move forward, he said, delegates must begin wrestling with the actual draft legal texts that have been put forward by the heads of each of the negotiating committees. The talks that have taken place over the past several weeks have largely

avoided such a direct approach, focusing instead on less contentious questions related to process and housekeeping. But a direct engagement with the texts, Lamy said, is the only way that negotiators can overcome the remaining gaps.

Senior capital-based officials will return to Geneva for meetings from 23-27 November, the final week of work before the organisation's ministerial conference gets going on 30 November. Delegates will need to prepare in the coming weeks, Lamy stressed, so that the senior officials' week "can register a qualitative change in the negotiating dynamics and progress on substance."

Despite the barriers that remain, a successful conclusion of the nearly eight-year-old round remains "perfectly doable," he said in an address at a conference on Monday.

But the relatively optimistic Lamy seemed to have little company among the delegates present at the Friday meeting.

Addressing the TNC, the Brazilian representative complained that progress in the talks is non-existent, that time for the round is running out, and that the package on the table is beginning to unravel. All of Brasilia's requests have been rejected, the delegate continued, adding that he thought Lamy was wrong in his assessment that there had been no back-sliding in the talks. Such frustrations may compel the country to disengage at some point, the representative added – strong words from one of the nations that stand to benefit most from a new global trade deal.

Argentina echoed Brazil's complaints, while Tanzania called for an 'early harvest' on the issues of most concern to least developed countries. Delegates from China, Switzerland, Turkey, Taiwan also expressed their frustration with the state of the negotiations.

### Concerns and complaints over process

The Doha talks have been proceeding on two planes since a meeting of trade ministers in New Delhi jumpstarted the negotiations at the beginning of September (see Bridges Weekly, 9 September 2009, <http://ictsd.net/i/news/bridgesweekly/54723/>).

At one level, WTO delegates have been engaging

in negotiations in Geneva, following the schedule that was agreed by members and presented by Lamy last month (see Bridges Weekly, 23 September 2009,

<http://ictsd.net/i/news/bridgesweekly/55785/>).

Those meetings – as frequent as they have been – have not, on the whole, produced much in the way of forward movement, delegates say.

Meanwhile, high-level officials from a handful of key countries have been holding their own closed-door meetings in an attempt to overcome some of the most pernicious stalemates in the talks. The US has reportedly held bilateral consultations with Brazil and India to address differences over contentious issues. The European Union has also been holding its own bilateral consultations. And last week, the EU convened a meeting of the so-called G14 group of countries, which represent the major players as well as the coordinators of the primary developing country negotiating blocs, in an attempt to give the round a 'confidence boost', a European delegate said.

But such meetings also have produced little new movement in the talks, trade officials complain. If nothing else, they have certainly raised the hackles of many of the WTO members who have not been invited to the sessions. Several delegates spoke up in Friday's meeting to complain about a lack of transparency in the process.

### More information

The full text of Lamy's speech to the TNC is available at

[http://www.wto.org/english/news\\_e/news09\\_e/tnc\\_dg\\_stat\\_23oct09\\_e.htm](http://www.wto.org/english/news_e/news09_e/tnc_dg_stat_23oct09_e.htm).

ICTSD reporting.

## OTHER NEWS

### US 'Committed' to Doha Deal: EU Trade Commissioner

The US is determined to work towards a successful conclusion of the WTO's Doha Round of trade talks, EU Trade Commissioner Catherine

Ashton said during a trip to Washington earlier this week.

"I think first of all this administration is committed to open trade. It is committed to trying to resolve the Doha round," Ashton said in a speech on Monday at the Paul H. Nitze School of Advanced International Studies, according to a report from Reuters.

"I'd like also to say, but I'm not certain, that we'll see significant breakthroughs in the next few weeks and months. But I do think there's no question in my mind that the energy and commitment of the new [US Trade Representative] is absolutely there," she added.

In a speech to the US Chamber of Commerce on Monday, Ashton said that both Brussels and Washington must push for a speedy conclusion to the WTO's Doha Round negotiations in Washington this week.

"The stakes are high, but the time has come to show our cards," Ashton told the business group. A multilateral trade deal would add US\$ 220 billion to the global economy at no added cost to the troubled taxpayer, Ashton said. Trade is "the engine of global growth," she added, noting that it would be in everyone's interest to conclude the Doha Round for the sake of global economic recovery. Ashton asserted that the EU and the US's goals in the round are aligned, since they both want gains from market access and strive to avoid protectionism.

Many WTO delegates have recently blamed the US for the slow pace of the Doha negotiations. Other issues – healthcare, Afghanistan, climate change – top Washington's agenda, the delegates say, and trade has been shoved aside, with important consequences for the Doha talks. After nearly eight years, the Doha Round is already the longest running round of multilateral trade negotiations in history.

US Trade Representative Ron Kirk commented on the observed slowing of negotiations, and argued that domestic issues will not be a setback to a trade deal.

"The US has been able to get approval for a good, balanced, market opening trade agreement from our Congress every time we have sought," he said in an interview with Livemint on a recent trip to New Delhi.

"[...] Rather than worrying about the domestic environment in the US, what we are inviting other countries to do is let's come to the table, let's sit down in Geneva in the multilateral fora, do the hard work necessary to bring a closure to negotiations not only in agriculture and non-agriculture sectors, but in goods, services and rules," he said. Once Washington has gotten "the clarity we need," he added, "we will be happy to go to the Congress and seek trade promotion authority."

During her stop in Washington, Ashton also touched on transatlantic economic cooperation and her hope to work with US officials to lower regulatory barriers to trade. She called for regulatory convergence between the US and the EU, to make it easier to determine more efficient regulatory tools, and to set an example for the rest of the world.

"I am not arguing for 'one size fits all' solutions. But we need to look into each area on its merits and proceed on that basis. We need small successes to gradually build confidence in each others' systems and regulatory approaches," she noted.

The Trade Commissioner said that she hoped these measures would be made possible with the Transatlantic Economic Council (TEC), which met on Tuesday in its first session since US President Barack Obama took office in January. The two sides identified three matters on which they hope to streamline regulations: labelling, energy efficiency, and nanotechnology. .

ICTSD reporting; "U.S. serious about getting Doha round trade deal: EU," REUTERS, 26 October 2009; "Ron Kirk | We've to commit, try a different approach," LIVEMINT, 26 October 2009.

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## Delhi Conference Sees Some Progress toward Tech Package in a Climate Deal

Climate change technology plays an essential role in reducing emissions of greenhouse gases and in addressing the effects of climate change. Increasing developing countries' access to that technology has been at the heart of global climate change negotiations. However discussions on technology transfer, as on other key issues such as mitigation commitments and finance, have witnessed wide disagreements, particularly between developed and developing countries.

In this context, the recent High-Level Conference 'Climate Change: Technology Development and Transfer', held in New Delhi on 22 and 23 October, achieved some progress in identifying elements of a possible technology transfer package to be part of a wider global climate deal. The officials' aim is to reach agreement on tech transfer in time for the major meeting of the UN Framework Convention on Climate Change (UNFCCC) that will be held in Copenhagen in December. The Delhi gathering was attended by officials from 58 countries and nearly 30 ministers and vice-ministers of environment.

The conference was preceded by controversy in India about possible changes in India's position in the negotiations. Media reports had disclosed a letter by the Indian Minister for Environment Jairam Ramesh to Prime Minister Manmohan Singh suggesting a deviation from the 1997 Kyoto Protocol on climate change, which puts the burden of cutting greenhouse gas emissions primarily on developed countries' shoulders. But the Indian minister later took a step back, saying that his letter had been misinterpreted and taken out of context.

At the outset of the meeting, Prime Minister Singh made a forceful statement reaffirming the well-known Indian position. "Developing countries cannot and will not compromise on development," Singh told the conference. However, as "responsible members of the global community we also do recognise that we, along with other members of the global community, must do our bit to keep our emissions footprint

within levels that are sustainable and equitable," he added.

He recalled that India's per capita consumption of primary energy was less than one-fourth of the world average and that its per capita emission of CO<sub>2</sub> was among the lowest in the world. "Equating GHG emissions across nations on a per capita basis is the only just and fair basis for a long-term global arrangement on climate change which is truly equitable," he said.

The Delhi conference was preceded by high-level consultations between India and China, during which the two countries signed a bilateral partnership agreement on combating climate change.

### Elements of convergence on a technology transfer package

Participants at the Delhi conference agreed on the need to move beyond an 'abstract' discussion and examine the "specifics and concrete aspects" of putting in place international cooperative mechanisms for climate change technology development and transfer.

In this regard, the Delhi statement on Global Cooperation on Climate Technology, which was adopted by the conference, reflected converging views on some key elements of a possible technology transfer package for Copenhagen: enhanced technological cooperation, including joint research and development of new technologies and products; the possibility of creating a new network of technology centres; the need for periodic assessment, evaluation and expert guidance on new and emerging technologies; the key role of technology financing, in particular public financing; and finally, the critical need to improve access to and deployment of technologies to enable countries to adapt to the effects of climate change.

### Parallel made with Green Revolution

At the opening session, Mohamed Nasheed, the president of the Maldives, drew a parallel between the Green Agricultural Revolution of the 1960s and 1970s – which significantly increased agricultural productivity through the diffusion of

new technology – and what he called the ‘Green Power Revolution’, which he said is needed today to address climate change. Nasheed urged India to show on climate change technology the same leadership it had demonstrated in leading the Green Revolution.

This parallel became a primary theme of the Delhi conference. Many speakers from both developed and developing countries pointed to the Consultative Group on International Agricultural Research – a food-centred research network known as CGIAR – as a possible model for research collaboration in the area of climate change technologies.

A proposal from India would see the creation of an international network of Climate Innovation Centres (CICs) which would act as vehicles for enhancing technology innovation and capacity building in developing countries. Such a network of centres could draw on the CGIAR experience, India and other countries suggested.

The experience of the Montreal Protocol was also presented and discussed. In this regard, the conference’s final statement invited officials to draw lessons from the successful examples of past partnerships – such as those that took place under the Montreal agreement -- in discussions on future mechanisms for technology cooperation.

### Disagreements on IPRs persist

Intellectual property rights (IPRs) have been one of the most contentious issues in the talks on climate change and technology transfer. The Delhi conference was no exception in this regard. The meeting’s final statement avoided any reference to IPRs, in view of the persistent disagreements on the matter.

At the outset of the meeting, the Indian Prime Minister referred to climate change technologies as a “global public goods.” He further stressed that “the IPR regime applied to those goods should balance rewards for innovators with the need to promote the common good of humankind.” He made reference to the approach that had been adopted successfully in the case of pharmaceutical technologies for the benefit of HIV/AIDS victims in developing countries. The

moral case for adopting a similar approach to protect our planet is equally compelling, Singh said.

UNCTAD Secretary General Supachai Panitchpakdi mentioned that developing countries should also be encouraged to make full use of the flexibilities within existing IPR agreements. “There may even be a case to revisit those agreements in light of the scale of the climate challenge,” he added.

Developed countries say that strong IPRs are a pre-requisite to innovation and investment in clean technologies, and they have fiercely resisted moves to water down IP regimes in a climate deal.

After the adoption of the statement, the Indian Minister of the environment emphasised that the absence of any mention of IPRs in the Delhi statement did not mean that the vigorous debate on the issue had come to an end.

Despite its informal nature, the Delhi conference – by bringing together critical players and identifying some key elements for convergence – appears to have boosted the odds that climate negotiators will be able to strike an agreement on technology transfer at the Copenhagen meeting.

ICTSD reporting.

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### GE Calls for Stand-Alone Deal on Environmental Goods and Services

General Electric, the iconic US-based multinational technology and services conglomerate, is calling for governments to cut tariffs and other barriers to trade in environmental goods and services in order to help combat climate change.

WTO members should strike an ‘environmental goods and services agreement’ (EGSA) without waiting for a broader deal in the long-running Doha Round of trade negotiations, according to Thaddeus Burns, GE’s senior counsel for intellectual property and trade.

In a paper prepared for a 22-23 October conference on trade, energy, and the environment, Burns argued that tariffs and domestic purchasing requirements on products like wind turbines and solar panels increase the cost of clean energy investments, undermining governments' efforts to cut greenhouse gas emissions.

Liberalising trade in environmental goods and services is one of the many issues under consideration in the Doha negotiations. However, with a broad multilateral trade deal nowhere in sight after nearly eight years of negotiations, Burns said that "it is time for governments to make a firm commitment to reducing the costs they impose on EGS." He rejected suggestions that taking EGS liberalisation out of the struggling negotiations would undermine the Doha Round, saying "it makes little sense to delay action on climate-change related cost reduction." Other business interests, including the Washington-based National Foreign Trade Council, have made similar calls.

It is not without precedent in the WTO for a group of countries to agree to cut tariffs on a particular class of goods outside the context of a trade round. For instance, in 1997 a group of major traders enacted the Information Technology Agreement, which cut tariffs on a wide range of IT products. In principle, there is no reason why a critical mass of WTO members could not do the same for environmental goods, a point that ICTSD and other analysts have made for several years.

GE has an interest in seeing major markets cut tariffs on wind turbines and other clean energy technology: it is the world's second largest manufacturer of wind turbines, behind Denmark's Vestas and ahead of Spain's Gamesa, Germany's Enercon, and India's Suzlon. Burns' paper noted that the majority of WTO members still levy tariffs on wind turbines, ranging from 14 percent in Brazil and Mexico, to 8 percent in China and Korea, and 2.7 and 1.3 percent respectively in the EU and the US. Significant tariffs also face solar panels and gas turbines: India levies duties of 15 percent on the former and 7.5 percent on the latter.

Burns' paper also pointed to non-tariff barriers that were "often even more destructive to greenhouse gas reduction goals and worldwide economic recovery than traditional tariffs." 'Buy domestic' requirements and other local content restrictions in China, the US, and two Canadian provinces were closing off opportunities to foreign suppliers. An EGSA that addresses these non-tariff barriers would make cleaner energy technologies cheaper, he said.

GE envisions a multi-step process for implementing an EGSA: first, a subset of WTO members accounting for the bulk of existing trade would eliminate tariffs on a list of products (all WTO members, not just participants, would receive the concessions). Next, more countries could join, and coverage could extend to more products, services, and non-tariff barriers.

The Doha Round talks on EGS liberalisation have long been blocked over disagreements among members on which goods should be covered. And within the framework of the round, large developing countries have jealously guarded their freedom to choose whether to sign on to initiatives slashing tariffs across entire industrial sectors.

Any separate agreement on environmental goods and services would be likely to face the same problems.

This became apparent at the conference, held at WTO headquarters, when a senior Brazilian diplomat noted that clean-burning ethanol would deserve to be part of an EGS deal. Ethanol, however, faces tariffs of over 40 percent in the EU and the US, where ethanol producers are heavily subsidized and politically influential. Oil, in contrast, enters duty free. "If people are serious about emissions, why tax clean, renewable fuels while dirty, non-renewable and price-volatile oil is admitted duty-free?", asked Flavio Damico, Brazil's deputy ambassador to the WTO, according to a report from Reuters. He observed that even measures intended to promote sustainable development could be discriminatory.

The US government has made proposals similar to GE's call for an EGSA in the past. In late 2007, just before an important UN climate conference,



Washington joined hands with the EU to urge all major economies to eliminate tariffs on a list of 'climate-friendly' goods – but not ethanol. At the time, several developing countries complained that the list did not adequately reflect products in which they had an export interest (see Bridges Trade BioRes, 18 December 2007, <http://ictsd.net/i/news/biores/9151/>).

Nefeterius McPherson, a spokesperson for the US trade representative's office, said the US "remain[ed] eager to move ahead with negotiations to eliminate tariff barriers on climate-friendly technologies and spur momentum on a larger WTO Doha package on environmental goods and services." However, she declined to comment on whether an EGS agreement should also cut tariffs on ethanol, along with subsidies to biofuels and government support for fossil fuel production.

ICTSD reporting; "GE calls for trade deal in environmental goods," REUTERS, 23 October 2009.

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## Experts Debate China's Role in Global Trade, Economic Governance

China – the world's fastest-growing major economy – has recently emerged as a major player in global economic governance, and not without some controversy.

The country's newly prominent role on the world stage was the topic of much discussion and debate among a group of experts who gathered for a conference in Geneva earlier this week.

Discussions at the 'Bridges China Dialogue', held on 26 and 27 October in Geneva ran the gamut from climate change and eco-tourism to investment and currency valuation to protectionism and the WTO's Doha Round of world trade talks. The meeting brought together a mix of government officials, academics, and private sector leaders, who debated and delved into technical discussions at the two-day meeting. WTO Director-General Pascal Lamy gave the keynote address on Monday afternoon.

(The conference was sponsored in part by the International Centre for Trade and Sustainable Development (ICTSD), a Geneva-based independent global think tank and the publisher of Bridges Weekly.)

### Economic growth

The Chinese economy, now the fourth-biggest in the world (after the EU, the US and Japan), is expected to grow by 8 percent this year. Meanwhile, the economy of the United States continued to shrink through the second quarter of this year, although some early estimates suggest it may have begun growing in the third quarter, which ended at the end of last month. Economists predict that

Chinese exports will register a year-on-year drop of between 16 and 20 percent for 2009, said Yutai Zhang, the head of China's Development Research Centre. But overseas shipments will bounce back in 2010, he added, noting that current models predict an uptick of between 8 and 10 percent for next year. China recently surpassed the United States to become the world's second-largest exporter, after Germany. Some early estimates predict that the Asian Giant may even outpace Germany in exports of goods and services after the final numbers for 2009 are tallied; at the mid-year mark, the two countries were nearly equal, according to figures from the WTO.

A renewed demand for Chinese goods is already being felt in some manufacturing regions of China, Zhang told the meeting. Factories in some parts of the country are even struggling to recruit enough workers, especially skilled workers, to respond to the volume of new orders, Zhang said.

But China is importing too, and Chinese demand for goods from abroad is having significant impacts on other regions of the world, experts at the meeting said. Booming demand from within China is driving growth in African economies, said Martyn Davies, the executive director of the Centre for Chinese Studies at South Africa's Stellenbosch University. Africa provides roughly a quarter of all of China's foreign energy supplies, he said, noting that the Afro-Sino trade relationship was bolstered by African leaders'

strong political support for Chinese investment. The economies of all African countries – except South Africa, the continent’s richest nation – will grow this year, thanks in part to demand from the Chinese, Davies said.

In Africa and beyond, China is looking to boost its cross-border commerce with the world’s poorest nations. One fifth of all goods exported by least developed countries end up in China, said Chinese WTO ambassador Sun Zhenyu. That trade relationship should continue to grow as Beijing expands duty-free and quota-free access to goods from LDCs, Sun added.

### **Pressure to further open Chinese economy**

A Monday afternoon session witnessed a mild confrontation between the Chinese and European ambassadors to the WTO.

European ambassador Eckart Guth kicked off the session on global economic governance with a charge that Chinese policies have driven away European investors. Beijing does not do enough to protect intellectual property rights, Guth argued, adding that the country has erected unfair barriers to foreign investment and that its government procurement policies wrongly discriminate against foreign firms.

But China’s ambassador Sun countered that European and other foreign investors do not seem to have been scared away, noting that the country attracted US\$ 90 billion in overseas investment last year. China was required to take drastic, and sometimes painful, measures to open its economy before it joined the WTO in 2001, Sun noted, adding that the international community should not forget how far the country has already come. China is getting there, he said, and in the meantime other countries should be patient.

But such a shift in attitude among Beijing’s major trading partners seems far from imminent. China is now the most popular target of other countries’ retaliatory trade measures, such as anti-dumping duties and safeguard measures, noted Simon Evenett, the co-founder of the website Global Trade Alert, which tracks protectionist policies that governments have implemented amid the ongoing economic downturn. That trend is likely

to continue, Evenett added, even as the global economy gets back on its feet.

### **More information**

The Global Trade Alert website is available here: <http://www.globaltradealert.org/>

A publication of the full proceedings of the meeting will be available on the Bridges China website in November.

ICTSD reporting.

## **IN BRIEF**

### **Spat over Rice Tariffs Stalls Trade Talks at ASEAN Summit**

A group of Asian heads of state met in the Thai beach resort Hua Hin last week in an attempt to make progress toward a free trade deal that would lower tariffs across the ten-country ASEAN region. But an ongoing spat over rice tariffs between Thailand and the Philippines threatens to derail the deal to liberalise trade among the members of the Association of Southeast Asian Nations.

As it now stands, the ASEAN trade deal would cut the Philippines’ rice import duties from 40 percent to 20 percent by the beginning of next year. But the Philippines – the world’s largest importer of rice – wants to keep its tariff levels at 35 percent, and in exchange it would promise to import 50,000 tonnes of Thai rice duty-free each year. But Thailand, the world’s largest rice exporter, says it wants a quota of more than seven times that amount.

Despite the ongoing feud, the Asian leaders say they will push ahead in their efforts to conclude an ASEAN Trade in Goods Agreement (ATIGA). The 40-year-old bloc, whose combined population is more than twice that of the United States, hopes to establish an EU-style single market for the free flow of goods, services, investments and skilled labour by 2015.



“Our negotiations are moving forward,” Blinks Kabigting, a trade official from the Philippines, told Reuters. “We agree not to talk nasty in the press and focus on finding ways to resolve our differences.”

Trade matters aside, the ASEAN leaders also used the meeting to launch a controversial new human rights commission. The body’s aim is to promote, but not enforce, human rights. Human rights groups were largely disappointed with the new commission, as it would have no power to sanction offenders, even those that lie within the region.

The editorial board of The Wall Street Journal sympathised with such critics: “If the human-rights council meant what it said about upholding ‘human dignity,’ it could mention the plight of Aung San Suu Kyi, the jailed opposition leader who is still under house arrest. Or it could examine the status of the Rohingya refugees who routinely wash up on the shores of Thailand and Malaysia as they flee from Burma,” the paper opined.

The ASEAN heads of state, who held meetings on Thursday and Friday, were joined over the weekend by the leaders of Australia, China, India, Japan, New Zealand and South Korea for broader discussions on trade, climate change, and regional integration.

The ASEAN group comprises Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam.

ICTSD reporting; “Trade row hangs over ASEAN summit, security tight,” REUTERS, 23 October 2009; “Philippines and Thailand fail to solve rice row,” REUTERS, 25 October 2009. “Absenteeism and rancor at Southeast Asian summit,” THE NEW YORK TIMES, 24 October 2009; “ASEAN’s ‘human-rights’ council,” THE WALL STREET JOURNAL, 25 October 2009.

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## NGOs Gain Access to Controversial Investment Dispute

A coalition of non-governmental organisations will be granted access to information about a controversial arbitration between a group of European investors and the government of South Africa, in a development that dents the custom of secrecy in international investment disputes.

The arbitration\*playing out under the auspices of the World Bank’s International Centre for Settlement of Investment Disputes involves several Italians and a Luxembourg corporation who argue that a piece of South African legislation has unlawfully expropriated their ownership of mineral-resource rights. The law in question, the Mineral and Petroleum Resources Development Act (MPRDA), was enacted in part to address economic inequalities rooted in South Africa’s former apartheid regime.

The sensitive nature of the investors’ claim has caught the attention of a number of civil society groups in South Africa and elsewhere. Three months ago, five NGOs applied for the right to submit a written brief to the tribunal.

In contrast to trade disputes, which are settled between states, international investment agreements often permit foreign investors to arbitrate disputes directly with host states. These investor-state arbitrations have long been criticised for being overly secretive. Proceedings are usually closed to the public and—unlike WTO trade disputes—the written arguments of the disputing parties are rarely published.

It is notable, therefore, that the tribunal’s decision, issued on 5 October, not only grants the four NGOs the right to file a written submission, but also ordered that the NGOs will be furnished with key legal filings submitted by both the investors and the South African government.

The tribunal’s decision was hailed as “a major step towards transparency in investor-state arbitrations” by the Center for International Environment Law (CIEL), one of the NGOs involved.

The coalition of NGOs says that their intervention will focus on South Africa’s legal obligations to promote human rights, and the relationship between those responsibilities and

South Africa's commitments under its international investment agreements.

Previously, non-disputing parties have been granted access to pleadings in investor-state disputes under the North American Free Trade Agreement (NAFTA). However, outside of NAFTA, there is only one other known case in which a non-disputing party has been given similar access to information, said Luke Eric Peterson, editor of the specialised news bulletin *Investment Arbitration Reporter*. Earlier this year, the European Commission was granted access to the pleadings in a dispute involving the energy firm Electrabel and the government of Hungary, after it was granted leave to submit an amicus curiae submission.

"While it may be too early to call this a trend, it is certainly not an anomaly," said Peterson in an interview. He notes, however, that there is no formal precedent in investment arbitration. While he thinks that future tribunals will allow similar information disclosure in ICSID-based arbitrations, it remains possible that some may balk at this trend.

Importantly, the decision to grant the NGOs access to the pleadings in the South African dispute does not mean these documents will become public. Whether to release documents related to the dispute, remains at the discretion of South Africa and the investors.

*\*Piero Foresti, Laura De Carli and others v. the Republic of South Africa*

\*\* The NGOs comprise: the Centre for Applied Legal Studies; the Center for International Environmental Law; the International Centre for the Legal Protection of Human Rights; and the Legal Resources Centre. A separate petition has also been filed by the International Commission of Jurists.

ICTSD reporting.

Officials from Canada and the European Union held their first official round of free trade talks last week, kicking off a five-round process that the parties say should take about two years to complete. The most controversial issues brought to the table were a decrease in agricultural subsidies for the EU, and an easing of the protections that Canada offers its dairy, poultry, and egg farmers. Ottawa has been particularly unyielding on this issue. "Our supply sectors are not things we negotiate," said Canadian Trade Minister Stockwell Day in an interview with The Canadian Press.

Under Canada's current supply management system, provincial markets regulate production quotas in the dairy, poultry, and egg industries to keep prices high. Brussels says that such policies amount to subsidies.

Other points to be negotiated in the agreement include customs procedures, migration, intellectual property rights, and foreign investment.

In 2008, the EU was Canada's second-largest trading partner, after the United States, having imported US\$ 40 billion in Canadian goods. Canada imported US\$ 47 billion from Europe. A deal to cut tariffs and other barriers to trade would boost the Canadian economy by a €8.2 billion each year, while the European economy would get an additional €11.6 billion, according to a study released last year.

But some experts claim that a free trade deal would be fruitless and mainly a political exercise, thanks to inflexibilities on both sides. Some observers argue that the current barriers to trade are so insignificant that a free trade agreement would bring only minor benefits to either party. Indeed, tariffs on goods traded between the two major world economies already average less than 3 percent (see Bridges Weekly, 20 May 2009, <http://ictsd.net/i/news/bridgesweekly/46976/>). Cutting the few duties that remain high could be a significant political challenge.

Groups such as the Council of Canadians are also concerned that talks between the EU and Canada would open the door to privatisation of Canada's public infrastructure, which would include water and sewage treatment plants.

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## EU, Canada Hold First Round of Trade Talks

"Really what the (Europeans) want to see are the removal of whatever protections exist at the municipal level on keeping water services public," said Stuart Trew from the council.

Ian Lee, from Carleton University, while agreeing that the increase in income might be small, defended the deal as it could make it easier for free trade deals with other countries to occur.

"We should be trying because it sets a precedent," said Lee. "Whatever we negotiate then could become the foundation for subsequent negotiations with other countries."

Stockwell Day described the beginning of negotiations as difficult, yet productive, and said that he hopes an agreement can be reached within two years.

ICTSD reporting; "Canada won't bend on supply management in EU trade talks: Stockwell Day," OTTAWA CITIZEN, 19 October 2009; "Canada pushes for lower EU subsidies at trade talks," CANADIAN PRESS, 26 October 2009.

## EVENTS & RESOURCES

### Events

#### Upcoming events: 28 October – 3 November

29 October, Geneva, Switzerland. SIXIEME SYMPOSIUM DE LA HAUTE ECOLE DE GESTION DE GENEVE. La crise économique actuelle démontre, si cela était encore nécessaire, que le succès d'une organisation n'est pas lié uniquement à sa pure performance financière, mais aussi à sa capacité de créer de la valeur ajoutée durable et de s'intégrer dans le tissu collectif dans lequel elle opère. Le management durable est la clé de lecture qui permet d'appliquer concrètement dans les entreprises des approches destinées à assurer le succès économique tout en répondant aux engagements sociaux, environnementaux et éthiques vis-à-vis de la collectivité. C'est pourquoi le 6ème Symposium de la Haute école de gestion de Genève (HEG-Genève) consacré au Management durable

s'adresse aux manager, cadre ou chef-fe de service qui désirent positionner stratégiquement leur organisation et connaître les nouveaux outils de gestion durable.  
<http://www.hesge.ch/heg/symposium/2009/welcome.asp>

2-3 November 2009, Bangkok, Thailand. ASIA-PACIFIC TRADE ECONOMISTS' CONFERENCE. Under the heading "Trade-led growth in times of Crisis," the conference will be an opportunity for trade researchers and policy makers to discuss implications of the global economic crisis for trade in the Asia-Pacific region. The conference will feature panel discussions led by eminent trade specialists and presentations by researchers on a wide range of trade-related issues, including trade governance, trade facilitation, trade liberalisation in services, and trade and development. The conference will celebrate the 5th anniversary of the Asia-Pacific Research and Training network on Trade (ARTNeT) and is organised by the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), in collaboration with the International Development Research Centre (IDRC), Canada, the United Nations Conference on Trade and Development (UNCTAD), the United Nations Development Programme (UNDP) Regional Centre in Colombo, and the World Trade Organization (WTO). The conference brochure can be viewed at

<http://www.unescap.org/tid/artnet/mtg/ARTNeT%20conference-1.pdf> with organisational details listed on the Conference website [http://www.unescap.org/tid/artnet/artnet\\_conference.asp](http://www.unescap.org/tid/artnet/artnet_conference.asp). Please register by writing to [artn...@un.org](mailto:artn...@un.org) (no registration fee).

#### 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.

28 October: COUNCIL FOR TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS - SPECIAL SESSION

28 October: Working PARTY ON THE ACCESSION OF THE REPUBLIC OF LEBANON

28-29 October: COMMITTEE ON SANITARY AND PHYTOSANITARY MEASURES

30 October: COUNCIL FOR TRADE IN GOODS

30 October: STDF WORKSHOP "USING ECONOMIC ANALYSIS TO INFORM SPS DECISION MAKING"

2 November: COMMITTEE ON TRADE IN FINANCIAL SERVICES

3 November: COMMITTEE ON TRADE AND DEVELOPMENT - SESSION ON AID FOR TRADE

3 November: COMMITTEE ON TRADE AND DEVELOPMENT

### Other Upcoming Events

4-5 November, Paris, France. OECD GLOBAL FORUM ON ENVIRONMENT ON ECO-INNOVATION. Most OECD countries consider eco-innovation as an important part of the response to contemporary challenges, including climate change and energy security. In addition, many countries consider that eco-innovation could be a source of competitive advantages in the fast-growing environmental goods and services sector. A number of policy issues have emerged from an inventory of policies and programmes that OECD countries have put in place to promote eco-innovation. The Global Forum on Environment on Eco-Innovation will provide an opportunity to share experiences and explore avenues for further international co-operation on these and related issues. The Forum is free of charge and interested participants are kindly requested to fill in the registration form available

at [http://www.oecd.org/document/48/0,3343,en\\_2649\\_34333\\_42430704\\_1\\_1\\_1\\_37425,00.html](http://www.oecd.org/document/48/0,3343,en_2649_34333_42430704_1_1_1_37425,00.html) and return it by email to [gfsd.eco-innovation@oecd.org](mailto:gfsd.eco-innovation@oecd.org) or by fax (+33 (0)1 44 30 61 79).

5-6 November, Geneva, Switzerland. CONFERENCE ON BUILDING PARTNERSHIPS FOR MOBILISING RESOURCES FOR IP AND DEVELOPMENT. The overall aim of the conference, which is being hosted by the World Intellectual Property Organization, is to support developing countries, with a particular focus on Least Developed Countries (LDCs) and Africa, to access resources to promote the legal, commercial and economic exploitation of intellectual property in these countries. The conference will provide practical examples which show the development impact that can be achieved through the integration and use of IP in national development plans and in the context of the UN Development Assistance Framework and Poverty Reduction Strategy Papers. The conference will focus on three main IP-related thematic areas: aid for trade, science, technology and innovation for development, and 'the digital divide'. For registration and more information, visit [http://www.wipo.int/meetings/en/2009/res\\_dev\\_ge/index.html](http://www.wipo.int/meetings/en/2009/res_dev_ge/index.html)

6 November, Geneva, Switzerland. THE IMPACT OF THE DOHA ROUND ON KENYA: LESSONS FOR DEVELOPING COUNTRIES. The UN Development Programme and IDEAS Centre have the pleasure to host the presentation of the report, "The Impact of the Doha Round on Kenya," which analyses the effects on Kenya's economy of a Doha negotiation package that came close to being agreed in July 2008. The study examines the adjustment costs of trade liberalisation under Doha and provides insights on how the Doha Round might affect the distribution of income. By analysing the impact of the Doha Round on Kenya, this study contributes to the larger debate about the role of trade liberalisation in development. It also contains an analysis of the impact of such Doha package for the Sub-Saharan African region offering the broader contours of the effects of a likely deal. Speakers

and discussants will include Eduardo Zepeda of the Carnegie Endowment for International Peace and UNDP, Esperanza Duran of AITIC and Nicholas Imboden of IDEAS Centre, among others. The meeting will be held from 1:00pm to 3:00pm on Friday 6 November at the World Meteorological Organization. Light refreshments will be provided from 12:00pm. For logistical reasons, please confirm your participation by sending an email to [laurent.charlet@ideascentre.ch](mailto:laurent.charlet@ideascentre.ch) or by fax at +41 (0)22 807 17 41.

11-13 November, New Delhi, India. A BETTER FUTURE FOR HUMANITY IN THE 21ST CENTURY - INTELLECTUAL PROPERTY (IP) IN A CHANGING WORLD: NEW CHALLENGES AND OPPORTUNITIES. The event is organised by The World Intellectual Property Organization (WIPO), in cooperation with the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry of the Government of India and with the assistance of the Federation of Indian Chamber of Commerce and Industry (FICCI). The forum will provide an opportunity for a range of stakeholders engaged in promoting innovation, including high-level economic and technology policy-makers, heads of intellectual property (IP) offices, academics and the private sector to exchange experiences and ideas on topical IP issues. Emphasis will also be placed on examining ways to harness the potential benefits of using IP strategically to create opportunities for improved business competitiveness, market expansion and economic development. The forum is open to WIPO Member States and WIPO-accredited international organisations engaged in innovation promotion. IP professionals and representatives of the private sector and the research and academic communities are also invited to participate. Contact Sheetal Chopra at [sheetal.chopra@ficci.com](mailto:sheetal.chopra@ficci.com) for registration information.

17 November, London, United Kingdom. GLOBAL TRADE CONTROLS. Through relevant debates and information sharing, this high-level conference, sponsored by the Washington International Trade Association, will provide attendees with a thorough update and practical tools to carve out essential business opportunities. The two-day conference will mainly

comprise plenary and panel sessions to encourage feedback and interaction with the audience, together with streamed sessions on both days to allow further in depth discussion. During the conference there will be a review of developments in global trade controls to ensure best practice, an update of the latest issues and the practical impact on everyday work, and debates on current contentious topics. For more information, please visit

<http://www.wita.org/ht/display/EventDetails/i/36584/pid/33238>

24-25 November, Geneva, Switzerland. INTERNATIONAL CONFERENCE ON RISK ASSESSMENT AND MANAGEMENT. Risk permeates all aspects of life. A professional management of uncertainty is essential for the resilience and effectiveness of all organisations, be they governmental or business. The conference is organised to promote an exchange of experience on the use of risk assessment and management techniques in: technical regulations; standards; conformity assessment; accreditation; metrology; and market surveillance. The conference will benefit from input from academia, governmental authorities, international standards organisations, conformity assessment bodies and business associations. For more details, please visit [http://www.unece.org/trade/wp6/documents/2009/2009\\_ConferenceRisk.htm](http://www.unece.org/trade/wp6/documents/2009/2009_ConferenceRisk.htm)

30 November - 2 December, Geneva, Switzerland. SEVENTH WTO MINISTERIAL CONFERENCE. This three-day meeting will be a regular gathering of ministers to engage in a broad evaluation of the functioning of the multilateral trading system. It is not intended to serve as a Doha Round negotiating session. The general theme for the discussions will be 'The WTO, the Multilateral Trading System and the Current Global Economic Environment'. For more information, please visit [http://www.wto.org/english/thewto\\_e/minist\\_e/min09\\_e/min09\\_e.htm](http://www.wto.org/english/thewto_e/minist_e/min09_e/min09_e.htm)

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## Resources



HOW WOULD A TRADE DEAL ON SUGAR AFFECT EXPORTING AND IMPORTING COUNTRIES? By Amani Elobeid, The International Centre for Trade and Sustainable Development, October 2009. This study examines how exporting and importing countries could be affected by a trade deal on sugar along the lines of that under discussion in the WTO's Doha Round, as well as in bilateral and regional negotiations. The study takes into consideration the preferential access arrangements that currently exist, recent historical trends in sugar trade in different countries and geographical regions, and the internal market reforms in importing regions such as the EU. The publication is available at [http://ictsd.net/downloads/2009/10/sugar\\_web-1.pdf](http://ictsd.net/downloads/2009/10/sugar_web-1.pdf)

EUROPEAN UNION TRADE WEBSITE. European Commission, 21 October 2009. The European Commission has unveiled a new website for trade policy that will feature more information, better navigation, and user-friendly features including a database of trade defence investigations. The EU Trade website remains the gateway for detailed information on EU trade policy. With a clear layout, improved navigation, and a host of added features, the new site provides visitors with a more user-friendly access to key information. Key features and innovations include: an interactive database containing information on anti-dumping and anti-subsidy investigations initiated by the EU, links to related documents will also be provided, as well as relevant contact details for each on-going investigation. The website's content has been reorganised and language has been simplified with a view to improving transparency and providing accurate, up-to-date information that is easy to find. Visit the new site at <http://ec.europa.eu/trade/>

INFORMATION ECONOMY REPORT 2009. UNCTAD, 22 October 2009. The report is the fourth in a series published by the United Nations Conference on Trade and Development (UNCTAD). The report is one of the few publications to monitor global trends in information and communication technologies (ICTs) as they affect developing countries. It serves as a valuable reference for policymakers in those nations. It gives attention to the impact of

the global financial crisis on ICTs. The report offers an assessment of the diffusion of key ICT applications between 2003 and 2008. The report explores policy options for countries seeking to improve broadband connectivity. A PDF version of the IER 2009 and its statistical annex are downloadable from the UNCTAD website [www.unctad.org/ier](http://www.unctad.org/ier).

GLOBAL PHARMACEUTICAL POLICY: ENSURING MEDICINES FOR TOMORROW'S WORLD. By Frederick Abbott and Graham Dukes. Edward Elgar Publishing, 30 October 2009. Pharmaceuticals play a central role in health care throughout the world. The pharmaceutical industry is beset with difficulties as increasing research and development expenditure yields fewer new treatments. The world's poor see little effort to address diseases prevalent in less affluent societies, while the world's wealthy are overusing prescription drugs, risking their health and wasting resources. As the global economic crisis exacerbates pressure on health care budgets, a new presidential administration in Washington, DC has committed to broad health care reform. These circumstances form the backdrop for this extraordinarily timely examination of the global system for the development, production, distribution and use of medicines. This book will be of interest to government policy-makers, members of industry, healthcare professionals, teachers, students and lawyers in the fields of public health, intellectual property and international trade. To purchase a copy, please visit <http://www.amazon.com/Global-Pharmaceutical-Policy-Medicines-Tomorrow%C2%92s/dp/1848440901>