



Bridges Weekly Trade News Digest

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LEAD STORIES

EU, Central America Trade Talks Tripped Up by Regional Politics

Free trade talks between Central America and the European Union could resume after a presidential election is held in Honduras on 23 November, a delegation of European lawmakers said last week during a visit to Costa Rica. Brussels expects to pick up the process as soon as possible, the delegates said, taking into account the upcoming vote in Honduras and lingering uncertainty over whether Panama will be allowed to join the negotiations.

The inter-regional trade talks were launched in 2007 and negotiators said in January that they hoped to conclude an agreement before the end of this year (see Bridges Weekly, 28 January 2009, <http://ictsd.net/i/news/bridgesweekly/38833/>). But the talks hit a snag in June, when a military coup overthrew Honduran president Manuel Zelaya. Brussels condemned the coup and refused to recognise the new government, effectively freezing free trade talks with the entire region. But a delegation from Costa Rica visited Brussels on 23 October in an effort to restart the process, and Brussels reciprocated last week.

Upon arriving in San José, the six-person delegation of Members of European Parliament (MEPs) first obtained information on the evolving situation in Honduras. Costa Rica's foreign trade minister, Marco Vinicio Ruiz, told journalists after the meeting that Brussels wants to wait to see whether the presidential election that is set to take place in Honduras later this month meets Europe's legitimacy requirements. Only then will the EU continue negotiations, Ruiz reported.

MEP Jose Salafranca said that if there is no solution in Honduras, the European Parliament could change its mandate so that EU trade

officials could conclude a free trade agreement with other countries in the region. In addition to Honduras, the EU trade talks also include Costa Rica, El Salvador, Guatemala and Nicaragua.

Panama pushes to join the talks

Panama also participates in the negotiations, but only as an observer. Recently, however, the country has begun a concerted push to become a full-fledged party to the talks.

But European officials say that Panama's bid to join the negotiations could be hurt by the country's recent decision to withdraw from the Central American Parliament (PARLACEN). The Panamanian government announced in August that it would pull out of the regional body because it was 'ineffective', according to the country's president, Ricardo Martinelli. But that decision, which the government says that it is sticking to, has not sat well with European officials.

"Panama has to take responsibility and be clear about its commitment," Emine Bozkurt, the head of the delegation of MEPs, told Agence-France Presse, adding that Panama is not taking what she called an "integrationist approach."

Panama hopes to officially withdraw from PARLACEN on 20 November, but several other countries in the region – Nicaragua, El Salvador, Guatemala and the Dominican Republic – have already expressed their disapproval of the move.

"In order [for Panama] to be able to bow out, [the decision] has to be accepted by all parties," Jacinto Suárez, the Nicaraguan chair of the Central American Parliament said last week, according to a report in La Prensa. Nicaragua has already rejected the move, he added. "Legally there is no exit," he said.

But Panamanian Foreign Minister Juan Carlos Varela shot back, saying that Panama is "a sovereign country and nobody can have a say in its foreign policy."

Panamanian president Ricardo Martinelli promised to get Panama out of the organisation, which he considers ineffective and impractical, during his presidential campaign. Costa Rica,

which is not a member of the Central American Parliament, is the only Central American country that supported Panama's decision, arguing that the body does not benefit the region.

Costa Rican Foreign Minister Bruno Stagno said last week that Costa Rica supports Panama's inclusion in the EU trade talks, even though Panama is not part of the Central American Economic Integration Secretariat (SIECA).

But Panama's position is hardly understandable to Brussels, which is looking to spur regional integration in Central America, through trade and other means.

Both Central American and European officials have said that SIECA membership should be a prerequisite for participation in the inter-regional trade talks. Panama has put forward a 'SIECA +1' proposal, which would allow the country to be a party to the trade negotiations without joining the regional secretariat. Reception of that proposal has been lukewarm.

The delegation of European lawmakers will make its next stop in Panama.

ICTSD reporting; translated and adapted from Puentes Quincenal, Vol. 6, No. 19; "Panama will leave PARLACEN unilaterally," PANAMA GUIDE, 22 October 2009; "Panama to resign from Parlacen in November," LA PRENSA, 1 November 2009.

OTHER NEWS

TRIPS Council Debates Public Health, 'Non-Violation' Complaints

WTO delegates tackled several contentious intellectual property issues – including access to medicines, 'non-violation complaints' and biodiversity – at a two-day session last week. The formal meeting of the council of the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Council), which was held on 27 and 28 October, resulted in consensus on a public health question relevant to the upcoming ministerial, but provided little

progress on the most pernicious trade-related intellectual property issues.

TRIPS and public health

Turning to public health concerns, members recommended that the WTO's General Council extend for another two years the deadline for governments to approve an amendment to the TRIPS Agreement that would loosen intellectual property protection to help developing countries gain access to critical medicines.

The proposed amendment would be largely symbolic, however, as a waiver agreed as part of the '30 August Decision' of 2003 largely fulfils the same goal. In that decision, members agreed to waive certain provisions of the TRIPS Agreement so that countries could legally export generic drugs produced without the patent-holders' consent to developing countries that are unable to produce the pharmaceuticals themselves.

Supporters of that waiver hailed it as proof that the trading system can take into account public health and development concerns. But critics have consistently argued that the onerous administrative procedures required by the deal render the waiver difficult to use in practice. So far Canada is the only country to have made use of the initiative. A Canadian representative told the meeting last week that it had completed its second shipment of drugs under the six-year-old waiver; its first delivery – a batch of generic HIV/AIDS drugs – arrived in Rwanda last year (see Bridges Weekly, 25 September 2008, <http://ictsd.net/i/news/bridgesweekly/29778/>).

Under the heading 'other business', India once again criticised the EU over several recent detentions of generic drugs en route through European ports.

The spat began nearly a year ago, after Dutch customs officials detained for more than five weeks a shipment of generic high blood pressure drugs that was docked in a port in the Netherlands while en route to Brazil. The medicines were ultimately shipped back to India, where they had been manufactured. Several other cases have arisen since, the most recent in Paris in October, an Indian representative told the meeting.

"What confuses us is the irony that while on the one hand, [European] countries are providing funds for public health programmes of developing countries, and at the same time barriers are being created to legitimate trade in generics and to hamper access to medicines," the Indian representative said at the meeting. Several other developing countries – including Brazil, China, Egypt and Peru, among others – chimed in to second India's criticisms.

But the European representative said that the detentions were simply intended to allow the holder of the drug's patent rights to verify the product, as trade in counterfeit medicines can be dangerous. The shipments were all returned to the importer, the representative noted, adding that the EU has long been committed to facilitating the legitimate trade of generic medicines.

News reports indicate that India and Brazil are preparing a WTO suit against the European seizures, but they have yet to file their complaint. This was not mentioned at the meeting.

'Non-violation complaints'

Discussions then turned to an item that will definitely be on trade ministers' agenda at the upcoming ministerial conference: the question of whether to extend the current moratorium on 'non-violation complaints' under the TRIPS Agreement.

Under the current moratorium, WTO members are only allowed to file a complaint about an intellectual property issue at the WTO if the TRIPS Agreement has allegedly been breached. But some countries – notably the US and Switzerland – would like to see this ban eliminated. This is a long-standing question at the WTO, whose General Agreement on Tariffs and Trade allows for such 'non-violation complaints' over trade in goods. So far, though, they have not been allowed for intellectual property.

The question of 'non-violation complaints' is definitively on the agenda for the WTO ministerial conference, which is set to take place in Geneva from 30 November to 2 December, but delegates have yet to decide what recommendation they will

put in front of the ministers. A resolution could come soon, though, if delegates meet their unofficial target of this Friday, 6 November, for finalising a recommendation on non-violation complaints. The delegates are aiming to put the finishing touches on their recommendation on e-commerce, another ministerial agenda item, by the same day.

CBD question still unresolved

Delegates also debated another question over which members have long remained divided: namely, whether to introduce an amendment to the TRIPS Agreement that would require patent applicants to disclose the origin of any biological resources or associated traditional knowledge used in their inventions. Members' positions have not shifted on this question.

Proponents of the amendment – including the EU, Norway and many developing countries – say that such a measure would be the most effective way to put a stop to the misappropriation of genetic resources. Others, however, including the US and Japan, say that a TRIPS amendment is not the best way to tackle the problem and favour measures that would not be legally binding.

Review of China's policies

In other regular business, China underwent its annual 'transitional review' that is required by the package of commitments that Beijing signed up to when it joined the WTO in 2001. China noted that it has made many updates to its legislation governing copyrights, trademarks, and patents, and other TRIPS-related issues, noting that the changes included stricter administrative sanctions for intellectual property violations.

But the EU and the US still had complaints. The European representative noted that 54 percent of all IPR-infringing goods seized at the EU border originated in China, while the US delegate said that Chinese websites are hosting "serious IPR infringements." China is home to a wholesale market in counterfeit medicines, the US official continued, and the trade in fake drugs is undermining public health.

The Chinese representative said that such claims are unsubstantiated.

ICTSD reporting.

WTO Rules Group Builds Understanding, but Gaps Remain

The WTO's Negotiating Group on Rules held informal open-ended talks from Monday to Friday of last week. Under the direction of the chair, Ambassador Guillermo Valles Galmés of Uruguay, delegates delved into technical questions on anti-dumping, countervailing duties, and fisheries disciplines, in many cases tackling issues on which they have long been divided.

Two bracketed issues on anti-dumping

On the first two days of the talks, the group took up two 'bracketed' – or unresolved – issues related to anti-dumping.

The first issue concerns how to define the scope of the products to be investigated in anti-dumping enquiries (Article 5 of the WTO's Anti-Dumping Agreement, or ADA). For instance, if Country A were to accuse Country B of 'dumping' – or selling at unfairly low prices – its pencils in Country A's home market, Country A would need to define exactly which pencil imports (All size pencils? With an eraser or without? Are coloured pencils included?) it thinks are being dumped. Several delegations supported including a provision on this issue, but others disagreed on the grounds that it would be unnecessary and create more problems than it would solve.

The second bracketed issue (Article 6 of the ADA) is related to requests by investigating authorities for companies to guarantee that their affiliate branches cooperate and provide information in anti-dumping investigations. Some delegations argued that such a provision is necessary, as companies may not always be able to force their affiliates to produce the requested data. Others, however, said that such a clause would make companies less likely to cooperate in the first place.

Both of the anti-dumping issues discussed remained unresolved at the close of the meeting.

‘Transposition’ of CVD, ADA

On Wednesday, the group considered how to streamline two WTO agreements – the Agreement on Subsidies and Countervailing Measures (CVD) and the Anti-Dumping Agreement (ADA) – that have a significant amount of overlap.

The two agreements have distinctly different domains: The CVD disciplines the use of subsidies and regulates the actions that countries can take to counter the trade-distorting effects of other countries’ subsidies. Meanwhile, the ADA dictates how governments can and cannot legally react when another country ‘dumps’ (sells at unfairly low prices) its exports into the complainant country’s domestic market.

While the two agreements govern different realms, they do have some important similarities. In many countries, a single law regulates both types of measures, and a single authority is responsible for investigating both types of complaints.

To help streamline the implementation of the two agreements, the Rules Group is working to ‘transpose’ the legal texts. The group successfully completed its first full reading of the agreements at last week’s meeting, and identified several areas that will require further discussion, one delegate said.

Fisheries disciplines under scrutiny

The Rules delegates turned their attention to fisheries disciplines on the final two days of their week-long session.

Members largely agreed that developing countries will need to demonstrate that they have effective fisheries management systems in place before they can become exempt from any bans on subsidies that the agreement enacts, a source reported. Despite the two days of discussions, the group was still unable to develop an explicit definition of what it means by the term ‘fisheries management’. However, one delegate noted that the discussions on this front were productive insofar as they

allowed members to better understand each other’s positions.

Delegates continue to disagree over how broad of a ban should be imposed on various fisheries subsidies. Members of the ‘Friends of Fish’ group – a loose coalition of countries that includes Australia, Chile, Ecuador, New Zealand and the United States – have long supported a blanket ban with a list of specific negotiated exceptions. But other countries, notably Japan and South Korea, say that subsidy disciplines should be more narrowly targeted.

A delegate from Japan noted that a recent Japanese scientific study found that subsidies have no negative impact on fish stocks if an effective fisheries management system is in place. A South Korean representative spoke up to say that the fisheries text from 2007 is ‘unbalanced’, as it includes too broad of a ban on subsidies. Seoul will soon propose new language to ‘revise and rebalance’ the text, the delegate added.

The group also discussed how WTO’s dispute settlement system might be adapted to mediate fisheries-related disputes. The members considered the notion of inviting professionals from the UN Food and Agricultural Organization or from regional fisheries management groups to provide expert advice in cases that come before the WTO’s Dispute Settlement Body. But how that advice might be incorporated into a final ruling has yet to be decided.

Wrapping up the fisheries discussions, chair Valles Galmés noted that the back-and-forth between countries was useful, even though the delegations continued to disagree. The discussions helped provide more clarity on countries’ differences, as well as why those differences exist, he noted. The discussion on fisheries management, especially, will help delegates imagine how they might be able to bridge the remaining gaps in the talks, the chair said, adding that this kind of exercise will help the group move forward in future sessions.

The Rules Group will hold its next meeting the week of 7 December. A senior officials meeting has been scheduled for 25 November.

ICTSD reporting.

COPENHAGEN COUNTDOWN

Special Section: Agriculture and Climate Change

Each week leading up to the UNFCCC's 15th Conference of the Parties, Bridges Weekly will be providing readers with background and analysis on key issues facing negotiators as they prepare for December's meeting in Copenhagen. This week's article highlights the role of agriculture in the climate change puzzle.

Current negotiations under the United Nations Framework Convention on Climate Change (UNFCCC) are working towards a new agreement that will serve to enhance the implementation of the Convention. The Convention, together with its Kyoto Protocol, include commitments that address climate mitigation and adaptation globally, but implementation has historically been weak. Recent scientific evidence and public pressure are pushing countries to ratchet up their efforts in order to avoid the disastrous consequences that, according to the International Panel on Climate Change (IPCC) and other sources, will ensue if atmospheric concentrations of greenhouse gases exceed amounts that would trigger a temperature rise above 2 °C.

The new agreement intends to more meaningfully include the US – which is a signatory to the UNFCCC and the Kyoto Protocol (but never ratified the latter) – and developing countries – which have no fixed mitigation commitments under the Convention or its Protocol. One area under negotiation in the context of discussions on mitigation is that of "cooperative sectoral approaches and sector-specific actions." Agriculture has received pointed attention in these talks.

Two options posed in the current draft text

Agriculture accounts for 14 percent of global GHG emissions. The economic, social, and environmental impacts of climate change on the agriculture sector will be significant, varied, and complex. In a few cases, these impacts could be positive, but in most – as a result of increased floods, droughts, and even the expansion of

biofuel production – global food security could be considerably threatened.

Countries are currently working on a draft text that is broken down into sections, which are being negotiated by sub-groups on the topics signalled within the Bali Action Plan – a decision that initiated the new negotiations and outlined the areas that the new agreement would include. The cooperative sectoral approaches sub-group text, which is currently riddled with brackets and alternative paragraphs, contains a specific section on the agricultural sector.

In the negotiations, the issue unifies interests across developed and developing country lines, but also heightens sensitivities about potential trade impacts. A short paragraph in the draft text stresses the importance of development priorities but also emphasises the need to ensure activities in the sector do not “result in barriers to or distortion of the international trade system of goods and products of the agricultural sector” – a clear reference to potential sectoral targets, carbon labelling, carbon ‘footprinting’, border tax measures, or other national approaches that could impact global trade competitiveness.

The text poses two alternatives. The first option instructs Parties to make efforts to enhance mitigation in the agriculture sector. The second instructs them to promote and cooperate in the research, development, application, and diffusion of technologies, practices and processes, as a means to enhance sector-specific mitigation. In other words, whereas in the first option sector-specific mitigation efforts would be a binding obligation that could be achieved through various means, including through promotion and cooperation, in the second option mitigation in the agricultural sector is an outcome that could result from such promotion and cooperation.

Food security overlooked?

A significant omission from both options appears to be an explicit reference to the importance of food security.

The first option contains an important reference to the efficiency and productivity of agricultural production systems – widely seen as critical to

addressing global food security over the long term in a sustainable manner, especially in developing countries. It also contains a number of references – albeit bracketed – to considerations that could be important to developing countries, such as the need not to harm the interests of small and marginal farmers; the need to take into account traditional knowledge and processes; the need to acknowledge linkages between mitigation and adaptation; the need for agricultural production systems to be improved in a sustainable manner; and the need to promote and cooperate on technologies, practices, processes and methodologies. As all of these elements are bracketed, it remains unclear which, if any, might remain in an eventual compromise text.

The second option places a cooperative approach at the heart of mitigation strategies. It explicitly specifies that measures taken should not result in barriers to, or distortion of, the international agricultural trading system. It also calls on the Subsidiary Body for Scientific and Technological Advice (SBSTA) to develop a mitigation work programme, and invites Parties to submit their views on this. Given the evident need for further analysis and rapid progress on agricultural climate change issues, this would appear to be a welcome inclusion.

Another bracketed clause specifies that sectoral approaches shall not lead to carbon offsets or initiatives that adversely impact forestland; while the goal here appears to be to ensure a focus on international sectoral cooperation, rather than an uncoordinated focus on national emissions targets, some observers say that it may be helpful to rephrase the drafted text to clarify this. Other say that the text could also be revised to covers carbon sinks more generally, in addition to forestland.

Countries may further refine this text during a negotiating session taking place this week in Barcelona, Spain (see related story, this issue). The Barcelona meeting is the final negotiating session prior to the Copenhagen Conference of the Parties this December.

ICTSD reporting.

IN BRIEF

US, China Strike Deals on Trade, but Sparring Continues

Senior-level officials from China and the US met for two days in China's eastern city of Hangzhou to try to find common ground on a number of trade issues last week, even as new disputes between the two countries continued to crop up outside the conference hall. The officials were hoping to smooth over their sometimes-rocky bilateral economic relations before US President Barack Obama's first official visit to China in less than two weeks' time.

"It is critical to make concrete, demonstrable progress today to demonstrate to the people of the US and China that we can work together," US Commerce Secretary Gary Locke said in his opening remarks to the US-China Joint Commission on Commerce and Trade (JCCT).

Officials from the two sides signed a total of nine new trade deals covering investment, intellectual property, and energy cooperation, among other issues. A couple of highlights from the deals: Beijing agreed to resume imports of US pork products (which were banned in reaction to the outbreak of the 'swine flu' virus earlier this year) and end its requirement that most of the materials used in Chinese wind power projects be produced domestically. In return, Washington vowed to eliminate some restrictions on imports of Chinese chicken. Officials from both countries pledged not to impose new trade protectionist measures against each other's exports.

Notwithstanding the warm feelings emanating from the lakeside conference centre in Hangzhou, officials in Washington and Beijing continued to spar over trade last week.

Chinese Commerce Minister Chen Deming confirmed on 29 October, the second day of the JCCT meeting, that Beijing is planning to launch an unfair-pricing investigation into imports of cars made by the 'big three' US automakers – Chrysler, Ford and General Motors. The announcement follows through on a threat Beijing issued in

September, immediately after President Obama authorised the imposition of 35 percent tariffs on Chinese tyre imports (see Bridges Weekly, 16 September 2009, <http://ictsd.net/i/news/bridgesweekly/55281/>).

A Chinese commerce official – speaking to the government-owned China Daily newspaper on condition of anonymity – suggested that the newly announced anti-dumping investigation is more of a political gesture than anything else.

“Launching the investigation on such an occasion, during the two countries' trade negotiations and before the US president's visit, is undoubtedly a kind of pressure tactic by our government, which is hoping that the US will not frequently investigate other trade matters in the future,” the official said.

Government officials back in Washington were staying busy as well. Just one day after the JTTC meeting closed, the US' International Trade Commission (ITC) – an independent federal agency that rules on trade complaints – announced its conclusion that US producers are threatened by some imports of Chinese seamless steel pipes “that are allegedly subsidised and sold in the United States at less than fair value.” The determination launches an investigation that could result in the imposition of retaliatory tariffs.

Also last week, the US Commerce Department imposed preliminary duties on imports of steel grating and steel wire strand on the grounds that the products receive unfairly high levels of support from Beijing.

But US Trade Representative Ron Kirk played down the significance of such disputes in an address to JCCT, saying that the two sides would not “allow any single issue to detract from our broader overall relationship.” The Associated Press reported.

China and the United States are each other's second-biggest trading partners, after the EU for China and Canada for the US. Bilateral trade in 2008 totalled more than US\$ 330 billion dollars, up from a mere US\$ 2.5 billion in 1979.

ICTSD reporting; “Auto imports from US under scanner,” CHINA DAILY, 30 October 2009; “Friction over auto exports in US-China trade talks,” THE ASSOCIATED PRESS, 29 October 2009.

Update from Barcelona: Climate Talks Face Uphill Battle to Copenhagen

African delegates walked out of meetings during United Nations climate change talks in Barcelona, Spain this week, claiming that developed countries were not making solid commitments to cut their emissions of climate-warming gases.

Meanwhile, on the other side of the Atlantic, a group of Republican lawmakers boycotted debates in the US Senate's Environment and Public Works Committee on a bill to lower greenhouse gas emissions. Such a bill would impose too heavy a cost on the nation's economy, the boycotting lawmakers said. Only one Republican senator was present at the Committee meeting, and he merely explained his colleagues' absence before leaving himself.

German Chancellor Angela Merkel, who urged a joint session of US Congress to take action on climate change, received a lukewarm response.

The lack of movement in the US Congress has reinforced developing countries' views that richer nations are not committed to doing enough to curb greenhouse gas emissions. “I don't think we can get to a result in the way we're going now,” said Kamel Djemouai, Algerian negotiator and chair of the Africa group. “The figures that are now on the table are grossly insufficient.”

The recent displays of protest in both Washington and Barcelona show the pressure building up to the upcoming Conference of the Parties to the UN Framework Convention on Climate Change in Copenhagen from 7 to 18 December, which are set to produce a new agreement that will ensure the United Nations Framework Convention on Climate Change gets fully implemented. The Convention contains consensual principles and commitments for developed and developing

countries, yet since it's ratification in 1992 very little has been done to fulfill those promises

So far in the negotiations, the US delegation has been reluctant to propose a limit for US greenhouse gas emissions, claiming they cannot propose specific figures until their draft national legislation has been approved by Congress. This has been a cause for concern among other delegations, who want Washington to take concrete action before the Copenhagen conference. "I do not think the international community will accept an agreement that lacks clarity from the US on targets," said Yvo de Boer, the secretary-general of UN Framework Convention on Climate Change (UNFCCC), according to media reports.

US President Barack Obama has repeatedly affirmed his commitment to the climate change agenda, despite Congress' hesitation. But Danish Climate and Energy Minister Connie Hedegaard has warned Obama that he should not come to the conference without a clear commitment. European Commission President José Manuel Barroso also showed concern over the slow progress in the negotiations, but urged officials to continue according to their original plan. "If you start to speak of Plan B in Copenhagen, you will probably end up with Plan F," he said.

ICTSD Reporting; "Climate talks face difficult road ahead of meeting," AP, 4 November 2009; "Barcelona climate talks turn up heat on US," EURACTIV, 4 November 2009.

US Senate Considers Two Key Trade Appointments

The United States Senate Finance Committee convened on Wednesday to consider the nominations of Michael Punke for the position of ambassador to the WTO, and Islam Siddiqui, who has been nominated to serve as Washington's chief agriculture negotiator.

The outcome of the hearing, which had yet to end as Bridges Weekly went to press, will likely be closely watched in Geneva. Many WTO delegates have blamed the US for the slow pace of the

Doha Round trade talks, saying that Washington has failed to show a strong commitment on trade. Since the September departure of Washington's previous WTO ambassador, Peter Allgeier, many officials have also complained about a lack of Geneva-based US personnel.

So far Punke's nomination has been supported by various agriculture groups and trade associations, such as the American Farm Bureau Federation, the Coalition of Service Industries, and the US Chamber of Commerce. In a letter dated 28 October, the supporters urged Finance Committee Chairman Max Baucus and Ranking Member Charles Grassley to confirm Punke's position, saying that they feel strongly that the ambassadorial post should not be left vacant at a time when US economic interests are on the line in the WTO's Doha Round trade talks.

"[Punke's] work on international trade and investment policy on Capitol Hill and in the White House, the Office of the US Trade Representative and the private sector has allowed him to hone his natural political skills, so that he can put his knowledge to work immediately – without the need for on-the-job training – for the benefit of all Americans," the letter explained.

Siddiqui's nomination has met with some controversy, as it has been opposed by many environmental and agriculture groups, including the National Family Farm Coalition, the Pesticide Action Network, and the Organic Consumers Association. In a statement on 27 October, these groups said they oppose Siddiqui's nomination due to his ties to CropLife America, a federation of major US-based agribusinesses including Monsanto, Dupont and Syngenta.

"Putting a CropLife official and former paid lobbyist in charge of US agricultural trade policy sends the worst kind of message to the world: that the United States continues to place the vested interests of our massive chemical pesticide/biotech industry ahead of concern for public health, the environment and the well-being of farm workers and communities around the world," said Marcia Ishii-Eiteman, senior scientist at Pesticide Action Network.

Siddiqui is, however, supported by a variety of food and agriculture groups as well. In a letter to Baucus and Grassley supporting his nomination on 21 October, groups like the National Milk Producers Federation and the National Council of Farmer cooperatives announced that they believe Siddiqui, who has served as a senior trade advisor to the Secretary of Agriculture, brings significant experience to the position.

“In order to achieve progress on the critical agricultural trade issues of concern to the undersigned companies and trade associations, we believe it is critical to fill this key position without delay, and we can think of no more capable individual than Isi Siddiqui,” the letter said.

ICTSD Reporting; “Finance Committee To Consider Punke, Siddiqui Nominations Next Week,” DAILY NEWS, 29 October 2009.

EU Issues New Report on IPR Enforcement outside Europe

Increased cooperation between the European Union and the developing world is strengthening intellectual property enforcement in poorer countries, according to a new report from the European Commission. While the protection of intellectual property rights (IPRs) still faces many challenges in these countries, there have been considerable improvements in enforcement, the report found.

Overall, though, the number of IPR infringements around the world is rising. The European Commission's report describes the areas in which both developing and developed countries are lacking in enforcement.

“This report clearly demonstrates that IPR enforcement should remain a key objective for EU trade policy, as it plays a vital role for the competitiveness of our industry and for the EU's economic growth and jobs,” said EU Trade Commissioner Catherine Ashton.

Out of the 18 countries considered to be of ‘priority’ to the EU for strengthening the protection and enforcement of intellectual

property rights (IPRs), Brussels considers China the most problematic. More than half of all of the goods that the EU confiscates for IPR infringement come from China, the report says. Recent improvements in China's enforcement systems do not outweigh the increase in IPR infringements within the country's borders, the Commission found. The report highlights the need for further improvements in the effectiveness of the Chinese judicial system in this area. China however, remains open to discussions with the European Union.

After China – the Commission's biggest concern – the report identified two other ‘priority groups’ for IPR enforcement. The second such group includes Indonesia, the Philippines, Thailand, and Turkey. Weak enforcement systems and a lack of political will hinder the protection of intellectual property rights in these countries, the report found, noting that such issues must be addressed at the local level.

The third priority group includes Argentina, Brazil, Canada, India, Israel, Korea, Malaysia, Russia, Ukraine, the US and Vietnam. The situations in these countries vary because the group consists of both developed countries and countries in transition. Most of these countries have shown improvement in both enforcement and cooperation, the Commission concluded. But the report found that US, among others, has failed to strengthen its policies in these areas. The United States' continued failure to adhere to IP-related WTO dispute settlement decisions keeps it on the priority country list, the report said.

Although the report thoroughly discusses enforcement issues in countries listed, it only suggests cooperation and debate to further the EU's mission on IPR enforcement and provides no specific recommendations as to how those countries might get off of its priority list.

More information

The report is available at <http://trade.ec.europa.eu/doclib/press/index.cfm?id=470>.

ICTSD reporting.

WTO IN BRIEF

EU, US, Mexico Request WTO Panel on Chinese Export Restrictions

The EU, the US, and Mexico have requested the creation of a WTO panel to rule on the legality of a range of Chinese export restrictions on several raw materials used in manufacturing.

The restrictions cover inputs for the steel, chemical, and aluminium industries, including yellow phosphorous, bauxite, coke, fluorspar, magnesium, manganese, silicon metal, silicon carbide and zinc. China is the world's principal source for some of those materials.

After months, if not years, of complaining that China's quotas, export taxes, and minimum export prices violated its international legal commitments and created an unfair advantage for local industry, the US and the EU took the first step towards launching a WTO dispute in June, when they formally requested consultations on the matter with Beijing (see BRIDGES Weekly, 24 June 2009, <http://ictsd.net/i/news/bridgesweekly/49477/>). Mexico followed suit in August.

The consultations failed to resolve the matter, leading to the requests for a panel on 4 November.

"China's restrictions on raw materials continue to distort competition and increase global prices, making conditions for our companies even more difficult in this economic climate," said EU Trade Commissioner Catherine Ashton. "I regret that the formal consultation process and significant EU engagement on this issue has not led to an amicable solution which would have been our preferred course of action."

Debbie Mesloh, a spokesperson for the US trade representative's office, expressed similar sentiments, claiming that China's measures "provide preferential conditions for Chinese industries that use these raw materials." She stressed that Washington "remain[ed] open to

working with China to find a mutually agreeable solution to our concerns."

Specifically, Brussels is targeting Beijing's export duties of varying levels on bauxite, coke, fluorspar, magnesium, manganese, silicon, and zinc. It is also challenging the legality of various rules for companies seeking to export raw materials. To take three examples: exporters are required to pay fees and meet minimum export prices, domestic companies are subject to different criteria from foreign-invested enterprises, and the right to export is contingent on having done so previously. The US' case is substantively identical.

WTO rules prohibit export quotas, except temporarily under certain circumstances. But they place few limits on the use of export taxes, so long as they apply equally for all export markets (GATT Article XI). However, when China joined the global trade body in December 2001, it promised to do away with "all taxes and charges applied to exports" on all but 84 products (defined at the 8-digit HS level). According to the US and the EU, the products they are targeting are not among those 84 exceptions, which are outlined in China's accession agreements. The far-reaching commitments countries make when they join the WTO are enforceable under the global trade body's dispute settlement system.

The US trade representative's office also noted on Wednesday that other WTO rules specify that trade-related regulations must be administered in a non-discriminatory manner (GATT Article X), and that associated fees – distinct from export tariffs – should simply offset the cost of services rendered (GATT Article VIII).

At time of writing, Chinese officials could not be contacted to respond to the panel requests. In June, however, the Chinese commerce ministry defended the export restrictions, saying that they were WTO-compliant and necessary to protect China's environment and natural resources.

The WTO Dispute Settlement Body is scheduled to consider the panel requests on 19 November.

ICTSD reporting.

Canada Launches WTO Complaint over EU Seal Ban

Canada has formally requested WTO consultations with the EU over Brussels' controversial ban on imports of seal products, which is scheduled come into force in August 2010. Stockwell Day, Canada's trade minister, announced the move in a 2 November statement following the publication of the seal ban in the Official Journal of the European Union – the final phase of the EU's law-making process.

The EU ban is designed to block trade in seal products from commercial sealing operations – such as those in Canada – which they say is “inherently cruel” and “inhumane.”

But Canada has long argued that such a perception of the hunt is not based on proven scientific data – a key requirement for such a ban under WTO rules. “The Canadian seal hunt is a legitimate economic pursuit, and the EU's decision to ban the importation of seal products is based neither on science nor on facts,” Day said in the statement. “We believe that this is a violation of the EU's trade obligations.”

Canada has accused the EU of bowing to pressure from interest groups that they say are using misleading information to close the industry. “Our government will continue to counter the misinformation campaign by the anti-seal hunt lobby groups, and we will continue to defend the interests and livelihoods of Canadian sealers,” said Gail Shea, Canada's Minister of Fisheries and Oceans.

But critics of the Canadian sealing industry say it is the Canadian government that is being pressured by lobby groups to help buoy an “insignificant” industry. “Canadian politicians seem to have no problem spending C\$ 10 million in tax payer dollars in a desperate attempt to save a dying C\$ 1 million industry,” said Sheryl Fink, Senior Researcher with International Fund for Animal Welfare (IFAW), a US-based anti-sealing organisation.

Exact numbers on the size and profitability of the commercial seal hunt have been a point of

contention between the sealing industry and its critics.

IFAW says the majority of Canadians disapprove of the government's move to challenge the EU ban at the WTO. The group also says that even if Canada is successful in its bid to overturn the ban, two-thirds of Canadians believe the commercial seal hunt has no future.

The EU ban provides an exemption for seal products harvested by indigenous peoples, but only if the products are traded “as part of a non-commercial exchanges between Inuit communities for cultural, educational or ceremonial purposes.”

Chuck Strahl, Canada's Minister of Indian Affairs and Northern Development, argued that the exemption fails to address the concerns of Canada's indigenous communities. “Inuit groups have told us that this will do nothing to protect their access to European markets, and past experiences with such exemptions have shown us that they are not effective,” Strahl said.

The 2 November request for consultations is linked to an existing dispute launched by Canada over national bans in Belgium and the Netherlands on seal products (see Bridges Trade BioRes, 5 October 2007, <http://ictsd.net/i/news/biores/9132/>). The issue over the national bans has not yet been resolved, but Canada says it hopes all issues related to seal bans in Europe will be settled through the new consultations.

By requesting consultations at the WTO's Dispute Settlement Body, Canada has initiated bilateral consultations on the matter. If talks fail to produce a resolution after 60 days, Ottawa will have the right to launch an official appeal, asking the international trade court to rule on the issue.

Canada is the largest seal product producer in the world. One third of its seal products go to the EU market.

ICTSD Reporting; “Canada Takes WTO Action Vs EU's Seal Pds Ban,” THE WALL STREET JOURNAL, 2 November 2009; “Canada Files WTO Complaint Over EU Seal Product Ban,” BLOOMBERG, 2 November 2009.

EVENTS & RESOURCES

Events

Coming up this week: 5-11 November

4-5 November, Paris, France. OECD GLOBAL FORUM ON ENVIRONMENT ON ECO-INNOVATION. Most OECD countries consider eco-innovation to be an important part of the response to contemporary challenges, including climate change and energy security. In addition, many countries think 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 and return it by email to 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

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 or by fax at +41 (0)22 807 17 41.

9 November, Cape Town, South Africa. PROMOTING DIALOGUE ON TRADE REFORM IN SOUTH AFRICA. The South African Trade Policy Review draft document calls for a strategic review of tariffs to support industrial development. In the document, the Department of Trade and Industry argues that the trade liberalisation that began in the 1990s has not been able to transform South Africa's production and exports away from resources; hence, it asserts the need to subordinate trade policy to the National Industrial Policy Framework in order to promote such diversification. Clearly tariffs are an instrument of industrial policy, and therefore a strategic approach to managing them seems

sensible. However, unless the process is conducted transparently, there is a risk it may be captured by strong lobbies or 'rent seekers'. Moreover, the Department of Trade and Industry's Trade Policy Review document does not indicate when protection, if instituted, would be withdrawn nor how the intended benefits would be monitored. Therefore, in order to promote transparency, this public forum will attempt to assess South Africa's tariff review process and the associated methodology undertaken for tariff investigations. The forum will also assess the efficacy of using subsidies to support targeted industries, their WTO legality, the scope for SA to pursue them, and the likely form they could take. For more information, contact Sheila Kiratu at sheila.kiratu@saiia.org.za.

WTO Events

An updated list of forthcoming WTO meetings is posted at 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.

4-6 November: TRADE POLICY REVIEW BODY - SOUTHERN AFRICAN CUSTOMS UNION (SACU)

5 November: COUNCIL FOR TRADE IN SERVICES

5 November: SUB-COMMITTEE ON LEAST-DEVELOPED COUNTRIES

5 November: COMMITTEE ON BUDGET, FINANCE AND ADMINISTRATION

5-6 November: COMMITTEE ON TECHNICAL BARRIERS TO TRADE

6 November: COMMITTEE ON SPECIFIC COMMITMENTS

9 November: COMMITTEE ON TRADE IN FINANCIAL SERVICES

10 November: WORKING PARTY ON GATS RULES

Other Upcoming Events

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 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>

19 November, Washington, DC, USA. THE DOHA ROUND: CAN WE GET TO YES? Throughout eight years of on-again, off-again, sometimes painful negotiations, a familiar refrain has been heard from trade ministers worldwide—that they “remain committed to the Doha Round.” How much has been accomplished thus far, and how did we get where we are today? Beyond the political rhetoric, what concrete steps could negotiators take to reach an agreement by the end of 2010? How has the political landscape influenced negotiations? If an agreement cannot be reached, what would that mean for the WTO and its member nations, particularly the least developed countries that this round was supposed to help? A panel of critics and former negotiators will ponder the future of the Doha Round of Negotiations. Registration is open until 18 November 2009. The event is organised by the Washington International Trade Association. For more information, visit <http://www.wita.org/ht/display/EventDetails/i/38066/pid/317>.

24-25 November, Berlin, Germany. 4TH INTERNATIONAL RENEWABLE ENERGY STORAGE CONFERENCE. The IRES 2009 presents new perspectives, the state of technology and especially the resulting energy storage applications that open up ground breaking opportunities for the dynamic exploitation of electricity and heat from renewable sources. Besides the technological and scientific questions regarding an integrated regenerative energy system IRES will also highlight the necessary political framework for the market penetration of renewable energy and the support schemes for energy storage technologies. The IRES conference series brings together stakeholders from the regenerative and conventional energy industries, from R&D and politics. It acts as a stimulus for their strategies to enhance the entry of renewable energy. The conference programme is available

online at http://www.eurosolar.de/en/index.php?option=com_content&task=view&id=362&Itemid=105

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

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

Resources

THE DOHA ROUND: “DEATH-DEFYING AGENDA” OR “DON’T DO IT AGAIN?” By Stuart Harbinson. European Centre for International Political Economy, 2009. Almost eight years after the launch of the Doha Round, the WTO negotiations remain mired in a swamp of detail, with many participants unwilling or unable to make the hard decisions which would bring the Round to a conclusion. Meanwhile, the world has changed dramatically with the onset of a global economic crisis of proportions seldom, if

ever, seen before. This paper examines the origins of the Round and concludes that at the time, its launch was well-founded. It traces the negotiations since then and finds that while progress has been incremental, it has also been painfully slow. Decisive action has been avoided. The paper addresses three issues: whether, in current economic circumstances and given the long but inconclusive history of the negotiations, it is important to complete the Doha Round and how this could be achieved; whether there are alternative approaches to WTO negotiations that could be explored for the future; and what a future negotiating agenda might look like. It concludes with some reflections on the prospects for the WTO at the present juncture in its short history. To access this publication, visit <http://www.ecipe.org/the-doha-round-a-death-defying-act/PDF>

RETHINKING FOREIGN INVESTMENT FOR SUSTAINABLE DEVELOPMENT: LESSONS FROM LATIN AMERICA. Edited by Kevin P. Gallagher and Daniel Chudnovsky. Anthem Press, 2009. This book consists of a series of essays critiquing foreign direct investment in Latin America. After almost 25 years of experimenting with the neo-liberal economic reforms collectively known as “Washington Consensus” policies, Latin Americans are starting to re-assess the merits of these policies – at the voting booth. Many newly elected governments are beginning to scrutinise the role of foreign direct investment (FDI) in particular, and some nations have gone so far as to nationalise foreign firms. Without endorsing or condoning the actions taken by these governments, this volume demonstrates that it is quite rational for governments in the region to re-evaluate the role of FDI for their development paths. For more information on this resource, please visit <http://www.ase.tufts.edu/gdae/Pubs/rp/RethinkForInv.html>.