



# Bridges Weekly Trade News Digest

*Weekly trade news from a sustainable development perspective*

Volume 16 · Number 19, 16 May 2012

## LEAD STORIES

WTO Appellate Body: US “Dolphin-Safe” Label  
Discriminates Against Mexican Tuna ..... 1

## OTHER NEWS

Renewable Energy WTO Dispute Moves into  
Home Stretch ..... 3

With Year-End Goal in Mind, Trans-Pacific  
Trade Talks Continue in Dallas ..... 4

EU Farm Policy: ‘Greening’ Measures, Export  
Subsidies Under Fire ..... 5

Durban Dust Settles as Climate Negotiations  
Kick Off in Bonn ..... 8

De Gucht: Brussels Eyes Mid-2014 Trade Pact  
with Washington ..... 10

Development Agenda Sparks Renewed  
Controversy at WIPO Ctte ..... 12

## IN BRIEF

China, Japan, South Korea to Launch Trade Talks  
..... 14

UN Adopts Guidelines on Large Land  
Investments ..... 15

EU: Ten Chinese, Indian Airlines Fail to Submit  
Emissions Data ..... 16

## EVENTS & RESOURCES

Vacancy ..... 18

Events ..... 18

Resources ..... 19

Bridges Weekly Trade News Digest© is published by the International Centre for Trade and Sustainable Development (ICTSD), an independent, not-for-profit organisation based at Ch. de Balxert 7, 1219 Geneva, Switzerland, tel: +41 (0) 22-917-8492; fax: 917-8093. To subscribe to Bridges Weekly Trade News Digest or access back issues, visit the [homepage](http://www.bridgesweekly.org).

Bridges Weekly Trade News Digest is made possible through the generous support of the UK Department for International Development (DFID), the Swedish International Development Cooperation Agency (SIDA), the Netherlands Directorate-General of Development Cooperation (DGIS); the Ministry of Foreign Affairs of Denmark, Danida; the Ministry for Foreign Affairs of Finland; the Ministry of Foreign Affairs of Norway; AusAID; and Oxfam Novib.

Copyright ICTSD, 2012. Readers are encouraged to quote and reproduce this material for educational, non-profit purposes, provided the source is acknowledged. This work is licensed under the Creative Commons Attribution-NonCommercial-No-Derivative Works 3.0 License.

Your support to BRIDGES and the BRIDGES series of publications is most welcome; if interested, please contact [Andrew Crosby](mailto:Andrew.Crosby@ictsd.org), Managing Director at (+41) 22 917 8335.

Contributors to this issue are Andrew Aziz, Sofia Alicia Balaño, Jonathan Hepburn, Alessandro Marongiu, George Riddell, David Tan, and Marie Wilke. This edition of Bridges Weekly Trade News Digest is edited by Sofia Alicia Balaño.

The Publisher and Director is Ricardo Meléndez-Ortiz. The Editor in Chief is Andrew Crosby. Comments and suggestions are welcomed and should be directed to the [editor](mailto:editor@bridgesweekly.org) or the [director](mailto:director@bridgesweekly.org).

ISSN 1563-0

## LEAD STORIES

### WTO Appellate Body: US “Dolphin-Safe” Label Discriminates Against Mexican Tuna

The WTO’s highest court ruled on Wednesday 16 May that the US “dolphin-safe” label violates WTO law, marking another step in a decade-old dispute between the US and Mexico ([DS381](#)). Notable is the landmark finding that a non-binding label can be a prohibited technical regulation – a point that could have ramifications for consumer labels addressing anything from organic food to fair trade.

#### US dolphin-safe labelling practices under scrutiny

While the three judges sided with a previous WTO panel in their overall conclusion that the US label is inconsistent with the WTO’s Agreement on Technical Barriers to Trade (TBT), they overruled the earlier report on important points. Both parties had appealed the September 2011 panel ruling, challenging certain issues of law and legal interpretation by the panel. (See Bridges Weekly, [25 January 2012](#))

According to the three Appellate Body judges, the label discriminates against Mexican tuna by banning a fishing practice known as “purse-seine” nets – encircling nets that temporarily set on dolphins to attract the tuna that swim below – which are used almost exclusively by Mexican fisheries. In other parts of the world, purse-seine nets are of no use, as tuna and dolphin swarms only swim together in the Eastern Pacific. In effect, this means that the majority of Mexican tuna is not eligible for “dolphin-safe” labels, even where independent veterinarians certify that no dolphins were killed or injured during the specific catch.

Mexico's tuna fleet continues to use purse-seine nets, but is nonetheless compliant with international standards – most notably the Agreement on the International Dolphin Conservation Program (AIDCP). Mexico, the US, and others had negotiated the AIDCP in response to an earlier international trade dispute between the countries over a similar issue.

Unlike the previous panel, the Appellate Body sided with Mexico in finding that the differential treatment affects Mexico's export competitiveness. The judges further denied Washington's claim that the differential treatment was exclusively due to a legitimate regulatory requirement.

In relying heavily on the panel's earlier assessment of marine science, the Appellate Body came to the conclusion that there is no regulatory justification for the label to ban exclusively purse-seine nets and no other fishing practices. In fact, the Appellate Body found that the existing requirements of the US dolphin-safe label are insufficient to address dolphins harmed outside the Eastern Pacific by countries using other fishing techniques.

"The measure at issue does not address adverse effects on dolphins resulting from the use of fishing methods predominantly employed by fishing fleets supplying the United States' and other countries' tuna producers," the judges said in their finding.

While the court ruling only requires the US to bring its labelling practice into compliance, without specifying the conditions, the legal assessment makes clear that cosmetic changes will not be sufficient. Ultimately, the measure will have to apply in an even-handed manner to all fishing techniques and regions.

"Risks to dolphins resulting from fishing methods other than setting on dolphins could only be monitored by imposing a different substantive requirement, i.e. that no dolphins were killed or seriously injured in the sets in which the tuna was caught," the judges said.

However, Mexico failed to convince the court that the AIDCP qualified as an international standard

and thus appropriate benchmark. The TBT Agreement mandates that, where relevant international standards exist, technical regulations must adopt their design. In overruling the panel, the Appellate Body disagreed that the AIDCP was an international standard, criticising that its membership is only open to non-member countries upon invitation.

### **Labelling policy "mandatory", though no import pre-condition**

Of greater systemic importance is the Appellate Body's general finding that the measure at issue – the US label, which also does not permit labels that deploy another standard – is a mandatory technical regulation and thus subject to the TBT Agreement. The US had disputed this position, pointing to the fact that eligibility for the label was not an importation or marketing requirement. Instead, Washington maintained, the importance of the label was exclusively the result of consumer preference.

In siding with the panel experts, the judges criticised the US measure for establishing a single and legally mandated definition of the term "dolphin-safe", whatever context it may be used in. "In doing so, the US measure prescribes in a broad and exhaustive manner the conditions that apply for making any assertion on a tuna product as to its 'dolphin-safety', regardless of the manner in which that statement is made," the ruling concludes, referring to the question of whether the measure is mandatory and voluntary.

The ramifications of this finding for other labels are yet to be seen. But experts immediately point to the dispute of what the term "organic" means and whether organic can include genetically-modified organisms. With another label dispute in the pipeline – an Appellate Body decision in the COOL dispute is set to be released this summer – this year is set to enlighten the critical relationship of trade, market access, and labels.

Further analysis on the *US-Tuna II* Appellate Body ruling will be made available in next week's Bridges.

ICTSD reporting.

## OTHER NEWS

### Renewable Energy WTO Dispute Moves into Home Stretch

The degree to which countries can help support their burgeoning renewable energy sectors was again the subject of debate at the WTO this week, with Canada defending itself at a second dispute settlement hearing. Japan and the EU have brought two separate cases – [DS412](#) and [DS426](#), which are being heard together – against Canada over local content requirements in the province of Ontario’s feed-in tariff scheme.

Positions by the parties have not deviated significantly since the panel’s first hearing in March (see Bridges Weekly, [28 March 2012](#)). The opposing sides remain focused on whether the feed-in tariff scheme should be considered legitimate government procurement or an illegal subsidy. Oral statements, delivered on 15 May, delved into the details of the two positions, with each party expressing concern that arguments had not been advanced further.

There are two central questions that the panel is looking at to determine whether the scheme should be considered government procurement – and thus justified under WTO law. First, is the Ontario Power Authority (OPA) actually purchasing a good when it acquires energy from wind farms involved in the FIT scheme, or does it operate more as a fund or price support? Second, what criteria or benchmarks should be used to determine whether the purchase price by the OPA is above market value and thus confers a benefit?

On the issue of benchmarking, Japan and the EU argue that the benchmark should be determined by the Hourly Ontario Energy Price (HOEP) – essentially the price consumers pay at the meter. They argue that because the price the OPA pays is significantly higher than the HOEP, the scheme is clearly a subsidy.

The Canadian delegation, however, insists that consumer prices do not reflect market standards for renewable energy, as the HOEP applies for

“comingled or blended electricity” from different sources such as hydro, nuclear, solar, etc., which come with different production costs and characteristics.

“The final amount paid by the end-user ... is reflective of the supply mix,” the Canadian delegation argued. But the “differences in costs and inherent attributes are reflected in the different regulated and contractual rates paid to each type of generation by Ontario.”

“The different forms of energy do not compete with each other in Canada,” Canadian representative Raahool Watchmaker clarified.

Dispute panel member Alec Erwin (South Africa) notably questioned the EU and Japan as to how their respective markets operate to determine benchmarks and pricing, acknowledging that renewable energy sectors have not been flourishing in an unsupported marketplace. Both the EU and Japan were not immediately able to respond, but agreed to submit a response in writing.

Generally, the panel members focused heavily on the substantial and legal facts that could inform the decision on whether the FIT measure is government procurement or subsidisation. To some observers this came as a surprise, as many experts have argued that Canada fights an already lost battle, with the local content requirement being a clear violation of WTO law.

#### NGO submissions

On the sidelines of the formal meeting, two citizen groups drew attention to the climate change issues at stake by filing two *amicus curiae* submissions – unsolicited comments from non-governmental groups that mean to inform proceedings but that have no particular legal standing.

The first submission, sent by a coalition composed primarily of Canadian trade unions, focuses on the value of the Kyoto Protocol as a justification for Ontario’s approach.

“Ontario’s FIT program is a perfect expression of the principles of sustainable development in which

environmental and economic goals are married to address the imperatives of climate change,” the amicus brief finds. “In accordance with its obligations under [the UN Framework Convention on Climate Change] and the Kyoto Protocol, Ontario is not only seeking to increase the consumption of renewable energy but to facilitate the development of renewable energy infrastructure in Ontario.”

While Canada made headlines last December by announcing that it was withdrawing itself from Kyoto, many domestic environmental groups continue to push for the country to re-engage.

The second submission – compiled by a group of three environment-focused non-governmental organisations – takes a similar approach when arguing in favour of recognising environmental protection objectives as exceptions to the WTO’s subsidy rules.

“One of the most important routes for [climate change] action is via fiscal and regulatory policy that internalises environmental costs,” the submission reads. “However, the scale of the climate change problem dictates that this will not be sufficient; government support for early stage commercialisation of mitigation technologies [...] will also be necessary in some sectors.”

It is not clear whether the submissions will be considered by the dispute panel, but Chair of the panel Thomas Cottier (Switzerland) said that he would like them distributed to the parties. Japan and the EU both objected to inclusion of new arguments at such a late stage in the process, but acknowledged that the final decision was up to the panel.

The panel report is currently expected for September of this year.

ICTSD reporting.

---

## With Year-End Goal in Mind, Trans-Pacific Trade Talks Continue in Dallas

Negotiations on the proposed Trans-Pacific Partnership are in full swing in the US state of Texas this week, with trade observers watching attentively to see if the nine current members might inch closer toward clinching a deal in time to meet their current year-end goal. This round of talks is set to end on Friday 18 May.

The proposed trade pact – billed a “21<sup>st</sup> century” deal by its proponents – currently counts Australia, Brunei, Chile, Singapore, New Zealand, Malaysia, Peru, the US, and Vietnam as members.

The administration of US President Barack Obama has made the accord one of the centrepieces of its trade agenda, with the White House hoping that negotiators can clinch a deal by the end of 2012. However, that goal has been questioned as overly optimistic by some observers.

“The chances of this getting done by the end of the year are very slim,” Washington-based trade lawyer Scott Lincicome commented to Bridges, noting that negotiators are still far from agreement in various areas.

However, trade officials say that the year-end goal might still be within reach. “I am still encouraged by how faithfully and diligently [negotiators] are working and taking seriously the challenge of our leaders to see if we can’t wrap it up this year,” US Trade Representative (USTR) Ron Kirk affirmed in an interview with Dow Jones Newswires on Friday.

The proposed pact aims to slash tariffs and other barriers to goods and services trade and investment; the goods covered will represent some 11,000 tariff lines. Negotiators also plan to incorporate into the pact issues involving regulatory coherence; competitiveness and business facilitation; small- and medium-sized enterprises; and economic development and governance, according to an outline released in November.

### Small and medium-sized enterprises resolved; other issues remain contentious

The negotiating group for small and medium-sized enterprises is said to have finished its discussions, according to the Office of the USTR, and will not have to meet in subsequent rounds. Topics under review during the ten-day talks in Dallas, Texas reportedly include e-commerce, textiles, intellectual property, and health measures, among others.

Reports emerging from the talks indicate that disagreements persist among negotiators in the traditionally difficult areas of intellectual property rights and state-owned enterprises, among others. Many TPP countries, including Vietnam, have various state-owned enterprises; the US, for its part, has been pushing for the pact to include rules on such companies.

“We’re now in the really tough issues, in which a lot of countries have got to make some tough calls,” Kirk said on Friday.

Trade ministers from the Asia-Pacific Economic Cooperation (APEC) countries, a grouping that includes all nine TPP members and 13 others, are set to meet in Kazan, Russia next month. Trade ministers of the TPP countries are expected to meet on the sidelines of the Kazan discussions to evaluate progress on the proposed accord.

Canada, Japan, and Mexico have also expressed interest in joining the nine-country negotiations; however, while negotiators from Ottawa, Tokyo, and Mexico City have met with their TPP counterparts in recent months, whether or not the three countries will gain entry to the talks before the deal is concluded remains uncertain. (See Bridges Weekly, 2 May 2012)

However, the three prospective members do still have a chance of being granted entry, a senior US negotiator told Bloomberg on the sidelines of this week’s discussions, though they will not be able to change any parts of the deal that have already been agreed.

### Transparency questions reiterated

The level of transparency of the trade talks has long been a point of contention surrounding the negotiations, with advocacy groups calling for a more open negotiating process. Similar concerns were raised again during this current round of talks, with a group of law professors sending a letter to the US Trade Representative criticising the “functional and theoretical impact of the lack of transparency in the TPP and other trade negotiations.”

In an interview with Reuters on Friday, Kirk said that Washington is indeed making its best effort to be transparent with the trade talks, while conceding that some level of secrecy is necessary.

“I believe... that we have very faithfully operated within the spirit of the Obama administration to have the most engaged and transparent process as we possibly could,” Kirk said.

“But there’s a practical reason, for our ability both to preserve negotiating strength and to encourage our partners to be willing to put issues on the table they may not otherwise, that we have to preserve some measure of discretion and confidentiality,” he added.

ICTSD reporting; “Japan Still Has Chance to Join Pacific Trade Deal, Says U.S.,” BLOOMBERG, 13 May 2012; “Some secrecy needed in trade talks: Ron Kirk,” REUTERS, 13 May 2012; “US Kirk: Encouraged By Progress On Year-End Goal To Conclude Pacific Trade Talks,” WALL STREET JOURNAL, 11 May 2012

---

### EU Farm Policy: ‘Greening’ Measures, Export Subsidies Under Fire

EU agriculture ministers meeting yesterday in Brussels roundly criticised proposals from the European Commission that would condition farm subsidies on new ‘greening’ measures from 2014 onwards, in a setback for environmental groups that have called for farm support to be refocused on delivering public goods.

Meanwhile, the rapporteur on the European Parliament's development committee has proposed that the bloc's controversial export refunds be phased out by 2017, a suggestion now being reviewed by other parliamentarians on the committee ahead of a deadline for amendments in two weeks time. The proposal runs counter to the Commission's insistence that no date should be set for ending the subsidies in the absence of a broader deal with trading partners – such as the accord foreseen under the WTO's Doha talks.

Under 'co-decision' rules set out in the bloc's Lisbon Treaty, the European Parliament and farm ministers in the European Council are required to reach an agreement on the reform proposals tabled last October by the European Commission – prompting intricate political manoeuvring as various constituencies try to pursue different goals. (See Bridges Weekly, [12 October 2011](#))

"Member states are trying to stitch up deals between each other," one Brussels-based source told Bridges.

### Greening: "menu approach"?

Farm ministers argued that a "menu approach" that would allow EU member states to pick and choose between options would be preferable to the greening measures outlined by the Commission in October.

The Commission had initially outlined plans to introduce a new 'green' payment that would depend on farmers diversifying their crops, maintaining permanent grassland, and setting aside seven percent of arable land as 'ecological focus areas.'

Several member states argued that the proposed criteria in all three areas should be made more flexible, with a number arguing that various types of farming should be considered 'green by definition.' The Commission had originally proposed that organic farming alone should be classed in this way.

A [working document](#) prepared by Luxembourg at the end of April foreshadowed many of the arguments raised by ministers in yesterday's meeting – also proposing an 'à la carte' approach

to greening measures that farmers could adopt, and broadening the definition of farmers that would be considered 'green by definition.'

The environmental group Birdlife International was strongly critical of the draft. "If such a deal goes through, it would signal the end of any legitimacy of EU direct payments to farmers," Ariel Brunner, head of EU policy at the organisation, said in a [statement](#).

### New loopholes

In remarks to Bridges, one government official who had been involved in the discussions acknowledged that environmentalist groups may be right to fear that the countries supporting the Luxembourg proposal could open up loopholes in new subsidy rules that would be hard to close.

"Those worries are well placed," the source admitted.

On Friday, the Commission responded to the Luxembourg working document by circulating a confidential '[concept note](#)' indicating that some elements of the original proposal could be made more flexible.

Farmers and others taking part in agro-environment schemes could be considered as fulfilling the greening requirements, the Commission suggested in the note. At the same time, additional flexibility could be introduced to the proposals on the maintenance of permanent grassland and crop diversification.

### Commission "gives no ground"

At the same time, the Commission "gave no ground" on the push to establish a 'menu' of options which member states could choose between, one government source told Bridges.

"The strength of the three proposed greening measures lies in the fact that they are compulsory for almost all farmers, apply to the entire relevant area of their holding, and ensure a level-playing field in the Union," the note says.

Countries espousing a menu approach included Finland, Hungary, Lithuania, Slovenia, and the



UK, sources said – although some also argued that more discussion over how best to pursue ‘greening’ was needed.

“Member states should be taking stronger environmental measures, rather than working at forming a consensus behind closed doors that will sink the Commission’s proposal,” Tony Long, director of WWF’s European Policy Office, said in a [statement](#).

“The Council is intent on sacrificing the seven percent of Ecological Focus Areas, despite the best scientific advice,” he added.

Proposals for farmers to set aside seven percent of land as ecological focus areas – including land left fallow, terraces, landscape features, buffer strips, and afforested areas – have been criticised by a number of countries. Sources said that Hungary, Latvia, Sweden, Finland, Bulgaria, Italy, Greece, Ireland, Luxembourg, the Netherlands, and Spain were unhappy with the current plans.

### **Farm groups: Ministers’ views are “welcome”**

In contrast to environmentalists, farm groups expressed satisfaction to the direction of the debate. COPA-COGECA, the main lobby group for European farmers and cooperatives, said in a [statement](#) that the agriculture ministers’ views were “very much in-line with our demands.”

“We must ensure that measures to further green the CAP do not have a negative impact on farmers’ production capacity or costs,” Copa President Gerd Sonnleitner said. “And we must ensure that the greening measures are simple, practical, and fair.”

### **Export refunds: phasing out?**

Birgit Schieber-Jastram, the rapporteur for the European Parliament’s development committee, has tabled a set of four draft opinions intended to bring the Commission’s new proposals in line with goals on international development. The opinions are due to be presented to the parliament’s committee on agriculture and rural development on 18-19 June, along with other proposed amendments tabled by the environment committee rapporteur.

The rapporteur’s draft opinion on the Commission’s proposal on the common market organisation for farm products states that “export refunds should be phased out by 2017.” Export subsidies have been widely criticised by developing country governments as well as by aid groups, who argue that these measures undermine the production capacity of local farmers in poor countries.

Other clauses affecting trade with developing countries include those stating that “specific attention shall be paid to eliminating unnecessary obstacles to exports from developing countries, and communicating changes of particular interest to these countries in due time,” and provisions affirming that subsidised exports “should not jeopardise the food production capacity and long term food security of developing countries.”

The proposals were welcomed by European development agencies such as CONCORD. “It’s perfectly feasible to phase out export refunds,” said Laust Leth Gregersen, CONCORD Denmark’s Policy Officer, in remarks to Bridges. Agricultural export subsidies were “damaging developing countries, and costly to European taxpayers,” he said.

Academic experts have also questioned the logic of the European Commission’s position on linking agricultural export subsidies to a wider Doha deal. “Export subsidies are a very expensive and costly way to provide support to farmers regardless of the outcome of the Doha Round,” Professor Alan Matthews of Trinity College Dublin has argued in an online [commentary](#).

While the Commission’s original proposals would have provided scope for member states to continue providing some direct payments that are ‘coupled’ to production, and therefore more trade-distorting, Schieber-Jastram also tabled an amendment that would prevent governments from providing these payments after 2017.

Two further proposals relate to the functioning of the European Agricultural Fund for Rural Development and to the financing, management, and monitoring of the Common Agricultural Policy.

Parliamentarians in the development committee have until 29 May to make any amendments to the rapporteur's proposals before the opinions are presented to the agriculture committee in a month's time.

Video of the European Council public debate on agriculture is online [here](#).

ICTSD reporting.

---

## Durban Dust Settles as Climate Negotiations Kick Off in Bonn

*Editor's note: This curtainraiser was originally published in [Bridges Trade BioRes](#) on Monday 14 May, under the headline "Durban Dust Settles as Climate Negotiators Arrive in Bonn," and is included here for your reference.*

As climate change negotiators settle into their familiar roles at their first major meeting since COP 17 in Durban, South Africa, climate watchers will have their eyes fixed on the 14-25 May UNFCCC gathering in Bonn, Germany to see how the tenuous December deal – struck by sleep-deprived negotiators at the eleventh hour – is settling in six months on. With continued economic hardship among Annex I (developed) countries, this year's Bonn meeting will be a telling barometer for what to expect when parties meet in Doha this November for COP 18.

Trade issues continue to play a role in international climate change negotiations. Last December's Durban meet established a permanent forum on so-called "response measures," which deal with the social and economic impacts that countries could experience as a result of the policies and measures that other countries take to mitigate climate change. The issue has long been a hot topic for several countries, given the traditional fears over protectionism and possible future hardships faced by oil-producing countries as renewable energy initiatives ramp-up.

The Bonn mid-year sessions will host the first meetings of the permanent forum, which will be convened by the Chairs of the Subsidiary Bodies. The issue of response measures has been

particularly divisive between Annex I and non-Annex I (developing) countries, with several developed countries expressing concern that the concept could be used as a loophole for some developing countries to be less accountable for their emissions. The issue is expected to provoke intense debate as parties search for common ground.

The other major trade-related issue to emerge from Durban was the advancement of discussions on the operationalisation of the "Technology Mechanism," which will play a central role in the development of climate mitigating technology and manage the process of technology exchange from Annex I to non-Annex I countries. The Mechanism has been one of the few UNFCCC issues that have been noticeably active over the past six months, and that progress is expected to continue in Bonn.

### Response measures

The majority of agenda items for Bonn are expected to focus on establishing an agenda and the negotiating structures required to operationalise the Durban Platform discussions. But while the bulk of issues facing the forum will likely fall under this "structural" umbrella, sources close to the talks say the ambiguity of some language used in establishing the response measures forum could hold up progress.

According to the deal struck in Durban, the forum has been tasked with implementing the "Work Programme on the Impact of the Implementation of Response Measures," and consolidating all discussions related to response measures under the UNFCCC.

Sources say there are questions as to whether the Forum will address the structure and function of the Forum itself, or if it will also tackle other "related agenda items" – Kyoto Protocol [Articles 2.3 and 3.14](#); UNFCCC [Article 4, paragraphs 8 and 9](#); and UNFCCC [Decision 1/CP.10](#) – which have strong economic and trade implications. The Chairs are reportedly expecting to experience difficulty adopting the provisional agenda because Parties will likely disagree on what related items will be discussed under the Forum.



Already this year, the Chairs of the Subsidiary Bodies – the Subsidiary Body for Scientific and Technological Advice (SBSTA) and the Subsidiary Body for Implementation (SBI), who will be convening the Forum – contacted parties asking them for their views on how to conduct the first meeting.

The Chairs asked for input on how to make the meeting “efficient,” “informative,” and “productive” and posed a series of questions regarding the organisational structure of the meeting, agreement on the sequence of issues to be considered, the likelihood of scheduling 2012-2013 workshops, and the financial implications of the work programme. Several parties have reportedly responded to the questions.

The Forum is tentatively set to meet for four 90 minute sessions in Bonn on 17 May, 18 May, 19 May, and 21 May.

#### **Movement expected on Technology Mechanism**

Discussions aimed at operationalising the Technology Mechanism will likely see progress over the next two weeks. The goal of the Mechanism – which was agreed upon at COP 16 in Cancún and further fleshed out in Durban – is to enhance action for technology development and transfer in support of climate change mitigation and adaptation. The policy body of the Mechanism – the Technology Executive Committee (TEC) – is already in place and has met twice. However, the Climate Technology Centre and Network (CTCN), the operational arm of the Mechanism, has not yet been established.

Earlier this year, the UNFCCC Secretariat issued a call for applications for prospective hosts for the Climate Technology Centre (CTC), which will steer the Network. In April, three candidates were shortlisted by an evaluation panel comprised of TEC members: a consortium led by the UN Environment Programme (UNEP), the Global Environment Facility (GEF), and Norway's Det Norske Veritas. Six other proposals from organisations based in China, Costa Rica, Germany, India, Indonesia, and Iran did not make the short list. The panel report which outlines the decision is available [here](#).

The Subsidiary Body for Implementation (SBI) at Bonn is expected to consider the report of the evaluation panel and particularly discuss the selection of the host for the Centre and the constitution of its advisory board. It will then forward a recommendation to the COP in Doha, Qatar for final consideration, which according to the UNFCCC Secretariat, should make the Mechanism fully operational by 2013.

Meanwhile, the Executive Committee agreed on a rolling work plan which sets out its activities for the next two years at its meeting last February (See Bridges Trade BioRes, [7 March 2012](#)). The group's [next meeting](#) is scheduled for 28-29 May – immediately following the meetings of the subsidiary bodies. It will feature a thematic dialogue on enabling environments and barriers to technology development and transfer in which ICTSD, the publisher of Bridges, will participate.

#### **Common but not-so-differentiated responsibility?**

The traditional developed-developing country divide is nothing new for international climate change meetings. But many questions are up in the air over how the second phase of the Kyoto Protocol will unfold and how the newly-established Durban Platform will manage the complex issue of Common but Differentiated Responsibility (CBDR), whereby only Annex I countries have quantified emissions reduction obligations.

The notion that developed countries are responsible for the lion's share of the historical carbon emissions that were produced during their industrialisation process is a centrepiece of the Kyoto Protocol. But with increased emissions from industrial juggernauts like India and China – the latter of which is now the world's largest polluter – over the past two decades, many developed countries are insisting that the concept be re-defined.

Many developed countries have insisted that the participation of all major emitters is essential to any international climate regime. The United States never ratified Kyoto primarily because of the lack of binding commitments from industrial

developing countries and Canada, for its part, withdrew from the Protocol almost immediately after last year's COP.

Emerging economies, however, are not keen to move away from the advantageous position afforded to them through CBDR. Leaders of the BRICS countries – Brazil, Russia, India, China, and South Africa – earlier this year underscored the fact that they view the principle as central to moving forward on climate change negotiations.

“We welcome the significant outcomes of [COP 17] and are ready to work with the international community to implement its decisions in accordance with the principles of equity and common but differentiated responsibilities and respective capabilities,” the BRICS Summit Delhi Declaration reads.

The Durban Platform, however, makes no mention of CBDR, and negotiations in Bonn will likely give some indication as to how the issue will move forward.

### European financial woes

Traditionally the leader of developed country parties in making aggressive climate change commitments, the European Union is struggling with a range of complex internal issues, leading many observers to question whether these difficulties might soon prompt attitude changes from the 27-country bloc.

Brussels continues to face widespread opposition from both developed and developing countries to its controversial decision to include aviation under its Emissions Trading System (ETS), with India's environment minister notably calling the move a “deal breaker” for global climate talks.

Europe's commitment to the Green Climate Fund (GCF) – which aims to channel some US\$100 billion annually by 2020 to help developing countries cope with the effects of climate change – was also called into question earlier this month when officials meeting in Bonn failed to commit to financing beyond 2012.

Many developed countries have been criticised for their slow uptake on their GCF commitments and

for re-channelling official development aid into the fund. Oxfam, for its part, openly censured Brussels for the short-term commitment.

“At a critical moment in the fight against climate change, Europe looks to be sitting back rather than stepping up,” said Lies Craeynest, Oxfam's EU climate change expert.

Climate change negotiations have historically been influenced strongly by geopolitical and economic realities. In the wake of major political and economic shakeups across Europe, and with the US ramping up for a general election in November, most observers say to expect no more than the expected in Bonn.

ICTSD reporting.

---

## De Gucht: Brussels Eyes Mid-2014 Trade Pact with Washington

The US and EU should aim for a comprehensive trade agreement by mid-2014, the EU's trade chief said on Friday 11 May.

“Europe has several major partners, but our partnership with the United States is the one we take most seriously,” EU Trade Commissioner Karel De Gucht told an audience in Hamburg, Germany on Friday. He added that negotiations for such a deal should span a maximum of 18 months, starting in early 2013.

The EU trade chief outlined a series of areas where the two sides could potentially negotiate: tariff cuts across the board for both industrial and agricultural products; improved market access and a framework for better regulatory co-operation in the area of services; an ambitious deal on government procurement that would provide Brussels with exceptions from the Buy America Act; and a common platform for tackling regulatory issues with regards to both food and non-food products

An interim report on the potential scope for such a deal is expected in June; De Gucht and his Washington counterpart, US Trade Representative (USTR) Ron Kirk are scheduled to discuss the

results of the report with trade ministers from EU member states within the next few weeks, according to Andrea Mead, a USTR spokeswoman. A final report is expected by year's end.

The two sides have already clinched a deal allowing for the recognition of each others' "trusted traders" – a pact aimed at facilitating customs procedures between the two sides, with the goal of increasing bilateral trade and creating jobs. (See Bridges Weekly, 9 May 2012) The two sides also agreed to common principles on international investment earlier this month.

### **US, EU must avoid 'piecemeal approach', De Gucht says**

"It is my firm view that to be effective our objective needs to be both ambitious and realistic," the EU trade chief said. "Ambitious enough to include all areas of economic importance; and realistic enough to be successful within a limited period of time."

He added that this would only be possible via a comprehensive agreement on all of the issues involved, within the context of a single package.

"We all know that a more piecemeal approach will at best allow us to solve only the easy problems while the difficult ones – which have the greatest potential to generate jobs and growth – fall by the wayside," De Gucht cautioned. "At worst, a piecemeal approach could lead to deadlock before we even get off the ground."

"[A comprehensive approach] is the only way to ensure that sufficiently broad trade-offs can be found across the most difficult issues on both sides, thus unlocking the true potential for jobs and growth in the transatlantic marketplace," he added.

However, observers have cautioned that some areas, such as regulations, product standards, and health protections, could prove difficult to resolve if bilateral trade negotiations are indeed launched. Brussels and Washington "have been butting heads on these things for 20 years without a lot of progress," Bill Reinsch, president of the US'

National Foreign Trade Council, commented to Bloomberg.

USTR Kirk has also been more cautious in his comments regarding a potential trade pact, noting that a decision on next steps in the ongoing exploratory talks will depend on whether trade-related obstacles between the two sides can be resolved in a realistic time period.

"There may be red lines that, if they're going to keep us from getting there within a time frame that we can make a real difference, let's be honest enough to say that," Kirk told the Wall Street Journal.

He added that the US would also "prefer the most ambitious agreement possible."

A similar comprehensive approach has been tried by WTO members in the ongoing Doha Round of trade talks. The global trade body's membership has spent the last eleven years attempting to achieve agreement on all issues at stake in a single Doha package; the impasse in the multilateral talks, however, has led members to start exploring the possibility of concluding smaller packages in areas where agreement might be reached. Finding consensus on what those areas could be, however, has proved difficult.

### **Momentum building**

Brussels and Washington have often pushed for stronger trade ties in the past, only to run into setbacks. However, the prospect of a trans-Atlantic trade deal was raised again in November, when leaders from the two trading partners launched a High Working Group on Jobs and Growth with the goal of deepening bilateral trade and investment relations. (See Bridges Weekly, 30 November 2011)

The idea received further political backing at the annual World Economic Forum in Davos, Switzerland in January, when UK Prime Minister David Cameron called for Brussels to negotiate more bilateral deals in the absence of progress in the WTO's Doha Round, including examining the possibility of a US-EU pact. (See Bridges Weekly, 1 February 2012)

“Let’s look at all the options on the table for agreement between the EU and the US, where a deal could have a bigger impact than all of the other agreements put together,” Cameron said at the time, after urging for the completion of other bilateral trade negotiations between the EU and Canada, India, and Singapore.

The possibility of a Brussels-Washington pact was also referred to at Davos by German Chancellor Angel Merkel and USTR Kirk, both of whom made arguments for countries to pursue bilateral deals during the lull in multilateral negotiations.

ICTSD reporting; “EU Seeks U.S. Trade Agreement by Mid-2014, De Gucht Says,” BLOOMBERG, 11 May 2012; “UPDATE: EU’s Tajani: Hopeful Can Sign Trade Agreement With US By Early 2014,” WALL STREET JOURNAL, 11 May 2012.

---

## Development Agenda Sparks Renewed Controversy at WIPO Ctte

Members of the World Intellectual Property Organization (WIPO) found themselves once again at odds last week over how effectively the UN agency is implementing the Development Agenda (DA) [recommendations](#) that it adopted nearly five years ago.

The Committee on Development and Intellectual Property (CDIP) is tasked with monitoring the implementation of the 45 DA recommendations, which aim to mainstream development into the organisation’s work.

During the 7-11 May CDIP session, persistent divides over how to improve WIPO’s technical assistance activities and future work in relation to the public domain delayed agreement on a Chair’s summary until late Friday.

### No decision on follow-up to TA review

At the forefront of the committee’s work was how to advance discussions on the report of an external [review](#) of WIPO’s technical co-operation, which was called for by member states as part of the WIPO Development Agenda. The report lists

a series of recommendations aimed at improving the delivery of WIPO’s technical assistance and ensuring that it is more development-oriented. The review report was briefly considered by the Committee last year but substantive discussion was postponed until last week’s session (See Bridges Weekly, [23 November 2011](#)).

In line with a request from member states at the November 2011 Committee meeting that the WIPO Secretariat should prepare a management response, as called for in the review terms of reference, the WIPO Secretariat presented a [management response](#) to the review at last week’s meeting.

Further, in keeping with a joint US-EU request, the document includes an Annex that divides the review’s recommendations into three different clusters: recommendations that could be considered ‘redundant’ as they are “already reflected in WIPO activities or ongoing reform programs,” (cluster A); recommendations that “merit further consideration,” (cluster B); and recommendations that “raise concerns as to implementation” (cluster C).

Developed countries voiced a strong preference for basing discussions solely on cluster B, considering that “it would be unnecessary to review redundant recommendations,” such as those under cluster A.

The US, speaking on behalf of developed country bloc Group B, added that the call for a shift in WIPO “from an IP-centric to development-oriented organisation” – as identified in some cluster C recommendations – is problematic and contradicts the organisation’s mandate “to promote the protection of IP throughout the world.”

Developing countries, for their part, stressed that the clusters represented “an opinion of the Secretariat,” with Brazil specifically saying that “there are some recommendations in cluster A that would need further consideration.”

“There is no agreement in the membership on what is relevant and what is not,” Bolivia added.

Carolyn Deere Birkbeck, who co-authored the review together with Santiago Roca, added that she “would not put as many recommendations in the ‘redundant’ category,” as several of the recommendations considered ‘redundant’ under cluster A remained pertinent in her view.

She added that, while the Secretariat has taken some ‘positive steps’ to address some of the technical assistance shortcomings highlighted in the review, there is still much to be done by the Secretariat to improve its management and coordination of assistance, which she noted ought to be of interest to all member states.

Moreover, she observed that shortcoming with regard to the ‘development orientation’ of WIPO technical assistance will require not only further actions by the Secretariat but also greater guidance from member states.

In light of these discussions, developing countries lent their support to a new [joint proposal](#) by the Development Agenda Group (DAG) and the African Group, which identifies 13 sets of concrete follow-up actions that build from the external review and management response.

These include the elaboration of ‘guidelines’ regarding future development-oriented assistance, and a request that the Secretariat prepare a ‘manual’ that details modalities and procedures for technical assistance delivery, including how, and for what activities, governments and stakeholders can acquire WIPO support.

Discussions on the follow-up to the technical assistance review will continue at the next CDIP session.

### DG report receives mixed response

Also during the week-long meeting, WIPO Director General Francis Gurry presented a [report](#) on the implementation of the DA recommendations, noting that “it is time to take stock of the progress that has been made.”

“Three years and a half ago there was just a set of mere recommendations. Today, there are projects initiated, concluded, and evaluated,” he said, referring to the 23 projects carried out by the

organisation that together cover 29 DA recommendations.

Several developing countries argued that, despite the progress made, the “third pillar” of the CDIP mandate – which says the Committee should serve as a forum for discussions on IP and development issues – has not been adequately implemented. One of the ways to achieve this, they said, is by inserting a standing agenda item on “IP and development,” a proposal made by Brazil in 2010 that has seen little movement to date (See Bridges Weekly [11 May 2011](#)).

The DAG and African Groups also commented on delays in the implementation of a co-ordination mechanism aimed at ensuring that all “relevant WIPO bodies” report annually on their efforts toward integrating the DA recommendations into their work. The mechanism was adopted in 2010 by the WIPO General Assembly.

“General opposition to implementing the Development Agenda co-ordination mechanism when it comes to Programme and Budget Committee constitutes a non-comprehensive approach that undermines all those efforts,” the DAG said during the discussions.

### Public domain debate heats up

Discussions on IP and the public domain proved particularly divisive, especially regarding a [document](#) prepared by the Secretariat clarifying the scope of some recommendations contained in a [study](#) on copyright and related rights and the public domain.

Recommendation 16 of the DA calls upon WIPO to consider the preservation of the public domain within the UN agency’s normative processes, along with calling for deeper analysis of “the implications and benefits of a rich and accessible public domain.”

Several developing countries urged WIPO to continue its work on public domain, yet developed countries – such as the US, the EU, Norway and Switzerland – felt it was important to “know what we want to achieve before any further work can be conducted” in this area.

## Members find agreement on flexibilities, Burkina Faso project

Despite disagreements in the above-mentioned areas, the CDIP was able to find convergence on a few specific issues and projects in the context of DA implementation.

As in previous sessions, members highlighted the importance of addressing patent-related flexibilities at the CDIP without duplicating the work in other WIPO committees, specifically the Standing Committee on the Law of Patents.

At last week's meeting, the Secretariat was asked to prepare a document on this subject, which will focus on four flexibilities outlined in the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS): patentability of plants, patentability of software-related inventions, criminal sanctions in patent enforcement, and security exceptions to patent rights.

The Committee also agreed to launch a [project](#) proposed by Burkina Faso to strengthen and develop the audiovisual sector in the country and in other African member states – a decision that received wide support from developed and developing countries alike.

“This project is extremely interesting and it is exactly the kind of project that should inform the work of the CDIP. It promotes development through intellectual property,” the US said on behalf of Group B.

The WIPO General Assembly will discuss the work of the Committee in the fall.

ICTSD reporting.

## IN BRIEF

### China, Japan, South Korea to Launch Trade Talks

China, Japan, and South Korea have agreed to begin formal negotiations later this year for a three-way free trade deal, heads of state from the three East Asian economies announced on Sunday 13 May.

“Recognising that the establishment of an FTA ... would contribute to the economic growth and prosperity of the three countries, we hereby endorsed the recommendations from trade ministers that the trilateral FTA negotiation would be launched within this year,” Chinese Premier Wen Jiabao, South Korean President Lee Myung-bak, and Japanese Prime Minister Yoshihiko Noda said in a joint communiqué after the meet.

The three leaders highlighted the co-operation between their countries as a reason for the region's steady economic growth and accelerated economic integration, despite the ongoing global economic crisis; they further stressed that this co-operation would “facilitat[e] economic recovery and growth in the world.”

The proposed trade pact will “unleash the economic vitality” of East Asia, Chinese Premier Wen Jiabao said after the high-level gathering.

The proposed deal would bring together three markets that together constitute 19.7 percent of global GDP, according to Japanese government data. Trade between the three countries has already increased more than five-fold from US\$130 billion in 1999 to US\$690 billion in 2011, according to statistics from China's Ministry of Foreign Affairs.

A trilateral trade deal could increase China's GDP by up to 2.9 percent, Japan's by 0.5 percent, and South Korea's 3.1 percent, according to Chinese state-run news agency Xinhua; the news agency did not cite the source for these figures.

For his part, Noda commented to the Wall Street Journal that trilateral trade negotiations “are an



extremely important piece of his country's economic strategy."

"China is simply a huge market," the Japanese Prime Minister said. "That's all there is to it." Beijing is the largest trading partner of both Seoul and Tokyo.

The three countries also signed a trilateral investment agreement at their two-day summit, a step that is designed to facilitate a future trade pact.

### Other trade negotiations in the background

The announcement comes as Japan vies for entry into talks for another proposed trade pact – the nine-country Trans-Pacific Partnership (TPP) Agreement. Tokyo expressed an interest in joining the TPP negotiations in November; however, whether or not Japan will indeed be able to join the proposed pact is still unclear. (For more on the TPP negotiations, see related article, this issue.)

China and South Korea are not members of the trans-Pacific trade talks.

While some observers have questioned whether Japan's goals of entering the US-backed TPP talks while at the same time clinching a separate deal involving China are mutually compatible, Prime Minister Noda rebuffed those concerns.

"We will promote the TPP and trilateral FTA in parallel," he told reporters on Sunday, adding that the negotiations could be "mutually reinforcing to each other."

In a separate effort, Beijing and Seoul confirmed earlier this month that they will be launching negotiations for a bilateral FTA, following up an earlier pledge made by leaders from both sides in January of this year. (See Bridges Weekly, [11 January 2012](#))

ICTSD reporting; "China, Japan and S. Korea in free trade talks," FINANCIAL TIMES, 13 May 2012; "East Asian powers set to push trade pact talks," REUTERS, 12 May 2012; "China, Japan, Korea Agree to Trade Talks," WALL STREET JOURNAL, 14 May 2012; "Japan's Leader Turns

Trade Focus to China, South Korea," WALL STREET JOURNAL, 13 May 2012.

---

## UN Adopts Guidelines on Large Land Investments

Following three years of negotiations, members of the co-ordinating body for global food security efforts have agreed on a new set of voluntary [guidelines](#) aimed at bringing responsible governance to large-scale land acquisitions, which have become increasingly common as a result of the 2007-2008 food crisis.

The Rome-based Committee on World Food Security (CFS) announced the new guidelines on 11 May. The [Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security](#) seek to provide a basis by which to secure access to land, fisheries, and forests for vulnerable rural populations who have historical ties to the land they use, but who often have little legal standing.

The lack of formal documentation for local farmers, herders, and gatherers has, in the past, led to tensions between indigenous populations and the state, the latter of which officially owns the land.

The effort marks a "historic breakthrough," UN Food and Agriculture Organization (FAO) Director-General José Graziano da Silva said on Friday.

### Investment gains pitted against human rights concerns

The World Bank has [reported](#) a rapid increase in large scale land acquisitions in the aftermath of recent recurring surges in food prices. These overseas investments have often sought to secure export-oriented food supplies and biofuels, as well as ensuring access to other natural resources.

Proponents argue that big international deals bring much-needed investment and new technology that the region needs for development.

However, some human rights organisations have challenged this assumption by highlighting a number of high-profile cases in Africa, Asia, and Latin America where local populations have been removed from their ancestral lands to make way for large-scale foreign investors (see Bridges Weekly, [20 May 2009](#)). Several hundred civil society organizations, including aid groups Oxfam and ActionAid, signed onto the [Dakar Appeal Against the land grab](#) in 2011 calling for an enforcement of such rights.

Oxfam has pressed for the urgent implementation of the guidelines by nations, as it worries about “growing competition for natural resources and land grabbing continuing unchecked.”

The guidelines seek to address many of these concerns, stating that, “where transnational corporations are involved,” they have a responsibility “to ensure that businesses are not involved in abuse of human rights and legitimate tenure rights.”

### Caution urged

“These changes won’t happen overnight,” Ambassador Yaya Olaniran, the Nigerian Permanent Representative to FAO and current CFS Chair, cautioned upon the announcement of the guidelines. “But we also know, as a result of the extensive consultations by FAO and the CFS-led negotiation process, that there is a lot of buy-in and support for the guidelines.”

Critics have also noted that ensuring the implementation of the guidelines could be difficult, given their voluntary nature. Others, however, have stressed that the guidelines are an important first step, in the absence of a binding agreement.

The guidelines have been garnering additional support in recent weeks, with a confidential [report](#) by international agencies for the leaders of the G-20 group of major economies urging their adoption (see Bridges Weekly, [9 May 2012](#)). The report was prepared jointly by twelve organisations ahead of a meeting of deputy G-20 agriculture ministers in the Mexican resort of Los Cabos being held this week.

The FAO has committed to developing a series of technical handbooks designed to help countries adapt the guidelines to their local contexts and aid their implementation. The organisation has also pledged to extend targeted technical assistance to governments.

### Investment principles next on agenda

Seeking to build on the voluntary guidelines – which state that potential investments should respect existing land rights and not jeopardise food security – the CFS will focus on what principles are necessary for “responsible agricultural investment.” The year-long consultative process is set to start in October, which could see a set of recommended principles being developed by late-2013.

ICTSD reporting; “UN says nations endorse anti-land grab policy,” ASSOCIATED PRESS, 12 May 2012; “UN adopts historic ‘land grab’ guidelines,” BBC NEWS, 11 May 2012; “Global UN-backed land use guidelines approved,” REUTERS AFRICA, 12 May 2012.

---

## EU: Ten Chinese, Indian Airlines Fail to Submit Emissions Data

Ten commercial airlines from India and China have failed to submit their carbon dioxide emissions data for 2011 to Brussels, the European Commission [said](#) on Tuesday 15 May. Should the airlines miss a new mid-June deadline to submit these figures, EU member states could decide to penalise these companies, according to the bloc’s top climate official.

The airlines missed a 31 March deadline to submit their emissions data to the EU. New Delhi and Beijing have been vocal opponents of the EU’s decision to include aviation in its Emissions Trading System (ETS), and have banned their country’s airlines from participating in the scheme without government approval.

“It’s up to member states to apply penalties,” EU Climate Commissioner Connie Hedegaard told journalists on Tuesday.

“That would be the next step,” she added, should the airlines miss the new deadline.

The ten airlines involved represent less than three percent of emissions, and less than one percent of emission reports, according to the European Commission.

EU legislation requires airlines to surrender carbon permits for the emissions they produce during all flights taking off or landing in the 27-country bloc. Under the scheme, airlines are required to buy permits for 15 percent of the carbon they emit; permits for the remaining 85 percent will be provided to them for free. Carriers will have to surrender permits for 2012 carbon production by 30 April 2013.

Airlines that fly to the 27-country EU bloc without complying with the scheme will face a fine of €100 for each tonne of carbon dioxide emitted and for which they have not paid allowances. Persistent offenders could face a blanket ban from all EU airports.

The rule has come under fire by various non-EU governments, which argue that Brussels is exceeding its legal jurisdiction by charging for aviation emissions over an entire flight, rather than just those in EU airspace.

In February, over 20 countries, including the US, Russia, China, and India, signed a [joint declaration](#) outlining agreed countermeasures for contravening the aviation component of the ETS. (See Bridges Weekly, [22 February 2012](#))

China recently announced a new national plan to cut aviation emissions, which it says would make Chinese airlines exempt from the EU scheme. The EU ETS does not require countries with “equivalent measures” to participate. Hedegaard has said that Brussels is looking into Beijing’s plan.

As the pressure against the EU Commission revs up, Brussels has said it will stand by its decision to include aviation emissions in the scheme, promising to only consider changes to the rule should countries manage to put together a global aviation emissions agreement.

## Industry opposition builds

Airline industry executives from both EU and non-EU countries have also lambasted the aviation emissions rule. Last week, two of Lufthansa’s top executives argued that the law would turn the European aviation industry into an uncompetitive “third league” sector in the global economy.

The German airline chiefs’ comments came while addressing shareholders at the company’s annual general meeting in Cologne, Germany last week.

The Lufthansa executives said that the inclusion of aviation in the Brussels scheme will spark a “trade war” if countries such as China and India retaliate with similar measures. Last week, Lufthansa reported a larger than expected first-quarter loss of €397 million.

The company says they expect profits for 2012 to fall to €500 million, from €820 million in 2011. Earlier this month, Lufthansa announced the retrenchment of 3,500 employees, according to the Wall Street Journal.

However, Lufthansa did not specify exactly what proportion of the losses can be attributed to the aviation clause in the ETS. Instead they aggregated the financial losses to a basket of reasons: rising fuel prices, international competition, Frankfurt’s night flight ban, air traffic taxes in Germany and Austria, the lack of a “European Single Sky,” and other regulatory costs.

The statement is the latest in a barrage of industry opposition against the inclusion of aviation emissions in the EU ETS.

Back in March, nine industry CEOs, including Airbus, Air France, and Lufthansa, wrote joint letters urging various European political leaders, including the prime ministers of the UK, France, and Spain, and Germany’s chancellor, to re-think the aviation component of the ETS. (See Bridges Weekly, [14 March 2012](#))

ICTSD reporting; “EU Says Nations May Penalize China, India on Aviation CO2 Data,” BLOOMBERG, 15 May 2012; “China’s Draft

Climate Change Law Backs Continuation of CDM Projects,” THOMSON REUTERS POINT CARBON, 14 May 2012; “EU climate boss: studying China’s airline CO2 plan,” REUTERS, 19 April 2012; “EU climate boss: studying China’s airline CO2 plan,” REUTERS, 19 April 2012; “Lufthansa Takes EU to Task Over Regulation,” WALL STREET JOURNAL, 8 May 2012.

## EVENTS & RESOURCES

### Vacancy

Carbon Disclosure Project (CDP) Europe is seeking candidates to fill the following four positions: Director of Eastern Europe, based in Warsaw, Poland; Project Officer of Southern Europe, based in Milan, Italy; Project Officer, France & Benelux, based in Brussels, Belgium; and Attaché, Head of EU Policy, based in Brussels, Belgium. More information on these positions, including job requirements, qualifications, and how to apply, are available at the CDP [website](#).

### Events

#### Coming soon

WTO PUBLIC FORUM 2012: LAUNCH OF THE DISCUSSION FORUM. In the run-up to this year’s WTO Public Forum in September, the event organisers are inviting submissions of short articles of no more than 1,000 words on the themes of the Forum, along with views on the articles submitted by others. Articles should be sent to [publicforum2012@wto.org](mailto:publicforum2012@wto.org), indicating discussion forum on the subject line. More information is available [here](#).

WTO YOUTH AMBASSADOR PROGRAMME CONTEST. The WTO Youth Ambassador Programme aims to raise awareness of international economic governance issues among young people, encourage their engagement in public policy discussions, and bring new perspectives to the debates. Its starting point is a

contest. Participants are required to make a short video – no more than three minutes – or write a brief essay of up to 1,000 words that addresses the following question: How can trade promote development? In their submissions participants should highlight the importance of the issue, describe the main challenges and propose policy recommendations. The deadline for submissions is 30 June. More information is available [here](#).

17 May, Washington, US. THE KORUS FTA, A NEW BUILDING BLOCK IN THE ASIA-PACIFIC REGION. At this event, hosted by the Washington International Trade Association (WITA), Korean Trade Minister Taehoo Bark will address Korea’s FTA policy, the impact of the US-Korea FTA in the Asia-Pacific region, and the dynamics of East Asian economic integration. He will also discuss recent developments relating to the proposed China-Japan-Korea trade pact, and the roles that this FTA and the proposed Trans-Pacific Partnership would play in the Asia-Pacific economy. For more information, please visit WITA’s [webpage](#).

19 May, Bonn, Germany. IMPROVING LINKS BETWEEN USE AND PROVISION OF INFORMATION TO SUPPORT ACTION ON CLIMATE CHANGE. In tandem with the UN Framework Convention on Climate Change (UNFCCC) Bonn Climate Change Conference, Climate & Development Knowledge Brokers (CDKN) and GIZ will be holding a session aimed at providing decision makers, negotiators, and practitioners who are active in the climate and development field with an opportunity to meet other leading knowledge brokers in the sector. Organisers say participants will learn about climate information platforms, portals, and other useful services. This session will be led by the International Institute for Sustainable Development (IISD) and the Institute of Development Studies (IDS) during the weekend intermission of the Bonn Conference. For more information, visit CDKN’s [webpage](#).

21 May, Bonn, Germany. ADDRESSING CARBON LEAKAGE AND COMPETITIVENESS CONCERNS FOR ENHANCED MITIGATION ACTION. This event, hosted by ICTSD – the publisher of Bridges – on the sidelines of the UN Framework

Convention on Climate Change (UNFCCC) Bonn Climate Change Conference will focus on the use of unilateral measures to address climate change. More specifically, it will look into the effects of such measures for the countries undertaking them, while also addressing the principle of common but differentiated responsibility in relation to unilateral action. For more information, please visit the [ICTSD website](#).

24 May, online. THE IMPORTANCE OF RIO+20. This webinar, hosted by The International Society of Sustainability Professionals (ISSP), will feature both a presentation and a panel discussion focusing on the upcoming UN Conference on Sustainable Development (UNCSD, or Rio+20). The webinar is part of ISSP's ongoing coverage in the lead-up to the June conference. The panel will include experts representing NGO, private sector, and government perspectives. For more information, please visit [ISSP's webpage](#).

### WTO Events

An updated list of forthcoming WTO meetings is posted [here](#). 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.

24 May: Dispute Settlement Body

5-6 June: Council for Trade-Related Aspects of Intellectual Property Rights

5 June: Working Party on State Trading Enterprises

### Other Upcoming Events

29 May-1 June, Beijing, China. ROUNDTABLE FOR LDCs ON BEST PRACTICES IN THE WTO ACCESSION PROCESS. This event, sponsored by the government of China and organised by the WTO secretariat, is one of the three components of China's LDCs and

Accessions Programme, which aims to strengthen LDCs' participation in the WTO and at assisting acceding LDCs in their accessions to the global trade body. The objectives of this event are to: share experiences and best practices in the WTO accession process; build negotiating capacity of acceding LDC governments; establish and consolidate a network of LDCs' Chief Negotiators in the WTO accession process; and identify priorities, within an overall plan to support those LDCs still in the accession process. More information is available on the WTO [website](#).

17-21 September, The Hague, Netherlands. ADVANCED WTO TRAINING PROGRAMME ON 'RECENT TRENDS AND EMERGING ISSUES'. This training programme, hosted by the T.M.C. Asser Instituut, is designed for diplomats and trade lawyers. Through this event, organisers aim to provide participants with the knowledge, insights, and practical skills that will enable them to implement WTO rules and to engage in its dispute settlement procedures. For information on the programme and to register, please visit the event [website](#).

24-26 September, Geneva, Switzerland. WTO PUBLIC FORUM 2012. Convening under the theme "Is multilateralism in crisis?", the Public Forum is the WTO's largest annual outreach event. It aims to provide a platform for participants to discuss the latest developments in world trade and to propose ways of enhancing the multilateral trading system. The event regularly attracts over 1,500 representatives from civil society, academia, business, the media, governments, parliamentarians, and intergovernmental organisations. For more details about this event, visit the WTO's [website](#).

---

## Resources

TAKING STOCK OF DURBAN: REVIEW OF KEY OUTCOMES AND THE ROAD AHEAD. Published by the UN Development Programme (April 2012). This publication contains a detailed analysis of what was achieved at the 2011 Durban Climate Change Conference and what needs to be done for the road ahead. The paper finds that the Durban Conference



could possibly be a “game-changing conference for the climate negotiations” because of a comprehensive package of decisions made by governments, including some that will help implement the 2010 Cancun Agreements and develop stronger requirements for the reporting and review of countries’ mitigation efforts. For the full report, please click [here](#).

A HANDBOOK ON THE WTO TRIPS AGREEMENT. Published by the WTO and Cambridge University Press (2012). This publication aims to provide a comprehensive and non-technical explanation of the WTO Agreement on Trade-Related aspects of Intellectual Property Rights (TRIPS), later legal instruments, current policy issues, and the relationship between TRIPS and public health. It includes a guide to TRIPS notifications by WTO members and describes how to access and make use of the official documentation relating to the TRIPS Agreement and connected issues. Topics covered include copyright and related rights, trademarks, geographical indications, patents, enforcement of intellectual property rights, dispute settlement in the context of the TRIPS Agreement, and current TRIPS issues. To learn more, please click [here](#).

AID FOR TRADE: A FAILING GRADE IN LDCs? Published by the UN Conference for Trade and Development (UNCTAD) (February 2012). This policy brief finds that the results of the Aid for Trade initiative are mixed. On one hand, the authors argue that the moderate or insignificant results the study found in the area of trade and economic performance criteria (increased exports, trade and growth, export diversification, and poverty reduction) are worrying both in terms of poverty reduction targets and maximizing the long-term gains from increased trade. On the other hand, they find that Aid for Trade resources have led to a greater understanding of trade and an enhanced profile of trade in development strategy of governments. The study also reiterates the rationale of the Aid for Trade programme, and suggests reasons for why the results have been inadequate. For the full policy brief, please click [here](#).

20 YEARS OF TRADE POLICY REVIEWS 1989 -2009. Published by the WTO (March 2012). The WTO has collated every Trade Policy Review

publication from 1989 to 2009 in a double-DVD format. Under the WTO Trade Policy Review Mechanism, WTO members can examine the trade policies and practices of other members in all areas covered by the WTO agreements. By the end of 2009, 305 Trade Policy Reviews had been conducted, covering 136 WTO members. For more information, please click [here](#).

THINKTOSUSTAIN.COM MONTHLY NEWSLETTER (April 2012). This month’s issue includes empirical studies on the following issue areas: India’s vulnerability to climate change, the environmental impact of using fertilisers, the social impact of building dams in West Africa, and climate change mitigation strategies, among other topics. To access the entire issue, or for more information, please click [here](#).