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WORLD TRADE ORGANIZATION

"Signs of Momentum" in WTO Doha Round Talks, Lamy Says

Nearly a year after last December's ministerial conference, signs are emerging that WTO members could soon be reviving their efforts in moving the Doha Round talks forward, after the negotiations were formally declared at an impasse last year. However, despite recent proposals of deliverables that could help balance a potential trade facilitation agreement, both WTO Director-General Pascal Lamy and members have cautioned that repeats of past problems that slowed earlier efforts at achieving results must be avoided.

Discussions with ministers, delegates, negotiators, and the private sector have confirmed a "collective desire to re-engage," Lamy [told](#) members at a meeting of the General Council – the WTO's highest decision-making body outside the ministerial conference – on Wednesday.

"But, let me be clear," the trade chief warned. "As I said in July, I am neither under any illusion that the factors that have shaped the impasse which we face have changed substantively, nor do I harbour any dream about achieving grand designs or comprehensive deals."

Possible balance for trade facilitation deal?

Over the last several months, members had been reviewing whether an agreement on trade facilitation could be put forward as an early Doha deliverable. Yet members had repeatedly disagreed over whether such a deal could stand by itself, or whether it would instead need to be balanced by another deliverable from a different negotiating area.

However, since members' return from the August recess, Lamy noted, a series of ideas have been raised as possible elements that could be delivered to balance an outcome on trade facilitation.

For instance, recent proposals have been raised in the agriculture negotiations by the G-20 group of developing countries, and other ideas regarding special and differential treatment and the monitoring mechanism, as well as non-DDA issues such as the expansion of the Information Technology Agreement (ITA), are also being discussed at an informal level. (For more on the agriculture proposals, see related article in this issue)



International Centre for Trade
and Sustainable Development

Even with widespread acknowledgment among members that trade facilitation could be an achievable outcome, some members did express concern over potential problems such a deal might raise.

Barbados, speaking on Wednesday on behalf of the Small and Vulnerable Economies (SVEs) noted that trade facilitation, while having the potential to make trade more efficient, could also worsen the balance of trade on import-relying countries. Setting up waivers or longer implementation timeframes for some countries that could be affected might be a way to mitigate this problem, it suggested. Lesotho, speaking on behalf of the African Group similarly cautioned that a trade facilitation deal might not necessarily be a win-win outcome.

However, some officials commented to Bridges ahead of the General Council that the value of a trade facilitation agreement could extend beyond just its commercial benefits. "If we can do something on trade facilitation, it could be a catalyst for continuing work in the future on other [Doha] issues," one developed country official said.

Negotiations within the group tasked with the trade facilitation talks are still ongoing, with delegates set to meet next week to continue their discussions.

Bali countdown

"We are now effectively 14 months away from the Bali Ministerial," EU Ambassador Angelos Pangratis said in his remarks to fellow WTO members, referring to the December 2013 gathering slated to be held in Bali, Indonesia. "We should make sure that we use this time wisely and with a sense of urgency to not find ourselves a year from now searching for creative ways of explaining why we have not taken the steps that ministers at [the Eighth Ministerial Conference] asked us to make."

Others similarly stressed the need to make progress on the instructions given by ministers at the last ministerial, sources told Bridges, while noting the potential pitfalls that may still lie ahead of the Bali meeting.

China, for its part, cautioned against any members attempting to "ask for the moon" in trying to identify areas for potential progress in the Doha talks. "On the other hand, members shall exert their maximum willingness and flexibility to any reasonable request with a view to forging consensus of balanced interests," China urged.

US Ambassador Michael Punke, in turn, assured China that the US "wouldn't be asking for the moon," adding in his intervention that members should be wary of avoiding a repeat of last year's failed attempt to secure a package of Doha deliverables ahead of the December conference.

While he agreed that trade facilitation is unlikely to succeed as a standalone agreement – adding that no one is still saying that it should – any efforts to balance it with another deliverable should be approached carefully.

Members need to recognise the "poison pills" that brought down last year's effort, Punke warned, adding that "now is the time to get down to work."

Havana Club row resurfaces

The systemic implications of a major member not implementing dispute settlement rulings was also raised during Wednesday's meeting, with Cuba expressing concern over the US' non-implementation of a decade-old ruling ([DS176](#)) by the WTO's Appellate Body on registering trademarks in the US involving Cuba. Several Latin American countries made their own interventions in support of Cuba's position, trade sources confirmed to Bridges.

In the original case, WTO judges had ruled that a provision in the US Omnibus Appropriations Act of 1998, which prohibits "those having an interest in trademarks/ trade names related to certain businesses or assets confiscated by the Cuban Government from registering/renewing such trademarks/names without the original owner's consent," was in violation of multilateral trade rules.

Though not a complainant in the dispute – the case was filed by the then-European Communities – Cuba has argued that the US Patent and Trademark Office and the US Supreme Court have both rejected a request to renew a Cuban company's "Havana Club" trademark, giving it instead to US-based company Bacardi.

The US, for its part, has consistently held that it is working toward implementing the ruling's terms. The issue was also raised at the WTO's Council on Trade-Related Aspects of Intellectual Property Rights (TRIPS) during their meeting in June. (See Bridges Weekly, [13 June 2012](#))

Ukraine renegotiation proposal under scrutiny

Systemic concerns regarding another WTO member – in this case, Ukraine – also surfaced at Wednesday's meeting, as a result of a proposal recently circulated among delegations in Geneva by Kiev. In the proposal, Ukraine outlined a list of areas where it hopes to renegotiate the tariff schedule included in its accession protocol, which reportedly contains nearly 400 goods on which the country would like to raise tariffs.

A provision in the General Agreement on Tariffs and Trade, Article 28, does indeed allow for the renegotiation of accession terms, and Ukraine did file a notice late last year alerting members that it would seek to do just that for the duration of the three-year period, starting on 1 January of this year.

However, the size and timing of the request has alarmed some other delegations in Geneva.

"The EU is of the firm opinion that the procedure set out in Article XXVIII GATT is not meant for renegotiating a significant part of the accession commitments of WTO members," EU Ambassador Pangratis told members at Wednesday's General Council gathering.

"It is all the more surprising that this happens so shortly after Ukraine's accession," Pangratis continued; Ukraine joined the global trade body in 2008. "The EU considers that Ukraine's request raises very obvious and very serious systemic concerns as it risks undermining the credibility of members' commitments to their WTO obligations."

Other members, including Australia, Brazil, Cambodia, Japan, Mexico, New Zealand, Nigeria, Switzerland, Turkey, Malaysia on behalf of ASEAN, and the US, also raised similar concerns during the meeting over Ukraine's proposal to renegotiate its tariff schedule, trade sources confirmed to Bridges.

"Obviously the process is there, and it's a legitimate process," an official from a large developed country told Bridges ahead of the meeting. "But the size of their request doesn't make it a simple negotiation," the official said.

"This will certainly create friction, I'm sure," a delegate from a large developing country predicted, speculating that some might begin to worry that Russia – having recently acceded and having such strong economic ties with Ukraine – could later wish to re-examine its own accession terms.

Next General Council to sign off on Laos accession

Members at the next General Council meeting on 26 October are expected to formally approve the accession protocol of Laos, following Friday's announcement that the Working Party tasked with the country's accession had completed its negotiations. Laos – a least developed country, or LDC – began its accession process in 1997, though the first Working Party was not held until 2004.

"This process has been long and tedious and very difficult for us," Nam Viyaketh, Laos' Minister of Industry and Commerce, told the Accession Working Party on Friday. "We knew that we were engaged in a difficult exercise of convincing our trade partners of our good will, but also the constraints we are facing as a least developed country with less bargaining power and still rely on [overseas development assistance]."

Whether or not Laos would be able to join the WTO this year was until recently an open question, with Ukraine reportedly slowing the negotiations by making strong demands of both the Asian country and another LDC aiming to accede – Yemen. Laos clinched an agreement with Ukraine only in late July, paving the way for this month's Working Party to announce that negotiations had been concluded successfully.

Under WTO rules, countries wishing to join the global trade body must conduct both multilateral negotiations with current members, as well as bilateral talks with any specific WTO member that asks. Back in July, following the instructions given at December's Eighth Ministerial Conference, members recently agreed on a revised set of guidelines on the accession of LDCs in light of the long-standing concerns that these countries, in the negotiation process, are often asked to make demands beyond their capabilities. (See Bridges Weekly, [4 July 2012](#))

Along with the difficulties in pressing forward with negotiations in Geneva as an LDC, Nam said, was the challenge of convincing stakeholders back home to make the reforms required to join the 157-member WTO.

"We... underestimated the difficult negotiations we would have to undergo at the internal front," he said on Friday. "Quite frankly, trying to convince our trading partners of the position of Lao PDR only to go home, and to convince our internal partners of the justification of the reforms requested, was one of our most difficult and hard tasks."

Nam, in his address on Friday to the Working Party, expressed his hope that Laos will be able to domestically ratify the accession protocol by December, which is the next step after the General Council formally signs off on the terms. Laos will formally become a WTO member 30 days after submitting its instrument of ratification, in line with the global trade body's rules.

Director-General's race to kick off in December

The upcoming months are also set to see the beginning of the race for electing a new head to the global trade body, with current Director-General Pascal Lamy's term set to end on 31 August of next year.

While New Zealand Trade Minister Tim Groser has already made clear his interest in the post, many have speculated that the new trade chief could potentially come from a developing country, given that the relatively recent appointments of World Bank and International Monetary Fund heads stuck to tradition in choosing candidates from the US and EU, respectively.

In line with WTO procedures, the process for appointing a new Director-General must begin nine months ahead of the current head's leaving office. The process will therefore officially begin on 1 December. Members will then have the month of December to

nominate candidates and submit them to the General Council chair, who will conduct the process with the help of the Dispute Settlement Body and Trade Policy Review Body chairs acting as facilitators.

Candidates will then have three months to make themselves known to current members – i.e. until the end of March. A General Council meeting to conclude the process and announce the new trade chief must be held three months before Lamy concludes his term, in other words by 31 May. The race for the Director-General is expected to be watched closely by trade observers and policymakers alike, given that the next ministerial will be held under his or her stewardship.

ICTSD reporting.

AGRICULTURE

New Proposals Boost WTO Farm Trade Talks

New negotiating proposals aimed at reinvigorating the WTO's long-running Doha Round have provided a welcome boost to the trade talks, delegates in Geneva told Bridges this week.

The unofficial documents were tabled by the G-20 group of developing countries that are active in WTO agriculture talks, and which favour reform of developed country farm policies. The group suggests that progress could be made on issues such as the administration of tariff rate quotas or export competition, in advance of a broader Doha deal.

"I think the discussion has shown that, as delegations become more specific about what they're seeking, that there is going to be greater engagement from the range of delegations around the table," said the chair of the WTO agriculture negotiations, New Zealand ambassador John Adank.

"Delegations haven't had anything specific to respond to for quite some time," he told a two-hour informal negotiating meeting last Friday that was open to all WTO members.

While the last such meeting took place in March (see Bridges Weekly, [28 March 2012](#)), negotiators have not made a concerted bid to achieve progress on the farm trade talks since early 2011. A subsequent attempt to fast-track progress on Doha issues affecting the poorest 'least-developed' countries was abandoned in July of the same year. (See Bridges Weekly, [28 July 2011](#))

'Self-balancing' negotiations

"We see that there are advances in other areas of the negotiations," said one source familiar with the new proposals. "Having discussions on agriculture would facilitate these."

Recent months have seen slow but steady progress in talks on 'trade facilitation' – easing customs controls and other border restrictions that members deem could make trade easier (see Bridges Weekly, [25 July 2012](#)).

"Discussions in other areas are not 'self-balancing,'" the official argued, suggesting that progress on the farm trade talks could rectify this. Along with other developing country groups, the G-20 has long argued that the agriculture negotiations are central to ensuring that the Doha Round delivers on its original mandate.

However, other negotiators questioned this assessment.

"The question is, will all members consider that [proposal] a candidate for early progress?," mused one.

An 'understanding' on TRQ administration?

G-20 members argue that trade could also be facilitated by new international rules on how countries manage tariff rates quotas, or TRQs – which are used by some countries to charge higher tariffs on goods being imported after an initial quota has been filled.

The new proposal effectively extracts existing language on doing so from the latest version of the draft Doha accord - dubbed simply 'rev. 4' by Geneva negotiators, in reference to the document code given by the WTO to the text.

"We try to be as faithful as possible to the language from rev. 4," said one trade source familiar with the proposal.

Among other things, the accord would set out new procedures in cases where tariff quotas were consistently under-filled, and set out new requirements for reporting on and monitoring members' commitments in the WTO's Committee on Agriculture.

Negotiators who had attended last Friday's meeting told Bridges that some members from the G-10 group of countries with highly-protected farm sectors had expressed concerns about the proposal, while welcoming the move to re-invigorate discussion on Doha. The G-10 group includes Japan, Korea, Norway, and Switzerland, amongst others.

The G-20 also told the meeting that consultations on this proposal were "still ongoing in Beijing," but that China had agreed that the non-paper could be circulated without prejudice to its final position.

Export competition: new studies

A separate proposal from the G-20 called on the WTO secretariat to update information on export subsidies, export credits, state trading enterprises, and food aid – four areas addressed collectively under the Doha talks on 'export competition' in agriculture.

Previous studies on export subsidies should be updated, the group said, while new analysis should be conducted on food aid, state trading enterprises, and export credit guarantees.

However, negotiators told Bridges that the EU had opposed the move, fearing that the studies would be linked to a push for early progress on these issues under Doha. The 27-member bloc has repeatedly warned that it could only foresee ending export subsidies as part of the broader Doha package.

While negotiators acknowledged that the secretariat has moved to make a lot more trade data available online, some said more could still be done to share information and help delegates analyse it.

"They haven't compiled all the data – so they could be compiling more," one source told Bridges.

Bali ministerial

Negotiators now have just over one year to try and make progress before the next ministerial meeting of the WTO, scheduled to be held in Bali, Indonesia, in December 2013.

"If we develop two or three proposals before the next ministerial, that would be a good small step," said one.

However, another was more downbeat. "I don't know how this, or any of the other initiatives, will bring about even a 'Doha-lite'," he sighed.

"The positions remain very far apart – and the economic fundamentals are not helping," said the source. "Even if someone could wave a magic wand and solve all the other issues tomorrow, agriculture would still remain a major stumbling block."

"Let's just agree to keep plugging away at a level that means we can get something done", another negotiator said.

With WTO Director-General Pascal Lamy set to leave office by next summer, some are already wondering how the trade body's new head will try and make progress. "Lamy's successor will have all these issues to deal with," another source glumly observed.

ICTSD reporting.

DISPUTES

Canada, Norway Press Ahead with EU Seal Ban Challenge

Canada and Norway surprised many in the trade community last week by proceeding to the next formal stage in their challenge of the EU's ban on seal products ([DS400](#), [DS401](#)). In requesting the WTO Director-General to appoint a panel of experts to review the case, Ottawa and Oslo re-ignited a dispute that has not advanced at the global trade arbiter since March 2011 (see Bridges Trade BioRes, [4 April 2011](#)).

Adding to the growing list of recent disagreements between trading partners under the WTO's Technical Barriers to Trade (TBT) Agreement, this emotionally-charged row could be the first of its kind to ask the WTO to specifically rule on considerations of animal welfare or public morality as justifying limits on trade.

The panel nominations are expected to become public during the following days.

Dormant disputes

The case, arising from a complaint launched by Canada and Norway in November 2009, concerns a 2009 EU Regulation banning the marketing of seal products from commercial sealing operations in the 27-country bloc. In their WTO complaints, the Canadian and Norwegian governments argue that the ban breaches the WTO's fundamental non-discrimination principles, as well as Articles 1 and 2 of the TBT Agreement, which mandate

that technical regulations be non-discriminatory and not be more trade restrictive than necessary.

While the directive justifies the ban on the basis of the allegedly inhumane nature of seal hunting, Canada and Norway have long argued that seal hunting is a legitimate economic pursuit, and that the hunting methods in question are sustainable. (See Bridges Weekly, [4 November 2009](#))

"The Atlantic and northern harvests are humane, sustainable, and well-regulated activities that provide an important source of food and income for coastal and Inuit communities," the Canadian Ministry of Fisheries and Oceans said in a [statement](#). "The Government of Canada is firmly committed to defending our sealing industry and the coastal and northern communities that depend on the seal harvest."

"For the Norwegian authorities, this issue involves important principles, such as our right to sustainably harvest our living marine resources and to sell products derived from hunting and fishing," the Norwegian Minister of Fisheries and Coastal Affairs added in a [statement](#).

Ottawa's and Oslo's move, however, has been lambasted by animal welfare groups, who also question the political and economic motives behind the decision. Detractors estimate the legal bill to Ottawa of pursuing the complaint at as much as C\$10 million (US\$10.16 million in today's currency), while the total value of Canadian seal products in 2010 was reported as only being C\$1.3 million.

"The Harper government claims to be fiscally responsible, yet they are spending more to defend the commercial seal hunt than it can ever hope to bring in," argued Sheryl Fink, Director of the Seal Program at the International Fund for Animal Welfare (IFAW) in a [press release](#). "Rather than wasting more tax dollars on an industry that is clearly failing and for which markets continue to slam shut, the government should be helping sealers to transition out of the industry and into other jobs."

TBTs on the rise

Disputes brought under the TBT Agreement have been on the rise in recent years as countries increasingly turn to technical regulations and standards to achieve policy objectives, such as protecting human safety or health. In 2012 alone, several WTO decisions have looked at TBTs, attempting to provide further clarity on the balance between regulation and permissible trade barriers.

In April, the WTO Appellate Body delivered its judgment in *US-Clove Cigarettes*, ruling on a US ban on flavoured tobacco products; May saw the long-awaited decision on 'dolphin-safe' labels for tuna products in *United States-Tuna II*; and in *US-COOL* in July, the WTO ruled on US country of origin labels for meat (see Bridges Weekly, [11 April 2012](#), [18 June 2012](#) and Bridges Trade BioRes, [4 July 2012](#), respectively).

Some experts, however, have [argued](#) that the seal ban may not be considered a technical regulation and should thus be examined under the WTO's General Agreement on Tariffs and Trade.

Although panellists are to be appointing in the coming week, a ruling, however, is not expected until next year.

ICTSD reporting; "Canada forges on against EU seal ban," THE GLOBE AND MAIL, 25 September 2012; "Norway, Canada call in WTO on EU seal products ban," AFP, 25 September 2012.

INTELLECTUAL PROPERTY

WIPO Chief Calls for Rules-based IP System as Assemblies Kick Off

The World Intellectual Property Organization (WIPO) launched its annual high level meetings – otherwise known as Assemblies – on Monday, against the backdrop of a changing innovation landscape and calls for improved intellectual property (IP) rules to provide an even playing field in the troubled world economy.

Policymakers from WIPO's 185 member states are expected to address a range of issues during the 1-9 October talks, including copyright exceptions, traditional knowledge, and a possible industrial design treaty.

Rules key to avoiding "technological protectionism," Gurry says

The increasing importance of innovation in achieving economic growth, as well as a greater international approach to patenting and the "shift in the geography of economic and technological production" towards new markets are three "game changers" that have deeply transformed the global IP environment over the last two decades, WIPO Director General Francis Gurry told the audience in his opening address.

According to Gurry, the increased level of investment in research and development, as well as the adoption of innovation-enhancing strategies by all major economies, reflect an emerging consensus "that innovation is the foundation of economic success."

In this context, intellectual property plays a crucial role, given that "IP captures the economic value of innovation." However, the increased importance of IP as an innovation driver also sets it up "as a battlefield for intense competition," giving rise to the so-called "patent wars" – particularly in the sector of information and communication technologies.

This new trend "reinforces the need for a rules-based international system," he urged.

"Rules should provide an even playing field and should save us from the temptation to lapse into forms of technological protectionism," Gurry said.

This increasingly competitive environment also requires a renewed effort from the UN agency in its capacity building activities, the WIPO chief urged. In fact, while the changing innovation landscape "has created new opportunities for some, for others the new environment is particularly challenging, especially at the speed with which it is evolving."

WIPO members aim for decisions on copyright exceptions, industrial designs, traditional knowledge

Against this background, WIPO member states will be asked to decide on a wide range of issues during the nine-day talks, particularly in the area of norm-setting.

With regards to copyright, the Assemblies could potentially endorse a roadmap issued by WIPO's copyright body earlier this year towards the conclusion of a legal instrument on copyright exceptions and limitations for the visually impaired and reading disabled (See Bridges Weekly, [25 July 2012](#)). In this regard, Ambassador Uglješa Zvekić from Serbia, who is chairing this year's Assemblies, expressed his "earnest hope" that an international legal instrument "will be adopted next year."

Other notable issues on the Assemblies' agenda include decisions on whether and when to convene a diplomatic conference for adopting a new treaty on industrial design law formalities, a matter on which the WIPO trademarks body was unable to agree on last month (See Bridges Weekly, [26 September 2012](#)).

Finally, delegates will discuss how to proceed in their efforts towards adopting one or more legal instruments for the protection of genetic resources, traditional knowledge, and traditional cultural expressions, a subject on which – according to the Director General – “progress has been made over the past two years, but there is still some distance to travel.” (See Bridges Weekly, [22 February 2012](#), [25 April 2012](#), and [18 July 2012](#), respectively)

Further analysis of the discussions at the WIPO Assemblies will be featured in next week's edition of Bridges.

ICTSD reporting; “Intellectual property rules must provide even playing field to support innovation,” UN NEWS, 1 October 2012; “WIPO 2012 Assembly Opens With Talk Of More Treaties,” IP WATCH, 2 October 2012.

DISPUTES

Disputes Roundup: Panels Established in US-China Countervailing Duty, Ukraine-Australia Plain Packaging Cases

The US-China dispute over allegedly unfair anti-subsidy duties on various Chinese products moved up to the WTO's panel stage on Friday, after Beijing lodged a second panel request at the global trade arbiter. The dispute between Ukraine and Australia over Canberra's plain packaging legislation for cigarettes is also now at the panel stage, following last week's meeting of the WTO Dispute Settlement Body (DSB).

In other dispute news, the long-standing spat over Washington's government support to aircraft manufacturer Boeing continues to escalate, with the EU asking the Geneva-based organisation to authorise countermeasures against the US on the grounds of alleged non-compliance with the terms of a DSB ruling.

Panel established in US-China row over anti-subsidy duties

China has pressed ahead with its challenge to 22 countervailing – also known as anti-subsidy – measures applied by US authorities to Chinese imports, said to affect up to US\$7.3 billion worth of products and including, among other goods, solar panels ([DS437](#)). (See Bridges Weekly, [30 May 2012](#)) After consultations between the two trading giants failed to produce agreement; a panel was established last Friday upon Beijing's request.

The complaint is closely related to a 2011 Appellate Body decision ([DS379](#)) that ruled against the US' approach to establishing dumping and countervailing duty margins for Chinese products. In that case, the Appellate Body – among other findings – deemed that

both types of duties could not be simultaneously applied unless Washington had first assessed that these extra duties did not amount to a "double remedy." (See Bridges Weekly, [16 March 2011](#))

The US Department of Commerce, in imposing these 22 countervailing duties, did not adjust "to avoid the potential double remedy and thus breached its obligation under the Agreement on Subsidy and Countervailing Measures," China claimed in an emailed statement to Bridges when consultations on the matter started in May.

The formal Chinese complaint furthermore criticises the US Department of Commerce's determination that majority government ownership of an enterprise is sufficient to label it a "public body," even where a party is unable to demonstrate that this does result in "control" of the enterprise. Beijing claims that as a result of this rule, many Chinese companies have wrongly been classified as public bodies, with support for these businesses then treated by the Commerce Department as illegal subsidies. The definition of what constitutes a "public body" had also been subject to the 2011 Appellate Body ruling.

Another US-China spat over trade remedies, launched this time by the US, also moved forward at the DSB on Friday after Washington asked that a panel be established. While Beijing rejected this first request, the panel is expected to be established in the coming weeks once the US tables its second request.

The US complaint, which concerns both countervailing and anti-dumping duties, claims that the Chinese government has been unfairly imposing these trade remedies on certain US automobiles imported by China ([DS440](#)). The duties specifically affect US-made cars and sport utility vehicles (SUVs) with an engine capacity of 2.5 litres or greater. Washington argues that Beijing, in conducting these trade remedy investigations, did not follow the correct procedures for examining potential dumping and subsidies. (See Bridges Weekly, [11 July 2012](#))

Australian plain packaging dispute moves to next phase

The high-profile dispute over Australia's Plain Packaging Act will now be tabled in front of a WTO panel, after Ukraine submitted its second panel request to the DSB. ([DS434](#)).

Among its complaints, Ukraine argued in its panel request that the measures "are clearly more restrictive than necessary to achieve the stated health objectives" – an argument that Australia rebuffed during Friday's meeting. Australia also [defended](#) the measure as one designed to meet the "legitimate objective" of protecting public health.

With the Dominican Republic and Honduras having also lodged their own WTO challenges against the Australian legislation, the dispute is not expected to move forward until the three complainants have successfully requested their own panels, so that the three cases can be heard together. (See Bridges Weekly, [25 July 2012](#))

Boeing: Brussels seeks US\$12billion in countermeasures against Washington

One day prior to the DSB meeting, the EU filed a request asking permission to impose up to US\$12 billion worth of countermeasures against the US in the long-running "Boeing" case, just days after rejecting Washington's claim that it had eliminated those subsidies to the aerospace giant that had been deemed inconsistent with WTO rules ([DS353](#)). (See Bridges Weekly, [26 September 2012](#))

The countermeasures, Brussels says, are necessary to compensate for "damages suffered by the EU due to unfair and unbiased competition from the US [aircraft] industry."

The EU's request will be considered at the 23 October DSB meeting, but a final decision is likely to be deferred under the terms of a "[sequencing agreement](#)" entered into between

the two earlier this year. According to that agreement, the countermeasure arbitration shall be suspended if the US requests the original panel to review Brussels's claim that Washington indeed failed to comply.

A parallel case in which the US has challenged the EU over its removal of WTO-illegal subsidies to civil aircraft manufacturer Airbus is already at the compliance panel stage ([DS316](#)).

ICTSD reporting.

DISPUTES

EU Solar Group Requests Tariffs Up to 120 Percent on Chinese Products

A coalition of 25 European solar panel manufacturers has requested that the European Union impose tariffs of up to 120 percent on a range of imported Chinese solar products. While the complaint had been filed by the ProSun coalition in July, the details had not been made available publicly until last week, when a coalition critical of the ProSun case released the specifics as part a legal summary on the case.

The Alliance for Affordable Solar Energy (AFASE), whose 145 members include a number of Chinese companies, claims that the figures used by ProSun are not based on accurate data.

The tariff request stems from an ongoing row between EU and Chinese solar product industries over the pricing. European companies that are part of the ProSun group allege that Chinese manufacturers are selling their products below market value – a practice known as “dumping.” Earlier in September, the European Commission announced that it would be moving ahead with an investigation to determine if, in fact, Chinese solar products are being dumped. (See Bridges Weekly, [12 September 2012](#))

According to the AFASE legal briefing, the ProSun request asks for the tariffs to be placed on imported Chinese solar modules and wafers. It is also calling for a similar 80 percent charge on Chinese solar cell imports.

The differences between Chinese domestic sales prices and the prices of their EU exports, known as dumping margins, are between 60 and 70 percent for solar modules, 70 and 80 percent for solar cells, and 80 to 90 percent for solar wafers, according to ProSun. The coalition also claims that the punitive duties it has requested are vital if EU producers are to operate profitably.

Last week, ProSun launched an additional anti-subsidy suit through the European Commission targeting Chinese banks for allegedly providing subsidies to Chinese manufacturers in the way illegal lines of credit.

“The China Construction Bank offered credit lines of about €33 billion to companies which would never get a loan in the Western world,” Milan Nitzschke, a vice president of SolarWorld – the company spearheading the ProSun case, told EurActiv. “It is beating European companies out of business.”

Rhetoric over the solar dispute has been escalating since the European Commission acknowledged this second ProSun investigation request in the past month. On a recent trip to Brussels, Chinese Premier Wen Jiabao urged the EU to avoid enacting trade barriers.

"We must uphold trade liberalisation and facilitation, oppose trade protectionism," Wen said in a speech to business leaders in Brussels. The premier called on Europe to "exercise restraint in resorting to trade-remedy measures."

At the same event, European Commission president José Manuel Barroso acknowledged Wen's remarks and reminded the crowd that such disagreements should not be interpreted as an unusual strain in bilateral trade relations.

"In such an intense relation, which is growing by the day, it is only natural that some problems may arise," Barroso told the conference. "However, these disputes are a very limited part of our bilateral trade."

The panel reviewing the case is expected to release its provisional findings by June 2013. Based on the evidence, the Commission will then decide whether to impose provisional anti-dumping duties, continue the investigation without imposing provisional duties, or terminate the investigation.

A definitive decision on the imposition of retaliatory measures is expected to be published in the Official Journal of the European Union by 5 December 2013.

ICTSD reporting; "Merkel urges dialogue to solve EU-China solar dispute," CHINA DAILY, 18 September 2012; "Solar dumping Complaint calls for 120% price hike," EURACTIV, 26 September 2012; "China's Wen Urges EU to Avoid Tariffs Amid Solar Probe," BLOOMBERG, 21 September 2012.

AGRICULTURE

US Congress Fails to Pass New Farm Bill Ahead of 30 September Deadline

Sunday passed without a new Farm Bill in Washington, with the date marking the expiration of the 2008 version of the omnibus legislation governing US farm policy and spending. Some fear that this may mean a return to Depression-era policies of production controls and other restrictions on American agriculture. However, the largest and most critical programmes – crop insurance and food stamps – are set to remain mostly unaffected due to their status as permanent legislation, farm experts say.

Blame game

With the election just over a month away, politicians have been looking to farm states and farmer organisations for their support in what is expected to be a tight race. The result, observers note, has been a political blame game in the US Congress regarding the absence of new legislation.

Democrats, such as Senate Agriculture Committee Chair Debbie Stabenow, have [accused](#) the Republican leadership in the House of Representatives of being unable to “devote just one day to rural America.” House Minority Leader, Nancy Pelosi, a Democrat from California, recently [tweeted](#) that the “#DoNothingGOP allowed Farm Bill to expire.”

Republicans, in turn, have [blamed](#) Democrats for failing to pass disaster relief legislation that would benefit livestock producers and others affected by the widespread drought in the US. The House Republican leadership has long [argued](#) that the votes needed to pass a farm bill simply do not exist due to opposition from fiscally conservative members of their chamber.

What comes next

When legislators return for what is known as the “lame duck” session of Congress – i.e. the legislative term in between the November election and January’s presidential inauguration – they will be faced with discussions on the “fiscal cliff,” which is a series of automatic cuts in spending intended to spur long term compromise on the country’s big ticket bills, such as defence spending, health care and social security.

A new farm bill could pass as part of such a compromise, or lawmakers could amend the current House bill and bring it to a vote. Farm interests, however, would prefer to see a bill outside of the “fiscal cliff” compromises.

Ferd Hoefner of the National Sustainable Agriculture Coalition told Bridges that, although lawmakers with farming constituencies would “be angry” at having to accept a solution proposed in a grand bargain on fiscal issues, “it would be difficult for people to vote against it.”

The crux of the disagreement between the two chambers of Congress is commodity-specific spending and the food stamp programme. The House bill contains provisions for minimum prices for key farm commodities over the five year period, while the Senate’s crop insurance adjusts prices annually. In addition, the House proposes deeper cuts on nutritional spending. The Farm Bill has historically been a compromise between urban

nutritional and rural farm interests. The failure to satisfy both constituencies, experts say, goes some way to explain the delay.

David Orden of Virginia Tech, whose work focuses on US domestic support, told Bridges that the impasse has to do with a broad US debate on entitlements, food assistance in this case. He added that the House Republican leadership could not "concede that element of entitlement reform" or the party might face "a floor fight."

Hoefner observed that if the "food stamp hit" could be lowered and subsidy reform broadened in the House bill, then perhaps a majority vote could be had in that chamber. If the "House took up the Senate farm bill, it would pass," he predicted.

Given the stakes and the complexity of the compromises, Hoefner said it would take a "congressional miracle" to pass a bill in the brief "lame duck" session. The alternatives include an extension for the just-expired legislation, with Congress picking up the issue in its new two-year session that starts in January.

Immediate ramifications of 2008 bill expiration limited, experts say

The passing of the 30 September expiration date for the 2008 farm bill occurred with little fanfare in major US newspapers. Farm interests, however, had been trying to bring the issue to light for several weeks, an effort that included a rally in Washington a few weeks ago. Some farmers, mainly dairy, may be affected soon by the missing legislation.

Vincent Smith of Montana State University, a longtime critic of US farm subsidies, told Bridges that there would be "very few implications" for farmers without a new farm bill until after 31 December. The "sky hasn't fallen here," he added.

According to Smith, farmers will receive direct payments for 2012, but dairy farmers, researchers, and programmes that promote US agricultural exports may not receive scheduled payments if new ones are not authorised.

Hoefner described the current situation as "unprecedented." Comparing recent closures to the 2007 farm bill, he noted that back then the US Department of Agriculture "didn't stop running some programmes," he said.

Trade

The US Farm Bill is one of the largest government expenditures on agriculture among WTO members. Shifts in domestic law may limit the ability of US trade negotiators to hammer out a deal in the Doha Round of trade talks, Carl Zulauf, an economist at Ohio State University, and David Orden argued in a recent [paper](#) published by ICTSD. According to their paper, a shift towards the proposed crop insurance could in some years lead to large trade distorting subsidies under WTO rules. [Editor's note: ICTSD is the publisher of Bridges.]

Smith pressed the point further, arguing that such a move on the domestic front in US agriculture support could prompt Washington's trading partners to take a stronger stance in other Doha negotiating areas.

Spending in the legislation that would be of concern to trading partners could be significantly revised upward if prices fall below projections, he and others, including Bruce Babcock, an economist at Iowa State University, have warned.

Cautioning that changes in major crops such as wheat are not "politically trivial" for countries like India, Smith added that even changes in minor crops, such as chickpeas – minimum prices for which are above their 10 year average in the House bill – may also be of concern if US acreage expands.

The Farm Bill process is long and arduous for both those observing and participating. However, Orden quipped, "every farm bill is this way." Regardless of what critics say, Congress will find "some compromise" and a way to "push the Farm Bill through," he added.

ICTSD reporting; "Farm Bill; Budget; Ag Economy; and, CFTC Issues," FARMPOLICY.COM, 2 October 2012; "Dems hit House leaders over farm bill expiration," THE HILL, 1 October 2012; "Rural lawmakers launch effort to force vote in House on five-year farm bill," THE HILL, 2 October 2012.

AGRICULTURE

US: Farm Support Still Low, Despite Record Food Stamp Payments

High prices for US farm goods meant trade-distorting subsidies remained low in 2010, according to new data that the government has provided to the WTO. However, record payments for 'food stamps' that help the poor buy food has pushed total farm support to a new record, the figures show.

US 'amber box' payments – highly trade-distorting payments, which are capped at US\$19.1 billion under WTO rules – totalled just US\$4.1 billion in marketing year 2010, according to the new numbers. Weather-related crop shortfalls and continuing high demand for biofuels have pushed prices higher in recent years, meaning government programmes that are activated by low prices have not been triggered.

While the amber payments are at an all-time low, other forms of trade-distorting support have crept upwards. The new figures show the government spent US\$5.7 billion in 'de minimis' support – trade-distorting payments that do not count towards the ceiling under WTO rules so long as, in developed countries, they represent less than five percent of the value of production.

In 2010, as much as US\$4.7 billion of the de minimis payments came from subsidised crop and revenue insurance – a category where spending could be set to expand significantly under proposals for the new Farm Bill. (For more on the US Farm Bill process, see related article in this issue).

Product-specific payments were heavily concentrated in just a few commodities, with sugar and dairy taking the lion's share of support.

As in previous years, the US did not report any spending on production-limiting payments that still distort trade, classed as 'blue box' by the WTO.

US spending on overall trade-distorting support would be capped at US\$ 14.5 billion under the long-running Doha Round of trade talks, which would set a ceiling on the sum of amber, blue, and de minimis payments. The new data shows that in 2010 this sum would have been US\$9.78 billion.

Meanwhile, as outlays on food stamps have risen sharply, total farm subsidy spending has reached a new record of US\$130.3 billion. Of this, US\$120.5 billion has been reported as

'green box' payments, which under WTO rules are not meant to cause more than minimal trade distortion.

According to US government figures, domestic food aid – the category including food stamps – represented almost eight-tenths of total green box spending in 2010, at US\$94.9 billion. 'General services', such as support for research and advisory services, accounted for another US\$15 billion, with some subsidies also allocated towards decoupled income support payments and environmental programmes.

The new data largely confirm the trends from previous years' reports. (See Bridges Weekly, [7 September 2011](#))

More information

The US' notification [G/AG/N/USA/89] can be found [here](#).

ICTSD reporting.

INTELLECTUAL PROPERTY

South-South Cooperation Comes to WIPO

The role of South-South cooperation in the field of intellectual property (IP) took centre stage at a World Intellectual Property Organization (WIPO) meeting last Friday, ahead of the UN agency's General Assemblies that began this Monday.

Although South-South cooperation has already been established as a priority of the UN system, it is relatively new at WIPO. Last week's event, which served as the organisation's [First Annual Conference on South-South Cooperation](#), was held in the context of a WIPO Development Agenda (DA) project that was originally presented by the African Group to the Committee on Development and Intellectual Property (CDIP), which oversees the implementation of the WIPO DA.

The project seeks to share information and experiences about the practical initiatives that developing and least developed countries (LDCs) are taking in using IP for promoting innovation, while also ensuring that it is supportive of broader public policies and development goals.

WIPO DDG: South-South cooperation a "vector of knowledge"

South-South cooperation "is a vector of valuable knowledge to identify how best to use the IP system and achieve broader public policy and development objectives," WIPO Deputy Director General (DDG) Geoffrey Onyeama said at the beginning of the annual conference.

"It makes sense to share lessons learnt and best practices among countries with similar levels of development and facing similar challenges that may find similar solutions," Onyeama added.

However, South-South cooperation should be seen as complementary to other cooperation streams, such as North-South or triangular cooperation, rather than as a substitute, the Deputy Director-General underlined.

IP governance, IGC issues areas for future work

The conference also discussed the outcomes of the First Inter-Regional Meeting on South-South Cooperation, held last August in Brazil. At the August gathering, the Brazilian government and WIPO signed an agreement to improve South-South cooperation in intellectual property. The partnership, which has a US\$1 million budget, will consist in funding activities such as technical missions and training activities to the benefit of other developing countries and LDCs.

The August meeting also considered three potential areas for South-South cooperation: genetic resources, traditional knowledge, and folklore; copyright; and IP governance.

The topic of genetic resources, traditional knowledge, and folklore is currently being examined by WIPO's Intergovernmental Committee on Genetic Resources, Traditional Knowledge, and Folklore, with countries having established last year the goal of engaging in text-based negotiations to reach agreement on an international legal instrument(s) to protect such resources. IGC's mandate and future work is expected to be one of the many subjects featured at this week's WIPO General Assembly, after earlier negotiating sessions of the committee showed mixed results. (See Bridges Weekly, [18 July 2012](#))

Alluding to that context, Natasha Pinheiro Agostini of the IP Division of Brazil's Ministry of External Relations pointed out on Friday that South-South cooperation could be deepened, in this area, building upon the experiences gained to date by a number of developing countries that have formulated and implemented national laws addressing these issues.

She also underlined the importance of resolving trans-boundary issues, in cases where genetic resources, traditional knowledge, and folklore are held by a single community located in different countries – a topic that is “not tackled adequately internationally.”

Other speakers, including Ahmed Abdel Latif of ICTSD, emphasised the added value that South-South cooperation can bring to IP cooperation in areas such as promoting innovation, capacity building, and the use of flexibilities, limitations, and exceptions in IP rules. [Editor's note: ICTSD is the publisher of Bridges.]

Several speakers also highlighted that South-South cooperation should go beyond the mere exchange of experiences, and should result in the consolidation of best practices and practical solutions to address the challenges faced by developing countries and LDCs in these areas.

The next Inter-Regional Meeting on South-South Cooperation is expected to focus on patents, trademarks, industrial designs, and geographical indications. Egypt has offered to host the upcoming gathering, which is tentatively slated to take place in May 2013.

ICTSD reporting.

EVENTS & RESOURCES

Events

Coming soon

4 October, Paris, France. 2012 INTERNATIONAL ECONOMIC FORUM ON AFRICA. Organised by the Organisation for Economic Co-operation and Development (OECD) Development Centre in collaboration with various other organisations, this annual meeting of European and African policymakers, economists, and academics will discuss the performance of African economies and the major challenges faced by the continent. This year, the forum will focus on African youth: training, employment, and prospects for the future. It will also look at the role of the state and the private sector in promoting a job-creating growth strategy, the opportunities and challenges of better training of African youth to adapt them to the needs of the labour market, and the benefits of using natural resources to create jobs and foster development. For more information, visit the event [website](#).

4-5 October, Santiago, Chile. SEMINAR ON INVESTMENT FOR ECONOMIC GROWTH, SOCIAL INCLUSION AND ENVIRONMENTAL SUSTAINABILITY. Hosted by the UN Economic Commission for Latin America and the Caribbean (ECLAC), this seminar is intended as part of the preparations for the European Union (EU) and Community of Latin American and Caribbean States (CELAC) Summit of Heads of State and Government in January 2013. The upcoming January summit is being held under the theme "Alliance for Sustainable Development: Promoting Investments of Social and Environmental Quality." For more information, visit the event [website](#).

5 October, London, UK. SUSTAINABILITY AFTER RIO+20: WORKING TOWARDS GLOBAL GOVERNANCE. Hosted by Chatham House, this event will discuss the potential for establishing new trade, investment, and other international rules and arrangements to promote sustainable growth. In particular, the speaker – James Bacchus, Chair of the World Economic Forum's Global Agenda Council on Governance for Sustainability and former chair of the WTO's Appellate Body – will explore the interconnections and international arrangements relating to food, energy, water, climate, and other issues affecting global sustainable development. For more information, visit the Chatham House [website](#).

9 October, Washington, US. CAMPAIGN 2012: THE GLOBAL ECONOMY AND CHINA. Hosted by the Brookings Institution, this event will discuss the current US-China relationship, which has been at the forefront of domestic and foreign policy discussions throughout the current US presidential campaign. Discussions will focus on the global economy and China, as part of a series of forums aimed at identifying and addressing those issues that the next US president is likely to face. For more information, visit the Brookings [website](#).

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.

4 October: Committee on Specific Commitments

4 October: Working Party on Domestic Regulation

5 October: Council for Trade in Services

5 October: Working Party on the Accession of Kazakhstan

8 October: Negotiating Group on Trade Facilitation (followed by Inf.)

9 October: Working Party on the Accession of Tajikistan

9 + 11 October: Trade Policy Review Body – Norway

10 October: Sub-Committee on Least-Developed Countries

Other Upcoming Events

15-16 October, London, UK. CLIMATE CHANGE 2012. Sponsored by Chatham House, this conference will examine the key economic, social, and geopolitical security threats caused by climate change and debate what national and international responses are required to manage these security challenges. Among other topics, the event will discuss the impact of climate change on border shifts, migration, health, security of critical infrastructure, and competition for natural resources. It will also address the role of geo-engineering in managing climate. For more information, visit the event [website](#).

30 October, Washington, US. IS THE KOREAN ECONOMY RESILIENT IN THE FACE OF STRONG GLOBAL HEADWIND? This event, sponsored by the Korea Economic Institute and the Korean Economic Society, will explore the outlook for South Korea's economy, including both its prospects and its vulnerabilities. It will also seek to find ways South Korea can contribute to establishing robust, sustainable growth in a broader global context, and the country's overall outlook in the midst of the global economic slowdown. For more information, visit the event [website](#).

5-6 November, New Delhi, India. SEVENTH IZA/WORLD BANK CONFERENCE: EMPLOYMENT AND DEVELOPMENT. This annual conference on Employment and Development aims to provide a platform for researchers and policy experts to discuss new findings and identify areas where further work is needed. The Institute for the Study of Labor (IZA) and the World Bank will organise this year's conference in partnership with the Indian Council for Research and International Economic Relations (ICRIER) and the Delhi School of Economics. In addition to the regular sessions in all fields of labour economics, special sessions on youth employment and entrepreneurship will be featured. For more information, visit the IZA [website](#).

6-8 November, Gurgaon, India. WORLD ECONOMIC FORUM ON INDIA: FROM DELIBERATION TO TRANSFORMATION. This forum will seek to outline a blueprint for a post-crisis India that could potentially serve as a new model for the country moving forward. Among other topics, it will aim to answer how best practices in inclusive governance at the federal and state levels can be stepped up to accelerate India's inclusive growth agenda. It will also explore ways for India's human capital development to be improved by placing greater emphasis on advancing gender parity. For more information, visit the World Economic Forum [website](#).

19-23 November, Vienna, Austria. GLOBAL SOUTH-SOUTH DEVELOPMENT (GSSD) EXPO 2012: "ENERGY AND CLIMATE CHANGE: INCLUSIVE PARTNERSHIPS FOR DEVELOPMENT." This event, hosted by the UN Industrial Development Organization (UNID) and co-organised with the Special Unit for South-South Cooperation (SU-SSC) aims to bring high government officials, heads of UN agencies, private sector participants,

academia, and development practitioners. The GSSD Expo 2012 will focus on how energy and climate change needs are interwoven with development objectives and aims to showcase various types of innovative technologies and best practices related to energy and climate change issues. For more information, visit the event [website](#).

Resources

WHY A BREAKUP OF THE EURO AREA MUST BE AVOIDED: LESSONS FROM PREVIOUS BREAKUPS. By Anders Åslund for the Peterson Institute for International Economics (August 2012). This paper addresses the possible collapse of the European Economic and Monetary Union (EMU), arguing that a collapse of such a union could lead to a host of disasters. The author reviews similar historical currency zone collapses for possible lessons learned, and states that – should such an “impermissible” collapse occur – that at least an amicable, fast, and coordinated end of the EMU would minimise the damage. The full text can be found [here](#).

GLOBAL FINANCIAL REFORM AND TRADE RULES: THE NEED FOR RECONCILIATION. By Kevin Gallagher and Leonardo E. Stanely for the Frederick S. Pardee Center for the Study of the Longer-Range Future (September 2012). This policy brief describes the outcomes of a “compatibility review” between the ability to implement capital account regulations and standard provisions of the global trading system. It argues that changes should be made so that the two systems are more compatible, providing countries – especially developing countries – with the policy space to employ capital account regulations to stabilise their economies and stave off boom-and-bust cycles still participate in bilateral and multilateral trade and investment treaties. The full text can be found [here](#).

ENVIRONMENTAL POLICY IN THE EU. Edited by Andrew Jordan and Camilla Adelle; published by Routledge (August 2012). This book examines how the EU is responding to a range of different problems, including biodiversity loss, climate change, energy insecurity, and water and air pollution. It discusses the many ways in which the EU's policies on these topics co-evolve with national and international environmental policies. A mixture of learning features are employed with the aim of ensuring that readers fully understand how EU policies in this area have developed in the past and how they are now adapting to the rapidly evolving challenges of the twenty-first century. The full text is available for purchase [here](#).

A COMPARATIVE STUDY OF RISK MANAGEMENT IN AGRICULTURE UNDER CLIMATE CHANGE. By the Jesús Antón, Shingo Kimura, Jussi Lankoski, and Andrea Cattaneo for the Organisation for Economic Co-operation and Development (OECD) (July 2012). This paper states that climate change affects the mean and variability of weather conditions and the frequency of extreme events, arguing that this, to a great extent, determines the variability of agricultural production and yields. This paper reviews the scientific literature on the impacts of climate change on yield variance and investigates their implications for the demand of crop insurance and effectiveness of different farm strategies and policy measures using crop farm data from Australia, Canada, and Spain. The authors use a microeconomic farm level model calibrated to different types of farms and used to simulate the responses and impacts of potential policy measures. The full text can be found [here](#).

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**International Centre for Trade
and Sustainable Development**

Chemin de Balexert 7-9
1219 Geneva, Switzerland
+41-22-917-8492
www.ictsd.org

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Director at +41-22-917-8335.

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Sofia Alicia Baliño, John Curran, Jonathan
Hepburn, Alessandro Marongiu, Eric Riley, and
Marie Wilke. This edition of Bridges Weekly Trade
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