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AGRICULTURE

WTO: Ag Talks Chair Seeks to Reconcile Conflicting Visions for Bali

Governments should explore "alternative approaches" to a developing country proposal for more flexible WTO rules on subsidised food stockholding, the chair of the organisation's farm talks said this week.

New Zealand Ambassador John Adank told a meeting of around 30 senior officials on Tuesday that the bid to amend current rules in this area was "not likely to be acceptable" to delegations in the run-up to the global trade body's ministerial conference, set to be held in Bali, Indonesia this December.

However, according to a copy of the chair's speaking notes seen by Bridges, he also set out a range of options that could address concerns raised by India and the proposal's other co-sponsors from the G-33 developing country group - a coalition of WTO members with sizeable smallholder farm populations. (See Bridges Weekly, [14 November 2012](#))

These options include exploring whether WTO members could agree to exempt a set of developing country farm programmes from subsidy limits; whether countries could agree to reiterate a [commitment](#) not to bring legal challenges to minimally trade-distorting support programmes under a possible "peace clause"; or agreeing to greater flexibility subject to certain conditions, such as better targeting of beneficiaries.

Negotiators should also look at what was feasible in the run-up to Bali, and what could be done afterwards, Adank said.

US calls for a WTO work programme on trade and food security

A [statement](#) from US Ambassador Michael Punke called for WTO members to agree on a work programme on trade and food security "that can examine the full range of trade-related government measures that can contribute to that goal."

Punke told other senior officials that "work can and should include examination not only of the role of public stockholding and administered prices in addressing food security concerns, but also how to improve food security through better-functioning markets, including further liberalisation in agricultural trade, reductions in trade-



International Centre for Trade and Sustainable Development

distorting support, elimination of export restrictions, improved transparency, and efficient distribution systems."

Along with several other developed countries and a number of developing ones, the US has been vocal in expressing concern that the G-33 proposal could potentially allow developing countries to reverse progress towards reducing trade distortions in global agricultural markets.

India, along with some other large developing countries, has argued that developing countries should be allowed to purchase food at administered prices from resource-poor or low-income farmers, without having to count these purchases towards the WTO's maximum-permitted ceiling on trade-distorting farm support.

Some G-33 members told Bridges that the US move seemed to be aimed at pushing back these discussions until after the December ministerial conference. Developed countries had consistently sought "something substantive post-Bali, and something non-substantive pre-Bali," the source said.

G-33 members present new "non-paper"

Adank met again yesterday with a small informal group of around a dozen trade officials that he has convened repeatedly in recent weeks, sources said. Ambassadors have been attending these discussions, accompanied by a maximum of one technical official each.

The group includes developed countries with reservations about the G-33 proposal, such as the US, EU, and Australia, as well as developing country proponents, such as China, India, and Pakistan.

At yesterday's meeting, the group circulated a "non-paper" for discussion, a copy of which has seen by Bridges. The document identified four elements that could be negotiated in order to provide developing countries with additional flexibility.

Four variables - but some more variable than others

One option could be to raise the the maximum-permitted ceiling for developing countries' "de minimis" support - currently set at ten percent of the value of production for all developing countries, apart from China which accepted a lower limit of 8.5 percent when it joined the global trade body a decade ago. This could be raised to fifteen percent for all countries instead, the non-paper's sponsors suggest.

Another option could be to review the 1986-88 reference prices that are used as a benchmark for calculating countries' market price support levels. The G-33 countries say that because this yardstick does not capture increases in food prices over the last few decades, it "grossly exaggerates and overstates the economic subsidy provided."

A third variable that could be negotiated would be the volume of eligible production - which is multiplied by the difference between the external reference price and the administered price to give the value of farm subsidy provided.

The sponsors of the non-paper say that there are nonetheless "extremely limited or no possibilities" to reduce the fourth variable - the administered prices provided to farmers.

One delegate who had participated in the discussions told Bridges that the small-group meetings had created a more constructive atmosphere among delegates. "We're getting engagement at this technical meeting," the official said.

Trade facilitation link

Trade sources also told Bridges that India was linking progress on a trade facilitation deal - which would be the centrepiece of any Bali package - to further concessions on the G-33 proposal.

"The Indians were signalling their desire that the G-33 proposal be taken seriously, if they were to be more constructive in the trade facilitation discussions," one negotiator said.

The parliament in New Delhi is set to review [proposals](#) that would dramatically expand subsidised food provision to eligible households, under India's new Food Security Bill. These would extend food subsidies to up to 75 percent of the rural population, and up to 50 percent of the urban population. (See Bridges Weekly, [18 July 2012](#))

While critics have [warned](#) of the financial costs of the initiative, as well as the potential for waste and leakage under the country's current Public Distribution System, the bill has also been seen by many as a potential vehicle for overcoming widespread hunger and malnutrition among the country's poorest citizens.

In Geneva, India has warned that current rules on trade-distorting support could bring the country close to agreed limits on "de minimis" payments - set at ten percent of the country's value of production. While food purchases at administered prices would normally be seen as trade-distorting "amber box" payments, New Delhi has argued that these should be relaxed for purchases from low-income or resource-poor farmers - considered by the government to be those producers with fewer than 10 hectares.

While developed countries have claimed that current WTO rules place no constraint on subsidising poor consumers, India and other G-33 countries have argued that a change in the global trade body's rules is needed in order for countries to also support the livelihoods of poor producers.

Other developing countries ambivalent

African countries are notably absent from the small-group discussions, with many expressing at best lukewarm support for the new changes proposed.

While most lack the financial resources needed to set up subsidised food aid programmes on the scale of some of the larger developing country trading powers, some say they would like to be able to have the flexibility to provide such support in the future.

Others worry that subsidised food purchases in major developing country economies could be exported to world markets - potentially undermining their own poor producers, and damaging food security.

Export competition, TRQ administration

Delegates are also due to discuss a separate proposal on the administration of import quotas, tabled last autumn by the G-20 developing country group that favours farm policy reform in the developed world. (See Bridges Weekly, [3 October 2012/](#))

Adank suggested to senior officials on Tuesday that this proposal could be dealt with "in a slower time frame" than the food stockholding submission from the G-33.

Trade sources told Bridges that a long-awaited G-20 proposal on export competition was also likely to be tabled very soon.

"In order for any proposals to be given the necessary consideration they need to be tabled sooner rather than later," Adank warned.

Delegates told Bridges that G-33 ambassadors would be meeting with the Indonesian trade minister later this week to review progress ahead of the December conference.

However, the talks would have to pick up speed if WTO members are to be able to agree a small package ahead of the ministerial, trade sources warned.

"By the summer break, we need some results - or at least the contour of some results," one negotiator sternly observed.

"What will be critical is whether the chair can give both sides the comfort they really need," another added.

ICTSD reporting; "National Food Security Bill 2013," THE HINDU, 22 March 2013; "No deal on subsidy," THE HINDU, 29 April 2013; "India May Consider Cutting Wheat Export Price to Boost Shipments," BLOOMBERG, 30 April 2013.

DISPUTES

EU Seal Ban Under Microscope in Geneva and Luxembourg

The debate over the European Union's ban on seal product imports ramped up this past week in Geneva, as the WTO dispute panel tasked with the case held its second hearing on the emotionally charged issue. The development came just days after the Luxembourg-based European Court of Justice – in separate proceedings – issued its own ruling last Thursday upholding the controversial measure.

Both cases revolve around a 2009 European Commission (EC) regulation which banned the sale of seal products in all EU member states. (See Bridges Weekly [4 November 2009](#)) Proponents of the ban argue that the commercial sealing operations targeted by the measure are "inhumane," imposing pain and emotional distress on the animals that cannot be consistently avoided. The ban, they say, is necessary on the grounds of public morality, specifically with regards to animal welfare.

WTO case

The ban has been challenged at the WTO by Canada and Norway ([DS400](#), [401](#)), who have argued that the prohibition is unjustified, and also unfairly discriminates against their industries relative to sealing that takes place in certain EU member states. Ottawa, for instance, argues that Brussels' regime blocks 90-95 percent of Canadian seal products, while allowing in "virtually all" Greenlandic seal products and all Swedish and Finnish seal products.

Oslo, for its part, also argues that the EU ban actually makes it difficult for Norway to sustainably manage marine resources. With harp seals being a top predator in the marine food chain, Norway says, ecosystem management principles dictate that sometimes it may be necessary to reduce the population of these predators.

A previous WTO hearing had been held in February on the subject, which drew several animal rights activists and sealing advocates alike to the global trade body's Geneva headquarters. (See Bridges Weekly, [20 February 2013](#)) However, this week's hearing, which was also open to the public, attracted a noticeably smaller crowd.

Evidence of inhumane process?

At this week's WTO proceedings, both sides clashed strongly over the reliability of the evidence each side was citing to prove – or disprove – whether seal hunting can be conducted in a humane manner.

"The complainants' scientific case is built upon a false premise," the EU said. "Indeed, the complainants' contention that seals can be killed consistently in a humane way is entirely dependent on their unfounded claim that both shooting and the use of the hakapik [a type of club used in seal hunting] are, themselves, effective and reliable killing methods."

The EU showed video footage to demonstrate the point that sealers cannot always tell if a stunned seal is conscious or not when they are hooked by gaffs and then dragged onto a boat. Canada, however, argued that video evidence has not proved to be reliable, and that some of the other evidence cited by the EU comes from studies that were conducted with

financial support of animal welfare groups, and were produced by “veterinarians with limited prior experience with seals.”

In the question-and-answer period later, Canada also noted that while video footage can be used to show evidence of bad practice, as the EU had done, it could also be used to provide evidence of good practice, which was not included. It may have been, “in Hollywood parlance, ‘left on the cutting room floor’,” Canada said.

Public morals

Canada and Norway also questioned at the WTO hearing whether the public moral that the EU is seeking to protect indeed exists, and whether these morals “include, or are limited by, concerns regarding indigenous communities and resource management.”

Canada, for instance, has argued that the public moral lacks sufficient precision, and has not been proven to constitute a “clearly discernible and unambiguous rule of right and wrong conduct.”

Norway, meanwhile, said that “a panel cannot simply accept a member’s assertions about the contours of its public morals,” but that rather such morals deserve additional scrutiny.

Exceptions return to the fore

The EU Seal Regime does allow seal products to be sold on the bloc’s market in three circumstances: those products that come from hunts conducted by indigenous peoples, known as the IC exception; products from hunts that are conducted with the goal of sustainable management of marine resources (SRM or MRM exception); and those products that are brought in by tourists.

The IC and marine resource management exceptions had come under fire during the previous hearing, and were again raised this week. Canada, Norway, and various third parties have argued that since the ban aims to protect seals, it should apply in all circumstances.

“It is not... sufficient for the EU to explain just that it bans Norwegian products to protect public morals or animal welfare. It must also show that its decision to *carve out* products from Greenland and the EU is more than a political choice,” the Norwegian statement said.

In response, the EU said on Monday that these exceptions “reflect the outcome of the balancing of the welfare of seals and other interests, which is part of the standard of morality that the EU Seal Regime as a whole seeks to uphold.” Specifically, those exceptions do not raise “the same moral concerns as the products of commercial hunts.”

Canada, however, asked later in the hearing how the IC exception was developed, noting that Canada’s Inuit are on record saying that they were not “meaningfully consulted” and are unhappy with the current measure.

With regards to the marine resources management exception, Norway also highlighted during the question-and-answer sessions the difference between small-scale and large-scale hunts. If the benefit for humans and other animals outweigh the suffering of seals in smaller hunts, Norway argued, then it should be no different for large-scale sealing. The EU, however, argued in response that “scale is relevant” and that “size does matter.”

Less trade-restrictive alternative?

The parties also debated whether or not there was a less trade-restrictive alternative to the EU’s seal regime that might still meet the same objectives.

Canada, for instance, had outlined a certification and compulsory labelling scheme that would, it says, be rooted in an animal welfare standard. Ottawa argues that this standard would exceed the one used within EU member state Britain in deer hunting – a practice that, it argues, is comparable to seal hunts.

The standard currently used in deer hunting, Canada says, “comes nowhere near close to the three-step method [stunning, checking, and bleeding the seals] that must be observed during Canada's seal hunt,” despite the two hunts supposedly being similar. “In view of the prevailing killing methods, some suffering by the [deer] is clearly accepted without thereby characterising the hunt as inhumane.”

“All of this suggests that a scheme such as Canada's proposed alternative measure would be a less trade-restrictive and reasonably available solution,” the Canadian representative said.

Norway has also suggested three alternatives that, it argues, would be less restrictive, “but would contribute to a greater extent than the EU Seal Regime to the EU's legitimate objectives regarding animal welfare and sustainable resource management.”

However, the EU argues that the complainants' proposed alternative measures “would fail to make an equivalent contribution to those objectives because seals cannot be killed humanely on a consistent basis.” While the complainants have said that their measure would provide more protection, given the exceptions in the EU seal regime, Brussels argues that it would actually be “more trade restrictive.”

The burden, the EU says, is on Canada and Norway to show that a “less restrictive measure... would make an equivalent contribution to the relevant objectives,” specifically animal welfare and public morals, as well as protecting the economic and social interests of the Inuit and other indigenous populations. The current suggestions, Brussels says, do not.

ECJ ruling

The dispute panel hearing took place just days after the European Court of Justice – in a separate case brought forward by a Canadian Inuit association, together with manufacturers and seal product traders of several nationalities – upheld the EU's seal ban, an outcome that all sides raised during this week's WTO panel hearing.

The 25 April ECJ [ruling](#) had found that the ban did indeed have a legal basis – contrary to the complainants' claims – as it was intended to harmonise the bloc's internal market. The ban was implemented after some EU member states had already begun to instate bans of their own in response to animal welfare concerns, while others had none, resulting in varying commercial conditions within the 27-country group.

At the WTO hearing, the EU stressed that the ECJ case concerned a different issue, and one that is not before the global trade arbiter – specifically, whether there was a proper legal basis in the EU treaty for adopting this ban.

Norway, however, argued that the ECJ case is relevant to the WTO dispute, as the European Court had been tasked also with examining what the objectives of the legislator were.

“To Norway, it is striking, when you read through this judgment, that the arguments made with respect to objective of the measure are completely different,” the Norwegian representative said during the question-and-answer portion of Monday's proceedings, noting that the court found harmonisation of the EU internal market to be the primary objective.

The representative also raised various other questions, such as why the objective of reducing consumer confusion regarding how to distinguish seal products from alternative ones "is not an objective at all, apparently [in the WTO forum]."

Canada also noted in its opening statement that addressing the public moral concerns of EU citizens "was not among the policy considerations identified by [the European Court of Justice]."

Next steps

The WTO dispute panel reviewing the cases is expected to release a report by late summer. The European Court of Justice case, meanwhile, might not yet be over. Under EU law, the complainants are entitled to bring an appeal before the ECJ within two months of the ruling, focusing only on points of law.

ICTSD reporting.

WORLD TRADE ORGANIZATION

Blanco, Azevêdo in Final Round of WTO Leadership Contest

[Editor's note: This article was originally published online on the ICTSD website on Friday 26 April, under the headline "Blanco, Azevêdo Final Contenders in WTO Leadership Race". It has since been updated, and is included here for your reference.]

WTO officials on Friday formally announced that Herminio Blanco of Mexico and Roberto Carvalho de Azevêdo of Brazil have attracted enough support to advance to the third – and final – round of the organisation's leadership contest, which is now currently underway. The race to succeed WTO Director-General Pascal Lamy, who will be stepping down from his post at the end of August, is expected to conclude as early as next week.

The news that Blanco and Azevedo were the last two candidates standing came following a weeklong round of consultations, hosted by the chairs of the General Council, Dispute Settlement Body, and Trade Policy Review Body. These three ambassadors, known collectively as the "troika," are Shahid Bashir of Pakistan, Jonathan Fried of Canada, and Joakim Reiter of Sweden, respectively.

Members were asked in the 16-24 April round to name two candidates, without any ranking, as their preferences in private meetings with the troika. Along with Blanco and Azevêdo, the three other candidates that were considered in this round included Taeho Bark of Korea, Tim Groser of New Zealand, and Mari Pangestu of Indonesia.

These "confessionals" were conducted on a confidential basis, with candidates receiving the least support expected to withdraw their names from consideration. Their governments were notified last Thursday night to that effect.

In his statement to the General Council on Friday, Bashir noted that nearly all of the 158 members that took part in this latest round of consultations provided the two preferences asked for, with only three deviating from this procedure. "These very few deviations did not affect the result of the consultations at all," he stressed.

The previous round of consultations had sparked some controversy among the membership, after Kenya formally complained over the fact that some members stated more preferences than what the troika had asked for.

In statements following Bashir's announcement, both remaining candidates stressed that they had received wide-ranging support from across different sectors of the WTO's membership.

"The fact that we were able to get to the final round of the selection process is a sign of how representative our candidacy is," Azevêdo said in a press release. "We received the support of countries from all geographic regions and with different levels of development."

"The results of the selection process demonstrate the broad support that the candidacy of Dr. Herminio Blanco to the WTO Director-General position has received on behalf of the organisation's membership, coming from all geographic regions and from least developed countries (LDCs), developing countries, and developed ones," the Mexican Foreign Affairs Ministry [said](#).

The final round of consultations began yesterday and will conclude next week, on Tuesday 7 May. Members have been asked to state one preference in this round, with the goal of finding a single candidate around which the organisation can build a consensus. The troika is expected to announce the final result on Wednesday 8 May, weeks ahead of the 31 May deadline for concluding this process.

From nine to two

The high-profile race had originally kicked off with nine candidates, four of which were eliminated in a previous round of consultations. Those four included two African candidates – Amina Mohamed of Kenya and Alan Kyerematen of Ghana – as well as Jordan's Ahmad Thougan Hindawi and Costa Rica's Anabel González. (See Bridges Weekly, [18 April 2013](#))

Speculation has been rife in Geneva as to who might get the WTO position, and what factors – such as what leadership roles their region has at other international organisations, or their views on matters of trade policy, among others – might play a role in their selection. Latin America is one of only two regions never to have had the organisation's top position, with the other region being Africa.

The next Director-General will take office on 1 September, just three months before the WTO's Ninth Ministerial Conference in the Indonesian province of Bali. WTO members are aiming to clinch a small package of deliverables from the Doha Round negotiations in time for the Bali gathering, which – if accomplished – would mark the first major advance in the 12-year-old talks in several years.

WTO future in focus

The change in WTO leadership is the first such transition since Lamy took office in 2005, and comes at a time when many are questioning the future path of the organisation. Questions over how to break the deadlock in the Doha Round negotiations and how – and whether – the WTO should respond to the so-called “new issues,” such as food security and climate change, have been a constant source of discussion in Geneva.

In this context, trade observers have been watching to see what vision a new global trade chief might have for the organisation's upcoming years. In “Global Challenges and the Future of the WTO: Views from the Candidates Beyond the Hype of the DG Race” – a [publication](#) released last week by Bridges' publisher, ICTSD – Azevêdo outlined some of his views on what needs to come next for the 159-member body. “We are approaching two full decades of stagnation on the negotiating front,” he said. “The system must be updated or it will soon become incapable of dealing with the demands of today's changed world.”

The timing is currently right for such an update, he explained, beginning with this December's ministerial gathering. A successful “early harvest” would provide both “very tangible material gains,” along with boosting confidence in members' ability to work with one another and achieve results.

He qualified, however, that “we all need to believe that any Bali outcomes will not be the end of the road.” Solutions to the Doha Round, and various non-Doha issues, must be examined by the membership, he added, noting that a post-Bali process “must, however, prioritise the issues of interest to the poorest countries.”

“We cannot throw away the development agenda that was strenuously negotiated to ensure delivery to the poorest and most vulnerable members of this organisation. We can't turn the page and leave them behind,” he said.

In a similar vein, Herminio Blanco – in an interview published on Friday in the Wall Street Journal – was also asked about his basic vision for the organisation and what changes might be needed in the coming years.

Referring to the proliferation of preferential trade agreements – particularly “mega-deals,” such as the ongoing Trans-Pacific Partnership negotiations, or the planned EU-US trade talks – he stressed that the WTO will need to make some “systemic” changes in order to remain relevant, particularly given that the organisation's current rules date back nearly two decades.

“To think that the relation between the WTO and these kinds of agreements can keep on being one of just regulating – and if you look at the WTO 10 years from now doing the same – then the doubts of the relevancy of the WTO are major,” he said.

“So you have these just massive agreements with new rules, much liberalisation, and you have this WTO that is regulating them. Small WTO, big guys,” he explained. “So unless you do something systemic – and this discussion among members takes on very difficult and sometimes emotional aspects – unless we have a mechanism to systemically relate them, and I would go a little bit further, systemically learn from these agreements, the WTO will become irrelevant.”

Previous experience

Azevêdo has spent the past five years as his country's ambassador to the WTO, also representing Brazil in front of the World Intellectual Property Organization, the UN Conference on Trade and Development, and the International Telecommunications Union.

Prior to that, he was posted in Brasilia as his country's Vice Minister for Economic and Technological Affairs, serving as Brazil's chief Doha Round negotiator and supervising trade talks conducted under the South American customs union Mercosur.

Blanco is a former Mexican trade minister, having been his country's chief negotiator during the talks to set up the North American Free Trade Agreement (NAFTA) and leading Mexico's participation in the Uruguay Round that established the WTO. Blanco has spent most of his years since then in the private sector, advising governments, corporations, and international organisations.

ICTSD reporting; “Mexico's Candidate for WTO Urges Shake-Up,” WALL STREET JOURNAL, 25 April 2013.

INTELLECTUAL PROPERTY

WIPO Negotiators Make Headway on Draft Instrument on Traditional Knowledge

A draft text for a legal instrument on the protection of traditional knowledge will continue to make its way towards a potential diplomatic conference, members of the World Intellectual Property Organization (WIPO) decided last week in Geneva.

The Intergovernmental Committee on Genetic Resources, Traditional Knowledge, and Folklore (IGC) was created in 2000 in response to concerns by biodiversity-rich countries and indigenous communities about the misappropriation of their genetic resources and associated traditional knowledge.

The committee is currently working toward developing text(s) for an international legal instrument(s) aimed at ensuring the effective protection of genetic resources, traditional knowledge, and traditional cultural expressions. The work has been divided into three thematic sessions to deal with the respective topics, with the last of these slated for July. (See Bridges Weekly [15 October 2012](#)) The document considered last week is expected to be transmitted to the organisation's General Assemblies in September, which will in turn decide whether to convene a diplomatic conference on the subject – the UN body's highest level of negotiations.

Text sees progress, though brackets remain

The [22-26 April meeting](#) saw delegates work in informal and small drafting groups in order to whittle down a text fraught with brackets. For the most part, members focused on trying to resolve some of the remaining kinks in the areas of the subject matter, beneficiaries, and scope of protection, as well as exceptions and limitations to the instrument.

Though some parts of the text – such as the definition of traditional knowledge – appear to have fewer brackets than before, the document still reflects important disagreements between countries on core issues.

One particularly contentious issue under "scope of protection" continues to be a mandatory disclosure requirement in patent applications regarding the origin of genetic resources and associated traditional knowledge. Proponents say that such a measure would prevent erroneous patents from being granted and ensure that adequate access and benefit-sharing provisions are in place. Opponents say such a requirement would be burdensome for patent applicants and may not ensure the adequate protection of traditional knowledge.

Members are also still at odds over exceptions and limitations in the potential instrument, and agreed that most countries needed more time to thoroughly assess the options on the table.

Public domain issue heats up

Another issue that turned heated during the discussions was whether traditional knowledge found in the public domain or that is known and used outside the community is

eligible for protection. The African Group, for one, noted the intellectual property (IP) system already has a difficult time defining what is meant by the public domain, and it is not up to traditional knowledge negotiations to resolve this problem.

"We would not want to burden [traditional knowledge] with the indecision of the IP system [on the public domain issue]," the delegate said on the African Group's behalf.

Developed countries such as the US and the EU, on the other hand, felt it was important to address the issue in the first article of the draft instrument, with Canada calling it "fundamental."

"Diffused, or publicly available, traditional knowledge" is a key and cross-cutting issue, IGC Chair Ambassador Wayne McCook of Jamaica said in an explanatory paper issued prior to the meeting. "It concerns most directly the scope of protectable subject matter but also impacts on other core issues, such as beneficiaries, scope of rights, exceptions and limitations, administration of rights and transboundary cooperation," he added.

Other texts reignite controversy

Also on the agenda were three divisive texts submitted by a handful of developed countries, with developing countries for the most part arguing that the texts are an attempt to derail discussions on a legally binding instrument. All texts had been previously discussed at the last session of the IGC, which focused on genetic resources (See Bridges Weekly [13 February 2013](#)).

One of the documents is a [joint recommendation](#) that sets non-binding general guidelines for the protection of genetic resources and associated traditional knowledge, which was submitted by the US, Canada, Japan, Norway, and South Korea.

Another one features a [proposal](#) for the terms of reference for a WIPO study on measures related to the avoidance of the erroneous granting of patents. The third suggests that a [joint recommendation](#) be made on the use of databases for the defensive protection of genetic resources and the associated traditional knowledge. These last two were tabled by the same group of countries as the first proposal, with the exception of Norway.

Many developing countries expressed concern that reopening these previously acknowledged texts would bring up "parallel discussions" that would significantly hinder the existing process on the current draft text.

"The mandate of the committee is to have a legal instrument," said India during the discussions, a statement echoed by McCook. "We will not have a contest of documents," the IGC chair said.

Proponents, meanwhile, argued that these proposals are not intended to prejudice the committee's ongoing work, but rather provide more information on the subject of erroneous granting of patents.

The IGC ultimately noted the documents, but did not annex them to the negotiating document. These proposals will not be transmitted to the WIPO General Assembly.

The next session of the IGC is scheduled for 15-24 July and will focus on traditional cultural expressions. The WIPO General Assembly will meet from 23 September – 2 October.

ICTSD reporting; "New WIPO Text On Traditional Knowledge Protection Cleaner But Issues Remain," IP WATCH, 28 April 2013.

WASHINGTON

Obama Expected to Nominate Michael Froman for Top Trade Post

US President Barack Obama is said to be close to completing his economic team for his second term, with reports indicating that he planning to nominate Michael Froman – currently the Deputy National Security Advisor for International Economic Affairs – as his choice for US Trade Representative (USTR) in the coming days.

Froman is said to be in the final vetting process for becoming the US' top trade negotiator. Once nominated, he will need to be confirmed by the Senate before he can take on the role, which has been vacant since previous USTR Ron Kirk stepped down in mid-March. Deputy USTR Demetrios Marantis has been serving as Acting USTR in the interim.

TPP, EU-US pacts in the background

The nomination of a new USTR comes at a time when the Obama Administration is taking on an increasingly ambitious trade agenda, in line with the president's stated goal of doubling exports from their 2009 levels by 2015.

For instance, the US is planning talks on a bilateral trade and investment deal with the EU, which are likely to launch this summer. (See Bridges Weekly, [13 February 2013](#)) The proposed deal is aimed at expanding the world's largest trading relationship, at a time when both sides are struggling with maintaining – and speeding up – a fragile economic recovery. The two sides have said that they aim to conclude the negotiations within as little as two years.

The US is also one of 11 countries – soon to be 12 with the addition of Japan – that is negotiating the Trans Pacific Partnership (TPP) Agreement. The group is hoping to conclude negotiations for the so-called "21st-century" deal by the end of this year, with the aim of it eventually serving as a possible platform for a broader deal among the 21 Asia-Pacific Economic Cooperation (APEC) countries.

Froman is no stranger to the intricacies of trade talks, having played a key role in the final stages of the US' trade negotiations with South Korea. He has also worked closely with Obama at all major international economic events, having [served](#) as the US Sherpa for the G-20 and G-8 summits, and assisting the president at the APEC Leaders' Meetings.

Prior to joining the Obama Administration, Froman acquired substantial experience in both the private and public sectors. After being a Senior Fellow at the Council of Foreign Relations, Froman then took on various roles at Citigroup over a period of several years.

He then transitioned into government work, moving to the US Department of Treasury. Froman later served as director for International Economic Affairs on the National Economic Council and the National Security Council for three years.

"Fast track" fight brewing?

The planned trade deals have also fuelled speculation that a fight could soon be looming over whether to renew Trade Promotion Authority (TPA) – a provision also known as "fast track" that expired in July 2007. The provision had allowed the US Trade Representative's

office to negotiate trade deals and then submit them to Congress for straight up-or-down votes, without any amendments.

Although Obama has not yet formally requested the renewal of TPA from US lawmakers, the topic seems to have a firm spot in the administration's trade plans, with the White House saying in March that it intends to work with Congress on the matter. "Such authority will guide current and future negotiations, and will thus support a jobs-focused trade agenda moving forward," the Obama Administration said in its annual policy document on the US' trade agenda in March. (See Bridges Weekly, [6 March 2013](#))

Senate Finance Committee Chairman Max Baucus has lately hinted that the TPA topic could arise as early as this summer, especially if the US hopes to finish TPP talks in 2013. Baucus – a Democrat from the US state of Montana – [said](#) last week that he hopes for a bipartisan "fast track" bill to be introduced by June. Republican Dave Camp, who chairs the House Ways and Means Committee, has similarly backed plans for the legislation.

WTO ministerial looming

Many will also be watching to see what the nomination of a new USTR will mean for the US' involvement at the WTO, as the global trade body's 159 members continue their efforts to clinch a package of deliverables from the Doha Round in time for their December ministerial conference in Bali, Indonesia.

While the US has said that it remains committed to the multilateral negotiations, many trade observers have questioned whether Washington's growing focus on bilateral pacts could mean that it is shifting its attention elsewhere.

However, US Ambassador to the WTO Michael Punke has stressed in recent weeks the need to ensure that the Bali ministerial be a success, arguing that the Doha Round's future as a whole depends on it. Senior officials from various WTO members – including Punke – met in Geneva earlier this week with the goal of finding new flexibilities in the negotiations, given the growing concern that the pace of the talks is not moving quickly enough to ensure a meaningful result by December. (For more on the senior officials' meeting, see related story, this issue)

Additional economic team nominations expected

Along with the expected USTR nomination, news reports have also indicated that Obama could soon be announcing his pick for the position of Secretary of Commerce, which is also a Senate-confirmable role.

The President has reportedly settled on Penny Pritzker – a billionaire who previously served as finance chairman for Obama's 2008 campaign, to take on the position – which has lacked a permanent head since previous secretary John Bryson stepped down last summer.

ICTSD reporting; "Froman Said to Be Front-Runner for Trade Representative," BLOOMBERG, 27 April 2013; "Obama Set to Tap Froman, Pritzker for Economic Team," THE WALL STREET JOURNAL, 26 April 2013; "Senator aims for bipartisan trade promotion bill," REUTERS, 24 April 2013.

ENERGY

Lamy Pushes for Increased Dialogue on Energy Issues

The WTO is in need of a constructive and forward-looking discussion on trade and energy issues, Director-General Pascal Lamy said on Monday. Such an approach, he explained, is necessary if the 159-member body wishes to participate effectively in the future of global energy governance.

Lamy, who was speaking at a workshop on trade and energy held at the WTO's Geneva headquarters, was one of several presenters to emphasise the crucial role of renewables in helping supply the planet's growing demand for energy while reducing adverse environmental impacts.

However, the Director-General cautioned that countries urgently need to begin discussing the trade implications of ramping up renewable energy in order to ensure success.

"A discussion on the trade-related aspects of measures to promote clean energy, which is both rooted in political reality and informal, remains almost completely absent from the WTO in spite of the existence in the organisation's institutional structure of dedicated fora for such discussions," Lamy said.

With this in mind, the workshop – organised by Brussels-based Energy Charter Secretariat – aimed to generate discussion on the subject, while helping clarify the system of trade regulation in the energy sector and finding ways to improve it. A range of experts from around the world attended the meeting and discussed issues ranging from international regulation to investment rules to adaptation of current trade law.

With the accession of several fossil fuel-rich countries in recent years – including Saudi Arabia, Ukraine, and Russia – and an array of other energy giants such as Kazakhstan, Libya, Iran, and Iraq in the process of joining the WTO, discussion of energy-related issues at the global trade body will certainly increase.

Workshop participants discussed the possible development of an individual WTO agreement on energy, such as that seen for agriculture or textiles, but generally agreed that such a move would be unlikely. Both the complexity of achieving consensus on such a sensitive issue and the potential fragmentation of the multilateral trading system would make such a move undesirable, several experts said.

A more likely scenario, experts indicated, is to rely on the use of the WTO's dispute settlement system and to agree to specific terms at the point of a country's accession.

Maxim Medvedkov, Russia's Head of Trade Negotiations, noted that while many of the provisions of the General Agreement on Tariffs and Trade (GATT) are applicable to energy exports – particularly relating to transit – these rules do not sufficiently address pertinent issues, such as trade with countries within regional trading blocs, like the EU.

Medvedkov stressed that, although the existing multilateral rules are too vague to be relied on exclusively, they could be more useful and effective if ambiguities are clarified.

The lack of clear global rules in energy trading is an opportunity to begin a conversation on the establishment of a system of rules for trade in fossil fuels and clean energy

technologies, according to Ricardo Meléndez-Ortiz, Chief Executive of ICTSD, the publisher of Bridges.

He said that an important contribution to the development of a multilateral approach should be a dialogue on Sustainable Energy Trade Initiatives between energy and trade policymakers. The lack of such an agreement – even at the national level – demonstrates the need for such discussions in order to ensure energy objectives are in sync with the goals of sustainable development.

ICTSD reporting.

IN BRIEF

European Parliament Ctte Gives Green Light to US Negotiations

The international trade committee of the European Parliament has voted in favour of a resolution prompting the European Council to authorise the launch of bilateral trade and investment negotiations with the US in June, officials [announced](#) last week.

The committee is hoping that the Council will quickly start negotiations in order to "exploit political momentum and tap the jobs and growth potential of a better integrated transatlantic market," rapporteur Vital Moreira said last Thursday.

An EU-US deal should provide advances in the areas of public procurement market access, transportation, and services, MEPs said. Financial services – which has been suggested by the US and UK as a possible component of the deal – should also be included.

Notably, MEPs also voted on an amendment calling for cultural and audiovisual services to be excluded from the negotiating mandate. The topic of protecting the EU's "cultural exception" has been highlighted in recent weeks by France, who has pledged to block the talks unless it is clear that the provision will remain off the negotiating table. (See Bridges Weekly, [25 April 2013](#))

The resolution will be put to a vote in the full Parliament in May. Member states are expected to authorise the Commission to launch the talks the following month.

ICTSD reporting.

Obama Notifies Congress of Japan TPP Entry

The Obama Administration has [notified](#) the US Congress of its intention to include Japan in Trans-Pacific Partnership (TPP) talks. The move will now trigger a 90-day consultation period with lawmakers on the White House's negotiating objectives regarding Tokyo.

The 24 April announcement comes just days after the 11 current TPP members formally extended an invite to the Asian economy to join the negotiations, pending the completion of their necessary domestic procedures. Japan is expected to become a full member of the trade talks by July.

Acting US Trade Representative Demetrios Marantis noted in a statement to lawmakers that Japan's TPP entry will help deliver significant economic benefit for the United States, Japan, and the Asia-Pacific region. "With Japan's entry, TPP countries would account for 40 percent of global GDP and one-third of all world trade," he said.

ICTSD reporting.

EVENTS & RESOURCES

Events

Coming soon

2 May, Geneva, Switzerland. DEBRIEFING ON CITES CoP16. This event will discuss the progress and recommendations that were made during the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES CoP16), and will be hosted by the CITES Secretariat. The talks will specifically focus on the Convention's conclusion to adopt more robust measures to protect existing and new species from the over-exploitation through international trade. To register for the event, visit the [website](#).

8 May, Geneva, Switzerland. THE ROLE OF THE TRADING COMPANIES IN A CHANGING ENERGY LANDSCAPE. This event, hosted by Geneva's Graduate Institute, will feature David Fyfe – Head of Market Research & Analysis for Gunvor Group Ltd. – as its guest speaker. Fyfe will discuss key energy market trends, in light of the changes that oil and natural gas markets have changed in recent years. Specifically, Fyfe will discuss how shifting demand, new sources of energy, and changing regulations have forced energy companies to re-examine their investment strategies in order to adapt to a new global market. For more information on the event, click [here](#).

8 May, Geneva, Switzerland. GREEN ECONOMY AND TRADE: TRENDS, CHALLENGES AND OPPORTUNITIES. Hosted by the Geneva Environment Network, this conference will discuss how world leaders and policymakers can work to promote international trade as an "engine for development and sustainable development and economic growth". The discussion will also focus on the impact of a recently published report for the UN Environment Programme (UNEP) identifying trade opportunities in agriculture, fisheries, forests, manufacturing, renewable energy, and tourism. To learn more, click [here](#).

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.

1-3 May: Geneva Week (Non-resident Members and Observers)

6-7 May: Meeting of the Joint Advisory Group on the International Trade Centre (ITC)

7 May: Committee on Market Access

7 May: Working Group on Trade, Debt and Finance

Other Upcoming Events

8-10 May, Singapore. REGIONAL CONFERENCE ON INTEGRATING DOMESTIC INDUSTRIES WITH GLOBAL PRODUCTION NETWORKS AND SUPPLY CHAINS. This event, hosted by the Asian Development Bank Institute, will introduce basic concepts of global value chains (GVC) and global production networks (GPN) to attendees. The

conference will also address the roles of GVCs and GPNs in innovation, industrialisation, international trade, and economic development. To learn more, click [here](#).

15-26 May, online. ENVIRONMENTAL SUSTAINABILITY E-DISCUSSION: TRANSLATING GLOBAL COMMONS AND UNIVERSAL AGENDAS TO LOCAL ACTION AND CONTEXT. The UN Development Programme (UNDP), the UN Environment Programme (UNEP), and the governments of France and Costa Rica are launching a second round of e-discussions on areas where participants can engage in discussions on country context, local empowerment, and their relevance to sustainable development. The discussion will also focus on steps that local policymakers can enact to promote sustainable development in their regions. To learn more, click [here](#).

15-16 May, London, UK. THIRTEENTH ANNUAL WTO CONFERENCE. This conference, hosted by the British Institute of International and Comparative Law, will feature emerging ideas and developments in international trade law. Panel topics will include energy and trade, economic analysis of WTO law, dispute settlement procedure, digital trade, moving forward from the financial crisis, international finance and trade, emergence of the Technical Barriers to Trade (TBT) Agreement, and what's next for the global trade body. To learn more, click [here](#).

Resources

E-COMMERCE IN DEVELOPING COUNTRIES. Published by the World Trade Organization (April 2013). This publication focuses on the relationship between electronic commerce development and the growth of small and medium sized businesses. It discusses how these enterprises have been able to promote, market, and sell their goods nationally and internally through using e-commerce. The text also investigates both the opportunities and challenges facing developing countries. It also assesses how issues such as adequate levels of telecoms infrastructure, regulation, and investment can either help or hurt these countries in finding new opportunities through electronic commerce. To read the report, visit the [website](#).

PAYOFF FROM THE WORLD TRADE AGENDA. By Gary Hufbauer, Jeffrey Schott, Cathleen Cimino, and Julia Muir for the Peterson Institute for International Economics (April 2013). Instead of abandoning the Doha Development Round as a lost cause, this report urges that trade negotiators take a fresh look at the talks and seize the opportunity for potential payoffs from seven agreements that could feasibly be concluded in 2013 and ratified in 2014. Three metrics are used to quantify potential benefits for the world that would be derived from export gains, jobs supported, and GDP gains. To read the paper, click [here](#).

RENEWABLES SUPPORT "MUST BE MORE MARKET ORIENTED" – HANS VAN STENN, DG ENERGY. Interview by Sonja van Renssen for viEUws (April 2013). This short online interview features Hans van Steen, the head of Carbon Capture and Storage (CCS) at DG Energy at the European Commission. The interview focuses on renewable schemes and the European Commission's recent Green Paper setting out ideas for a Climate Energy Package for 2030, as well as the Commission's plans to make renewable support schemes more market compatible. To watch the interview, click [here](#).

WTO PUBLIC FORUM 2012: IS MULTILATERALISM IN CRISIS? From the World Trade Organization (2013). This publication is a summary of the events that took place during the three-day WTO Public Forum in September 2012, which focused on the state of the multilateral trading system. The forum – which brought together non-governmental organisations, academics, businesses, students, and others – specifically discussed the challenges that the international community is facing with regards to multilateral trade negotiations, addressing the 21st century issues, and the role of non-state actors in strengthening the multilateral trading system. To read the report, click [here](#).

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