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WORLD TRADE ORGANIZATION

Trade Ministers at Davos Press for "Meaningful Results" in Bali

WTO members should take stock at Easter on whether "meaningful results" at their upcoming December ministerial in Bali are possible, trade ministers from over 20 members said following an informal meeting last week in Davos. The gathering was held on the sidelines of the Annual World Economic Forum, where business leaders and policymakers gathered to review the tentative signs of recovery in the world economy. Trade, in particular, was a recurring topic during the five-day discussions, as speculation continues over the possible launch of US-EU negotiations amid the ramping up of the race for the new WTO head.

Trade ministers suggest Easter stocktaking

Preparations for the upcoming WTO ministerial conference in Bali, Indonesia took centre stage during the annual – and now traditional – informal meeting of trade ministers that was held on Saturday on the sidelines of the Davos gathering.

Ministers from the organisation's membership are scheduled to gather on the Pacific island from 3-6 December, in a meeting that is being closely watched by the trade community as a place where movement on the stalled Doha negotiations might occur.

The last ministerial – held in Geneva in late 2011 – was widely viewed as a "housekeeping" style exercise, with ministers declaring the Doha Round of trade talks at an impasse and agreeing on a few non-Doha items relating to least developed countries. (See Bridges Daily Update, [18 December 2011](#)) However, this upcoming meet is being viewed as a chance to move some of the less controversial elements of the Doha talks forward, though WTO members have been cautious to date in placing too much pressure publicly on the Bali preparation process.

With that in mind, members have spent much of the last year trying to whittle down brackets in the draft text of the Doha negotiations on trade facilitation, while also reviewing proposals for possibly advancing a few components from the agriculture and Special and Differential Treatment (S&DT) parts of the Round. Sources have said that the trade facilitation draft text, while still under negotiation, is making progress, with many of the current brackets stemming from just a few areas of disagreement.

The Saturday trade ministers' meeting, hosted by Swiss Economy Minister Johann Schneider-Ammann, brought together over 20 top [officials](#) from the organisation's



International Centre for Trade
and Sustainable Development

membership, along with outgoing WTO Director-General Pascal Lamy and current General Council Chair Elin Østebø Johansen of Norway, with the purpose of discussing next steps in the Bali preparation process.

In his concluding [remarks](#) following the meeting, Schneider-Amman noted that ministers agreed that the core of any Bali outcome should indeed include trade facilitation, some agriculture components, and items of special interest to developing and least developed country (LDC) members.

Given the importance of time management in preparing for Bali, ministers also agreed on the need for "clarity on the scope of the possible deal as soon as possible," the Swiss economy minister said. To that end, they suggested that WTO members evaluate at Easter where things stand and whether a "meaningful result" in Bali will be achievable, he added.

"All of us stressed that a success in Bali should not be seen as the end of the Doha road," he said. "It should be considered as a stepping stone on the way to address the remaining issues under the WTO agenda including the conclusion of the Doha Round."

"There remain many technical topics open, and it's about closing them one by one," WTO Director-General Pascal Lamy told reporters following the trade ministers' meeting. "I believe this is doable."

Other high-level meetings to prepare for Bali are likely to be on the horizon in the coming months. With the US and China both set to have new officials in their top trade posts by the Bali ministerial, key WTO players could meet again in what is known in trade circles as a "mini-ministerial" setting ahead of the December gathering, Indian Commerce and Industry Minister Anand Sharma suggested to Lamy today in New Delhi, according to the Business Standard.

EU-US talks

Meanwhile, the prospect of Brussels and Washington launching trade talks this year also featured prominently during the Davos summit, with EU national leaders reiterating their push for the negotiations.

"In late 2008 we saw the steepest fall in global trade ever and the deepest since the Great Depression," British Prime Minister David Cameron told an audience at Davos last week. "More than four years on, and trade has still not recovered fully. This should be foremost in the mind of every leader and every diplomat during those long negotiations on trade and there is a huge amount on the table today."

Highlighting the EU's various bilateral trade efforts – including negotiations with Canada, which are said to be in their final stages, the recent conclusion of talks with Singapore, and the planned launch of discussions with Japan – Cameron particularly stressed the value that a deal with the US could add to the fragile EU economy.

"The EU and US together make up nearly a third of all global trade," Cameron said. "A deal between us could add over £50 billion to the EU economy alone."

German Chancellor Angela Merkel also reiterated her own support of an EU-US pact during last week's gathering.

Notably, US Trade Representative Ron Kirk – who is set to leave his role as the US' top trade official next month – told the New York Times in an interview that his country is indeed interested in such negotiations, and said that his departure should not have any effect on the launch of the talks. However, he explained, such a deal must be able to pass in the US Congress and address possible concerns from domestic farm groups.

"We greatly value the trans-Atlantic relationship," Kirk said, noting that Washington has devoted much time toward evaluating the possibility of an EU-US deal. "If we do this, we want there to be a bridge to somewhere and we want to get there on one tank of gas," he added.

The delay in an expected report from a joint EU-US working group – which is meant to include recommendations on whether to begin trade talks – has sparked questions over whether Washington is getting cold feet over the potential pact. However, EU Trade Commissioner Karel De Gucht told Reuters on Friday, the report is essentially ready, minus a few outstanding issues.

"I will go to Washington to discuss a couple of small items and for a final reading," the EU trade chief said along the sidelines of a separate summit in Santiago, Chile (for more on the Santiago summit, see related story, this issue). "But essentially we're on the same page."

"We will have a common recommendation," he added. "If we were of the opinion that it was not worth trying, we wouldn't have put in this much time."

Director-General candidates begin to campaign

During the five-day Davos meeting, candidates for the WTO's highest post also began making their push for the job. Nine nominees are currently in the running for the Director-General position – the largest contingent ever in the organisation's history – with eight of the candidates being from developing countries.

The list of candidates is made up of current or former trade ministers or WTO ambassadors. These include former Indonesian Trade Minister Mari Elka Pangestu; current South Korean Trade Minister Taeho Bark; Herminio Blanco, Mexico's former minister of trade and industry; and Amina Mohamed, formerly Kenya's WTO ambassador.

Also in the running are Costa Rican Foreign Trade Minister Anabel González; former Ghanaian Minister of Trade and Industry Alan John Kwadwo Kyerematen; New Zealand's Tim Groser, who serves as his country's Minister of Trade, Minister for Climate Change Issues, and Associate Minister for Foreign Affairs; Roberto Carvalho de Azevêdo, Brazil's current WTO ambassador; and Ahmad Thougan Hindawi, previously Jordan's Trade and Industry minister.

Speaking on Wednesday at an event hosted by the Evian Group – a global economic governance think tank at the Lausanne-based business school IMD – several of the candidates noted that the Doha negotiations' struggles have caused significant frustration among the business sector.

"You have to distinguish [between] WTO and Doha – a lot of business people, when you say Doha, that's when they get frustration in their eyes," Pangestu commented. "This is also from my travels – some of them find Doha has undermined the WTO."

"I think the fundamental point remains – physician, heal thyself," Groser said. "They will be here once we start to develop momentum [in the negotiations]."

"I can get them back into that space when I convince them something real is going on here," he said.

However, some stressed that businesses have not given up on the global trade body. As for whether businesses find the WTO irrelevant – "I don't buy it," Mohamed said, while acknowledging that there is frustration. "A divorce between [the two] could not happen, even if we tried."

However, the five candidates at the Evian event – Mohamed, Groser, Pangestu, González, and Kyerematen – all noted that a trade facilitation deal in Bali could send a positive signal to the private sector, and help incite their interest further in the global trade body, and stressed that the WTO remains relevant despite the Doha Round struggles.

All nine are in the process of formally presenting themselves to the WTO membership this week at a meeting of the General Council, which is the organisation's highest-decision making body outside of their ministerial conferences.

The presentation will next be followed by rounds of consultations among the membership, until one candidate can be chosen by consensus. Absent agreement, the appointment could go down to a vote, though that would be a last resort.

A full run-down of the General Council presentations will be published in a special Bridges report on Friday, 1 February.

ICTSD reporting; "EU, US on verge of 'difficult' free-trade negotiations," REUTERS, 26 January 2013; "WTO's Lamy Says Trade Deal Is Needed to Ease Bali Talks," BLOOMBERG, 26 January 2013; "Doha Round: Key WTO members may meet before Bali conference," BUSINESS STANDARD, 30 January 2013.

AGRICULTURE

EU: Weaker Farm Subsidy "Greening," Re-coupling Proposed

European parliamentarians voted last week to water down proposals to "green" EU farm subsidy payments, and have called for some payments to be re-coupled to production.

The move relaxes greening plans tabled by the European Commission for the bloc's post-2013 farm policy, under which all farmers would have to diversify crops, maintain permanent grassland, and protect ecological focus areas as a condition for receiving direct payments. (See Bridges Weekly, [14 September 2011](#))

The package approved by the parliament's agriculture and rural development committee could still be changed ahead of a March vote in plenary. However, the version passed last week has already come under fire by those environmentalists that had called for more far-reaching reforms.

Farm groups, however, largely welcomed the committee's vote, while some parliamentarians expressed concern that "re-coupling" farm support to production could reverse the direction of farm subsidy reforms undertaken in recent years.

Committee chair Paolo da Castro [defended](#) the proposals, saying the bloc's Common Agricultural Policy (CAP) "should be more efficient, greener, and able to respond to the enormous challenges ahead of us."

The committee also voted to maintain sugar production quotas until 2020, rather than phasing them out five years earlier as previously planned. The move was [opposed](#) by the Committee of European Sugar Users, but [welcomed](#) by African, Caribbean, and Pacific (ACP) countries that benefit from higher EU prices under the scheme through preferential access to the bloc's market.

"Ecological focus areas" cut to 3 percent

In a blow to green groups' hopes for stronger biodiversity safeguards, the committee proposed that farmers with more than ten hectares will only have to maintain "ecological focus areas" on three percent of their arable land. These could include fallow land, terraces, hedgerows, ditches, stone walls, ponds, land planted with nitrogen-fixing crops, buffer strips, and afforested areas, according to the committee's proposal.

However, farmers would be able to use these areas for production if they avoid using pesticides or fertilisers, according to the committee's proposal.

The Commission had previously proposed that farmers safeguard seven percent of land in order to receive the subsidy payments.

In three years' time, land devoted to ecological focus areas should rise to five percent, parliamentarians said, with the Commission preparing an evaluation the following year and proposing a further increase if needed.

Crop diversification: small farms exempt

While the European Commission had originally proposed that all farmers with more than three hectares should grow at least three crops on their land, the committee voted to relax this requirement.

Under the new proposals, farmers with less than 30 hectares will only be required to produce two crops, and those with less than ten hectares or with large farms in the north of Scandinavia would be exempt.

Producers with small farms should ensure that the main crop does not cover more than 80 percent of arable land – rather than the 70 percent originally proposed by the Commission. On larger farms, the requirement falls to 75 percent.

Governments to conserve grassland

Whereas the Commission had proposed that individual farms maintain existing permanent grassland at current levels as a condition for receiving future direct payments, the committee proposes that EU member states take the responsibility for protecting grassland and pasture at the national, regional, or sub-regional level.

EU member states would use 30 percent of the resources allocated to them by the European Commission to provide direct payments to farmers for complying with the "greening" measures. If farmers chose not to comply, they would lose the "greening" funds but not face cuts in their remaining direct payments, parliamentarians decided.

"Double funding" stokes controversy

While the Commission had initially proposed that organic farmers be considered to be "green by definition," the committee voted to expand this category further. Farmers enrolled in agri-environment schemes would now also automatically qualify for the "greening" payment under the new proposals.

However, the committee vote sparked controversy as several parliamentary groups rejected the notion that farmers should be paid twice for the same activity as a result, specifically by receiving both the greening subsidy and payment under agri-environment schemes. Some warned that the move could be illegal under EU rules.

Re-coupling: reversing past reforms?

The new proposals would also allow EU member states to spend up to 15 percent of the money allocated to them by the Commission on "coupled" payments that link support to production, in a move that could reverse earlier efforts to make EU support less trade-distorting.

Special measures were also introduced for sugar, milk, wine, and for fruit and vegetables.

The new proposals introduced in some areas the risk of "huge distortions," said William Surman, a Brussels-based spokesperson for the UK farm group NFU. "It's a far cry from the competitiveness and market-oriented policy that the NFU wanted to drive forward," he told Bridges.

Export refunds were also maintained in the draft legislation, but with a budget of zero. The European Commission has said these should only be abolished as part of a broader deal under the WTO's Doha Round of trade talks – although an opinion from the parliament's development committee recently called for them to be ended as part of the current reform. (See Bridges Weekly, [27 June 2012](#))

Capping: a "fairer" EU farm policy?

Under the proposed reform, payments to large farms are capped at €300,000 – a move welcomed by the Socialists and Democrats (S&D) group, but criticised by the Greens as too high a level.

The committee also agreed that member states would decide on who would qualify as an "active farmer" in order to receive the support – although they did set out a list of economic actors that would not be eligible.

"Entities such as transport companies, airports, real estate companies, companies managing sport grounds, campsite operators, and mining companies or other non-agricultural enterprises, to be defined accordingly by member states on the basis of objective and non-discriminatory criteria, shall not, a priori, be regarded as active farmers," the committee said. In the past, the CAP has often been criticised for allowing payments to groups with links to farming that are, at best, tenuous.

Several parliamentarians argued that the proposed amendments would make the CAP fairer, including by narrowing inequalities in the distribution of payments between member states. The proposals would ensure that no farmer in any of the bloc's member states receives less than 65 percent of the EU average.

Reactions: parliamentarians split

Parliamentarians were divided in their reaction to the vote. While conservatives in the [European People's Party](#) broadly welcomed the move, it was described as "little more than greenwash" by the [Greens](#). The [S&D](#) group claimed the outcome was "fairer," while the Liberal [ALDE](#) group, which welcomed the vote "in general," also cautioned against "a possible return to failed past policies of heavy market interventions."

The German conservative MEP Birgit Schnieper-Jastram, who served as development committee rapporteur on the CAP reform, told Bridges she had a "mixed" reaction to the vote. "From the perspectives of development and sustainability policies, one could have suggested an entirely different CAP, of course," she said in an e-mail, adding that some progress had been made in decoupling farm support and reducing the role of market intervention mechanisms.

Although the proposals would "change the CAP for the better... a chance for a more courageous reform might be lost," she added.

Farm groups broadly positive

EU farm group COPA-COGECA [welcomed](#) the vote, with Secretary-General Pekka Pesonen saying the organisation was "pleased to see that some of our demands have been taken on board."

Farm spending "must be kept at current levels until 2020 to ensure that we have a viable sector to meet growing food demand and boost growth and employment in EU rural areas," he added.

However, some farm groups expressed concern over certain aspects of the vote. Meurig Raymond, Deputy President of NFU England & Wales, said that "in an incredibly backwards step, MEPs increased the potential scope for coupled support payments, which will result in market distortions if not closely controlled by the Commission and potentially get the EU into hot water with the WTO."

Environmentalists lambast proposals

In contrast to producer groups, environmentalists were sharply critical of the proposals. A statement from Faustine Defossez of the European Environmental Bureau [cautioned](#) that the reform, if agreed upon as it stands, "will fail to give taxpayers value for money."

Ariel Brunner, head of EU Policy at Birdlife Europe, was similarly critical. "The outcome of the vote is a step back for the CAP and robs it of any legitimacy," he said in a [statement](#), while Friends of the Earth [argued](#) that the move "fails both the public and the environment."

Right to food: UN rapporteur "disappointed"

The UN Special Rapporteur on the Right to Food, Olivier De Schutter, also told Bridges that the CAP reform vote was "highly disappointing."

"MEPs in the Agriculture Committee have failed to make the CAP sensitive to development concerns, and have weakened the environmental measures put forward by the European Commission," he said in an email.

"The version of CAP reform that MEPs will vote on in plenary makes no mention of the need to monitor the impacts of EU imports and exports on developing countries, and does too little to support crop rotation involving leguminous protein crops – which is badly needed if the EU is to curb its huge dependency on soya and maize imports," De Schutter added, without further explaining how these measures might affect consumers or producers in poor countries.

Parliament to talk with European Commission, Council

Following a plenary vote set for March, the parliament is due to begin talks with the European Commission and the European Council in a bid to reach compromise on a future reform package.

Reacting to last week's vote, a statement from EU Agriculture and Rural Development Commissioner Dacian Cioloş nonetheless foreshadowed the negotiations still ahead. The Commissioner [argued](#) that citizens' expectations "have to be converted into a consistent toolbox of simple and efficient measures, with no double funding and no 'greenwashing'."

ICTSD reporting.

DISPUTES

Four Argentina WTO Disputes Reach Panel Stage

The disputes lodged by the US, EU, and Japan against various Argentine import policies have advanced to the panel stage, after the three complainants presented their second panel requests to the WTO's Dispute Settlement Body (DSB) on Monday. Meanwhile, Buenos Aires' challenge to Washington's restriction of imports of Argentine beef has also moved forward at the global trade arbiter, while its complaint against the EU over Spanish policies on biodiesel imports has been put on hold.

Panel to hear EU, US, Japan complaints

At Monday's DSB meeting, a single panel was established to hear the challenges filed last year by Brussels, Washington, and Tokyo City over Buenos Aires' alleged restrictions on imports ([DS438](#), [DS444](#), and [DS445](#), respectively). The move comes just days after Argentina announced that it had taken steps to remove some of the policies cited in the case.

Since February 2012, Buenos Aires has subjected all imports to a registration and pre-approval regime. (See Bridges Weekly, [18 January](#) and [8 February 2012](#)) Under the policy, importers have been required to file sworn affidavits to AFIP, the Argentine tax agency, and then wait for approval or rejection.

This past Friday, however, Argentina announced that it would be repealing the controversial policy, which had also come under scrutiny by some of its Mercosur partners as well as domestic importers. "Argentina understands that with this measure we are giving a positive solution to the dispute as it pertains to the claim concerning the non-automatic import licenses," the Argentine delegate said at Monday's DSB meeting.

In its statement, Argentina also noted that it had removed those automatic import licenses that had also been part of the EU's claim, following Buenos Aires' consultations with Brussels late last year.

Other policies that had been cited by the three complainants included Buenos Aires' requirements that importers balance imports with exports, increase investment in production facilities in Argentina, increase local content of products manufactured in Argentina, and refrain from transferring revenue abroad.

Buenos Aires has repeatedly argued that its policies are in line with WTO rules, and that – given the high volume of exports by those trading partners to the South American country – its regulations are clearly not protectionist.

"My delegation would like to emphasise again the remarkable growth in exports to Argentina from each of the members that today are requesting the establishment of a panel," the Argentine delegate said on Monday. "This fact is easily verifiable and, with concrete figures, it rejects any fear that the Argentine measures at issue could be import restrictive."

While Mexico had also submitted a consultations request regarding the Argentine import policies ([DS446](#)), that case is not advancing to the panel stage. Mexico City had originally

submitted a first panel request in November, but subsequently dropped it after clinching a separate auto trade deal with Buenos Aires. (See Bridges Weekly, [19 December 2012](#))

Panama has also filed a WTO complaint against Argentina, citing in its challenge restrictions on both goods and services trade. ([DS453](#)) That challenge is still in the consultations phase, having only been filed on 12 December. Under WTO rules, complainants can only request a panel following a consultation period of a minimum of 60 days.

Argentina files second panel request in US beef spat

Meanwhile, a separate dispute lodged by Argentina against the US is now also at the panel stage, after Buenos Aires reported that its consultations with Washington over the latter's restrictions on Argentine beef imports had been unsuccessful ([DS447](#)).

The South American country has argued that the US' ban of the former's beef imports – specifically of fresh, chilled, or frozen bovine meat – are without justification. Washington has blocked Argentine beef on sanitary and phytosanitary (SPS) grounds, namely over concerns about foot-and-mouth disease (FMD).

"It is worth noting that fresh meat represents a flagship export product of our country and its high quality is well-recognised worldwide," Argentina said at Monday's DSB meeting.

Among other complaints, Argentina is also arguing that the US is specifically discriminating against its beef by recognising FMD-free zones and allowing imports of fresh beef from foreign competitors with a similar health status.

"Moreover, the United States has not recognised Patagonia as free of FMD as requested by Argentina, although the World Organisation for Animal Health (OIE) recognises this area as free of FMD without vaccination since 2002."

The US and Argentina have also been sparring at the WTO on another SPS-related front – specifically over Washington's restrictions on imports of Argentine lemons ([DS448](#)). However, a second panel request has not been made in that case; Argentina had filed a first request in December, which was blocked by the US at the time.

Under WTO rules, respondents in a dispute are allowed to block one panel request; if a second request is made, a panel is automatically established.

Biofuels case on hold

A separate case lodged by Argentina against the EU at the WTO, meanwhile, has been put on hold for the time being, after EU member state Spain issued a new regulation altering its April biofuels rule. ([DS443](#))

The Spanish rules at issue specifically favoured biofuels produced in the European Union over their non-EU counterparts, and were part of a larger piece of legislation implementing the 27-country bloc's Renewable Energy Directive. (See Bridges Weekly, [12 September 2012](#)) The April move, which came swiftly after Buenos Aires' nationalisation of Spanish-owned oil and gas company Repsol YPF's Argentine subsidiaries, was seen as specifically timed to target the South American nation – though the legislation had already been prepared beforehand.

Argentina and Indonesia rank as the first and second largest biodiesel suppliers to Spain, respectively. In 2011, Argentine biofuel exports to the EU member state were worth €750 million, according to Spain's Renewable Energy Producers Association.

In its official bulletin, Spain modified its April regulation on both [16 October](#) and [22 December](#), effectively nullifying the parts of the law with which Argentina had taken issue. In the first announcement, Madrid explained that its modifications were in order to ensure that fuel prices did not reach even higher levels than where they currently stand.

While Argentina had welcomed the October changes, it argued at the time that the modifications might not be enough to guarantee restored access to the Spanish biofuels market, and therefore waited until the December modification before announcing that it would be holding off on further WTO action.

"This [Spanish] modification is in response to our country's demands," the Argentine Foreign Ministry said in [announcing](#) the December decision issued by Madrid. "Argentina will monitor the application of the new Spanish rules in order to ensure that Argentine biodiesel can compete in the Spanish and EU markets in non-discriminatory conditions, and if necessary we will resort to the WTO's DSB once more."

Enrique Ferrer, a diplomat based in the Argentine mission in Geneva, confirmed to Bloomberg news agency last week that – at present – Buenos Aires will indeed not be pressing forward with the case, given that it is no longer facing problems in exporting biodiesel to Spain. However, he reiterated his government's promise to observe the situation closely.

One panel request has already been made in the case, and deferred; should Argentina choose to resume the challenge, it would need to file a second request in order for a panel to be established.

ICTSD reporting; "Argentina Suspends WTO Complaint After Spain Ends Biofuels Curbs," BLOOMBERG, 25 January 2013; "Argentina mantiene su reclamación para derogar una norma española de biodiesel," EL PAÍS, 18 October 2012.

DISPUTES

WTO Authorises Antigua to Move Forward on Retaliation in US Gambling Dispute

On Monday, the WTO Dispute Settlement Body (DSB) authorised Antigua and Barbuda to retaliate against US intellectual property (IP), as part of their longstanding dispute regarding internet gambling services ([DS285](#)). However, it remains unclear what kind of measures will be put in place by the Caribbean nation, with experts suggesting US music and film industries as possible targets of the future retaliatory sanctions.

The case, which dates back to 2003, pitted one of the world's smallest economies against the largest, and was seen by some as a test of the WTO dispute system's ability to empower small countries to take effective trade sanctions against their more powerful trading partners.

WTO dispute panels and the Appellate Body have, in a series of decisions, agreed with Antigua's complaint that the US' internet blocking of overseas operators is in violation of Washington's commitments to liberalise its "recreational services" sector under the WTO General Agreement on Trade in Services (GATS). Since the US failed to comply, Antigua was authorised to retaliate by US\$21 million, which was deemed to be the amount that the Caribbean country lost through the US' trade barrier. (See Bridges Weekly, [16 January 2008](#))

Multilateral trading rules provide for countries to ordinarily retaliate under the specific WTO agreement that has been violated – that is, sanctions against goods when merchandise trade is at issue, services for services, and so forth. However, if this is unlikely to be effective, they allow governments to "cross-retaliate" against other sectors, such as IP. This option has never been tested by any WTO member, raising questions regarding how to put it into practice, especially when a country targets intangible products with its retaliation.

A 2009 ICTSD [study](#) by Professor Frederick Abbot had found that, in general, valuing the suspension of concessions in IP was "not an obstacle to building a successful cross-retaliation programme," noting also that businesses and investment analysts "value IP assets routinely and in fairly precise ways." [*Editor's note: ICTSD is the publisher of Bridges.*]

Antigua and Barbuda did not clarify at Monday's DSB meeting which specific retaliatory measures it intends to adopt. For one, Mark Mendel – one of Antigua's representatives in the dispute – [stated](#) that a website allowing downloads at a minor price is an "intellectual possibility." In that case, no royalties would be paid to the US industry, and downloads could be stopped when the threshold of US\$21 million in income for Antigua is reached.

"We are in the process of assessing our options, analysing the legal issues and developing a scheme for imposing the suspension of concessions and other obligations approved by the DSB," Antigua and Barbuda said at Monday's meeting.

However, the island state left a door open to a possible settlement, specifying that they "stand ready and eager to find a fair solution to the dispute" and encouraged the US to act promptly to avoid the consequences of retaliation.

The US, in return, warned that if Antigua proceeds "with a plan for its government to authorise the theft of intellectual property, it would only serve to hurt Antigua's own interests."

"Government-authorised piracy would undermine chances for a settlement that would provide real benefits to Antigua," the US concluded.

For its part, Antigua and Barbuda rebutted any accusation of "piracy," explaining that it is "doing precisely what it has earned the right to do under international agreements."

Should the Caribbean state decide to retaliate, Antigua and Barbuda will only have to notify the WTO secretariat of the details of the future sanctions before putting them into practise, without any further authorisation by the DSB.

Retaliation preferred over compensation?

From the outset of the dispute, Washington has maintained that it never meant to open its market to cross-border gambling when scheduling its commitments during the Uruguay Round, and thus should not be penalised. Hence, in 2007 the US controversially decided to invoke rarely-used procedures under the GATS to modify its multilateral liberalisation commitments and explicitly exclude internet gambling.

Following GATS rules, the US entered into bilateral negotiations to compensate trading partners negatively affected by the change of commitments – including large economies such as the EU, Japan, and Canada.

The US reached agreement with all interested members except Antigua and Barbuda, which requested arbitration in 2008 to determine the amount of compensation but refrained from moving ahead with the dispute by actually appointing the panellists.

Negotiations, however, continued. The small island state consistently argued that additional market access in other areas was unlikely to bring relief to its economy, given that the gambling industry was once responsible for five percent of the country's employment. Instead it suggested a joint regulatory oversight structure for off-shore gambling as one option to address the US' alleged moral difficulties as well as its own economic interests.

"Antigua insists that the United States must maintain its unintentional concession on gambling, and that the United States must change its domestic policies concerning public morals and public order so as to allow internet gambling," the US said on Monday.

The US added on Monday that it has offered "real and substantial benefits that would make important contributions to the further development of the Antigua economy" in order to settle the dispute.

Antigua and Barbuda, in turn, argued that "a major economy cannot avoid the consequences of an adverse DSB ruling by withdrawing a commitment in a manner that ostensibly 'balances' global trade by accommodating other affected members but provides no benefit or compensation to the prevailing party in the dispute."

"The possibility that at the end of the day the United States may avoid any liability to Antigua and Barbuda by simply re-writing its trade obligations after the fact, leaves us wondering if there is anything for small economies at the WTO," Antigua and Barbuda concluded.

ICTSD reporting.

PREFERENTIAL AGREEMENTS

EU, Latin American Countries Pledge to Boost Trade, Amid Underlying Tensions

The need for deeper trade and investment cooperation between the EU and the Caribbean and Latin American countries took centre stage this weekend, as leaders from those regions met in Santiago, Chile. In that context, EU leaders sought to dispel lingering concerns over their region's economic struggles – stressing that the 27-country bloc's problems are on the mend – while both sides urged the need to avoid protectionism and finalise pending trade pacts.

"I have stressed that the European Union has turned the corner," European Council President Herman Van Rompuy told reporters following the summit, which brought together leaders from the EU and the Community of Latin American and Caribbean States (CELAC, by its acronym in Spanish). Van Rompuy added that the current global and financial climate played a key role during the discussions in Santiago.

"The deepening of the ties of the EU – which stands as the world's largest economy and provides 40 percent of Latin America's foreign direct investment (FDI) – and some of the economies that are among the fastest growing, situated in Latin America, is in all of our interests, especially now that we are fighting together for procuring sustainable growth, jobs, and security for all of our citizens," European Commission President José Durão Barroso [urged](#) earlier in the summit.

Trade between the EU and Latin America has more than doubled over the past ten years – up to €202 billion – and increased partnership between the two regions has been suggested as a way to boost economic growth further on both sides. However, observers note that deepening trade and investment ties in practice is likely to be difficult, particularly given recent tensions between the EU and some Latin American countries in these areas.

Concerns over allegedly protectionist measures being taken by regional powerhouses Argentina and Brazil, for instance, have surfaced repeatedly over the past year, particularly after Buenos Aires' nationalisation of Spanish-owned oil-and-gas company Repsol YPF's domestic subsidiaries. Argentina and the EU are also sparring at the WTO over various import policies adopted by the South American nation. (For more on the EU's trade spats with Argentina, see related story, this issue)

Despite these differences, leaders from the EU and CELAC countries jointly reiterated their stance against protectionist measures in their political [declaration](#) following the summit.

"We firmly reject all coercive measures of unilateral character with extraterritorial effect that are contrary to international law and the commonly accepted rules of free trade," the declaration said. "We agree that this type of practice poses a serious threat to multilateralism."

Leaders also reaffirmed their commitment "to adopt policies that promote trade and investment between CELAC and EU countries," noting that this could in turn contribute to ensuring sustainable development, while facilitating economic growth and boosting employment in both regions.

EU-Mercosur talks must advance, leaders say

Trade observers were also watching the Santiago summit to see what signal, if any, the high-level meeting might bring on the future of the EU's long-running talks with South American customs union Mercosur.

The two sides have been engaged in talks for a region-to-region Association Agreement – including an FTA – since 1999, only for these to be suspended in 2004 after hitting various obstacles, such as in the area of agricultural trade. The EU and Mercosur eventually agreed to relaunch the talks in 2010. (See Bridges Weekly, [19 May 2010](#))

However, Mercosur – which counts as full members Argentina, Brazil, Uruguay, and Venezuela, with Paraguay's membership temporarily suspended – has seen its own share of tensions within its membership over the past year. The controversial sidelining of Asunción following the 2012 impeachment of President Fernando Lugo – and subsequent entry of Venezuela in Paraguay's absence – had sparked questions over whether Mercosur's internal reshuffling would slow the nearly two-decade long negotiations with Brussels.

Ultimately, the two sides did hold a meeting last October where, officials said at the time, progress was made in the trade and political cooperation pillars of their planned Association Agreement. (See Bridges Weekly, [31 October 2012](#))

"We need to put more effort toward reaching a balanced and ambitious agreement between the EU and Mercosur, which would be the largest in the world in terms of the numbers of people," Barroso told reporters after a Brazil-EU summit held just prior to the meeting with CELAC. Other leaders repeated his call, though a timeframe for concluding the talks was not mentioned.

Brussels currently has several agreements already in place with other players in the region. For instance, the EU's trade deal with Colombia and Peru is in the final stages of being formalised. It is expected to take effect on a provisional basis by the end of March, pending domestic ratification by Colombia.

Brussels also has trade pacts with Santiago and Mexico City, and clinched last year an Association Agreement with six Central American countries. (See Bridges Weekly, [4 July 2012](#)) It also has an Economic Partnership Agreement with the Caribbean Community (CARICOM) countries, and strategic partnerships with Brazil and Mexico.

The next CELAC-EU summit is scheduled to be held in 2015 in Brussels.

ICTSD reporting; "EU seeks to overcome Latin American trade disputes," REUTERS, 25 January 2013; "Time to open up to trade, EU tells Argentina, Brazil," REUTERS, 26 January 2013; "Cristina Fernandez delaying Mercosur/EU discussions for a free trade agreement," MERCOPRESS, 28 January 2013; "Merkel invites Latam to invest in EU: 'we're open' but pls dump protectionism," MERCOPRESS, 28 January 2013; "Mercosur to unblock talks, EU trade chief sees U.S. negotiations," REUTERS, 26 January 2013; "EU-Colombia-Peru Aim for Trade Accord in Effect by First Quarter," BLOOMBERG, 27 January 2013.

RENEWABLE ENERGY

European Commission Proposes Duties on Imports of US Biofuels

The European Commission (EC) has proposed anti-dumping duties of 9.5 percent on US fuel ethanol imports for five years, following an internal investigation. The planned anti-dumping duty seeks to protect Europe's domestic bioethanol industry from low-priced imports by increasing the effective price of the imported ethanol. The duty – if adopted by the bloc's 27 member states – would be applied across the board to all US producers of ethanol exporting to the EU.

The EC [report](#) found that the surge in low-priced imports from the US stalled the European Union's bioethanol industry by decreasing profits and seriously affecting the industry's ability to raise capital and attract investment. "Exporters from the [US] managed to increase their market share by systematically undercutting European Union industry's prices," the Commission proposal said.

From October 2010 to end-September 2011 – the official period during which the EC investigated the possibility of imposing duties – imports of US ethanol catapulted from a 1.9 percent market share to 15.7 percent of the EU market. Volume grew ten-fold to 686,185 tonnes. The United States is the single largest foreign source of ethanol for the EU. The only other substantial supplier is Brazil, but during the investigation period their market share in the EU shrank from 30.3 percent to 4.5 percent.

The EC investigation began in October 2011 in response to a complaint lodged by ePURE, an association of European producers that together constitute more than 25 percent of the EU's total ethanol output. ePURE complained that their prices and market share were eroding because of the growth in low-priced US ethanol imports.

The European Commission has recommended that the European Council adopt the proposal for implementing these duties no later than 22 February.

US, industry groups respond

"It is a positive outcome for the EU industry because European ethanol producers have been unfairly undermined by the dumping of US ethanol on the EU market," Rob Vierhout, Secretary General of ePURE, [said](#) in response to the European Commission plan.

The United States, meanwhile, has strongly objected to the proposed import duties. "We are disappointed in this outcome," said Nkenge Harmon, a spokeswoman for the Office of the US Trade Representative (USTR).

"I will add that we have serious concerns about certain procedural and methodological aspects of the investigation," she continued in a statement to Agri-Pulse.

The Renewable Fuels Association, a US lobbying organisation that promotes the use of ethanol fuel, has also expressed dismay at the proposed duties.

"This decision is unprecedented. Not only does it fly in the face of over 30 years of consistent practice by the EC, but it also violates numerous provisions of the WTO's Agreement on Antidumping," Rob Dinneen, President of RFA, has [said](#).

Long-standing tensions

However, this is not the first time Brussels has slapped duties on imports of US alternative fuel. In 2009, the EU imposed both anti-dumping and anti-subsidy duties on imports of US biodiesel for a period of five years. (See Bridges Weekly, [4 March 2009](#)). At issue was a US tax credit of US\$1 per gallon of biodiesel produced, which caused European producers to lose market share, [according to the EC investigation](#).

The EC had also recently been conducting an anti-subsidy investigation into US ethanol imports, but concluded in December 2012 that the various American subsidy and tax credit schemes, many of them state programmes, were being phased out. Further, the subsidies that were still in place in the US were considered insignificant. The report concluded that, accordingly, no anti-subsidy measures would be initiated. However, the EC left open the possibility for anti-subsidy duties to be implemented down the line if the US restarted its main subsidy scheme, a tax credit that expired in 2011.

As Washington and Brussels spar to bolster their respective biofuel industries, both countries have also been a target for criticism for their role in price spikes for food in the developing world. The US now devotes 40 percent of its corn crop to biofuel production.

These oft-criticised biofuel mandates are seen as a way to reduce reliance on foreign oil and reduce carbon emissions. Recent research suggests, however, that the once-touted environmental benefits of biofuels are negligible. Still, European vehicle fuels will need to contain 10 percent biofuel as a part of Brussels' 2020 targets.

This past October, in response to food security and environmental concerns, [the EC proposed an amendment](#) calling for a maximum of five percent – half of the target – to come from first-generation biofuels, ones made from food crops. (See Bridges Weekly, [19 September 2012](#)) The other half would need to come from second-generation biofuels – ones that do not directly require cropland – such as those generated from feedstock or waste products.

ICTSD reporting; "USTR, U.S. Ethanol Groups Lash Out at EU Anti-Dumping Duty Plan," AGRI-PULSE, 24 January 2013; "Europe Needs Stable Legal Framework for Biofuels to Prosper," PLATTS, 22 January 2013; "UPDATE 1-U.S. 'disappointed' with proposed EU duties on ethanol," REUTERS, 23 January 2013.

EVENTS & RESOURCES

Events

Coming soon

28 January-1 February, Nairobi, Kenya. FIRST REGIONAL WORKSHOP FOR AFRICAN LEAST DEVELOPED COUNTRIES ON THE PREPARATION OF THE FIFTH NATIONAL REPORT AND GLOBAL BIODIVERSITY OUTLOOK AND REGIONAL POLICY SCENARIOS. This conference, hosted by the Convention on Biological Diversity (CBD) and the UN Environment Programme (UNEP), aims to provide a mid-term review of the progress made by African nations in respect to the Aichi Biodiversity targets. It will include an analysis of how the implementation of the Aichi Biodiversity Convention and its Strategic Plan for Biodiversity 2011-2020 has contributed to the 2015 targets of the Millennium Development Goals. The conference is intended to educate the leaders and policy-makers of participating countries on how the Aichi Biodiversity targets can be achieved and the positive influence that success would have on their countries. For more information visit the event [website](#).

30 January-2 February, Monrovia, Liberia. THIRD HIGH LEVEL PANEL (HLP) MEETING ON THE POST 2015 DEVELOPMENT AGENDA. This meeting, hosted by CSO Outreach, will be organised around the central theme of "National Building Blocks for Sustained Prosperity," with a particular focus on economic transformation. Topics under discussion will include: enablers and barriers to economic transformation; equitable and sustainable outcomes; role of the private sector; governance and institution building, with a particular focus on conflict-affected and fragile states. An emphasis on African Perspectives and Positions is also proposed. For more information, visit the event [website](#).

31 January, Washington, US. SUPPLY CHAIN BARRIERS: WHAT CAN BE DONE? On January 23, the World Economic Forum and the World Bank released a joint report, "[Enabling Trade--Valuing Growth Opportunities](#)." The report, prepared in cooperation with Bain & Co., focuses on key trade barriers confronting exporters. This forum will discuss this report and play host to a variety of experts who will give their opinions on the findings of the report. Presented by the Washington International Trade Association the event will host Bernard Hoekman, the World Bank's International Trade Department director. More information can be found [here](#).

31 January, London, UK. THE NEW POLITICAL ECONOMY OF RESOURCES. This event, hosted by Chatham House, will look at the use of non-renewable resources in the future economy. The event will feature a lecture from Chatham House Research Director Bernice Lee. Lee will explore how the threat of resource insecurity is a pressing concern and how the continued use of limited resources can lead to political tensions, volatile prices, and increased environmental degradations. Discussion will also focus on the latest global trends in the production, trade, and consumption of critical resources and the responses to unpredictable commodity prices by governments and businesses. To learn more, visit the Chatham House [website](#).

31 January-2 February, Delhi, India. DELHI SUSTAINABLE DEVELOPMENT SUMMIT 2013. This summit, organised by the Energy and Resources Institute (TERI) since 2001, is an international platform for exchange of knowledge on all nuances of sustainable development. The 2013 Summit is themed "The Global Challenge of Resource Efficient Growth and Development," with sub-themes of: agro-commodities; mobility and transport; sustainable production and consumption; green economy; and water. For more information, visit the event [website](#).

31 January-28 February, online. SUSTAINABILITY AND GROWTH. This online discussion, hosted by The World We Want, aims to provide a venue for individuals to ask questions and discuss matters on sustainability and growth. The discussion will be moderated by Rizwanul Islam, an independent expert on employment, and Aurelio Parisotto, Senior Economist at the International Labour Organization. This event is one of four e-discussions on growth and employment designed to give individuals the opportunity to convey their opinions to global leaders and policymakers who are involved in the post-2015 development agenda process. For more information or to join the discussion, visit the event [website](#).

6 February, Geneva, Switzerland. TALKING DISPUTES VOL. 6: CANADA - RENEWABLE ENERGY: THE WTO DISPUTE SETTLEMENT PANEL REPORT ON THE CANADA FEED-IN TARIFF. This event, hosted by ICTSD and WTI Advisors, will delve into the recent WTO dispute settlement panel report on *Canada – Renewable Energies* (DS412, DS426). In addressing the feed-in tariff scheme of the Canadian province of Ontario, the case assessed the extent to which government authorities can favour domestic producers and suppliers in promoting renewable energy generation. Discussions will focus at the larger policy implications of these findings. For further information, visit the event [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.

29-31 January: General Council

Other Upcoming Events

8-10 February, Dhaka, Bangladesh. SUB-REGIONAL WORKSHOP ON MILLENNIUM DEVELOPMENT GOALS AND THE POST-2015 DEVELOPMENT AGENDA FOR SOUTH ASIA. This regional workshop, jointly attended by the Asian Development Bank, The Economic and Social Commission for Asia and the Pacific and the United Nations Development Programme, will provide a setting for discussion on the Millennium Development Goals. The conference aims to organise a series of regional and sub-regional workshops and consultations on the post-2015 development agenda and the post-Rio+20 process, leading to the publication and launch of the next Regional MDG Report (2012/13). To learn more, visit the [website](#).

11-12 February, London, UK. 8TH INTERNATIONAL FORUM ON ILLEGAL, UNREPORTED AND UNREGULATED FISHING. This year's Chatham House International Forum on Illegal, Unreported, and Unregulated Fishing will provide an update on the European Union's Illegal, Unreported and Unregulated (IUU) Fishing Regulation, discuss multilateral cooperation to combat IUU fishing, present progress on traceability, and give a regional focus on IUU fishing in the Asia Pacific and Africa. The International Forum on IUU Fishing brings together every year over 100 leading policymakers, researchers, industry representatives and civil society groups from across the world to discuss the latest initiatives, regulations, and research in the area of fisheries governance and trade in illegal fish products. For more information, visit the event [website](#).

25-26 February, Geneva, Switzerland. MULTI-YEAR EXPERT MEETING ON TRADE, SERVICES AND DEVELOPMENT. This conference, hosted in the Palais des Nations, will provide a forum for discussion on trade, services, and development, and the role they play in the contemporary complex global economy. The objective of the expert meeting is to

identify best-fit practices in regard to policymaking, regulations, institutions and trade negotiations, with a view to linking services, trade and development in a balanced manner, including a strengthening of national services regulation without creating trade barriers. Experts to be invited will include those from government ministries and agencies dealing with trade, trade negotiations, policymaking and regulations of specific services sectors, research institutions, civil society and the private sector. To learn more, click [here](#).

25-26 February, London, UK. GREEN GROWTH: TRANSFORMING ECONOMIES FOR COMPETITIVENESS AND RESILIENCE. Hosted by Chatham House, this conference will ask what the benefits and obstacles are to governments looking into adopting green growth policies. It will aim to answer how this economic transformation can be made possible politically, and what tools and policies will enable it, while pointing out newly emerging economic models. For more information, visit the Chatham House [website](#).

Resources

STATUS OF WTO LEGAL INSTRUMENTS. Published by the World Trade Organization (2012). This WTO publication covers the status of legal instruments drawn up by members in relation to the Marrakesh Agreement and the multilateral trade agreements conceived thereunder. The work goes into detail when describing each instrument by analysing the impact that it has on each member country. The text also covers the role of the Director General and his or her capacity to oversee the negotiation and implementation of international trade agreements. To learn more, click [here](#).

INTERNATIONAL COPYRIGHT LAW AND ACCESS TO EDUCATION IN DEVELOPING COUNTRIES: EXPLORING MULTILATERAL LEGAL AND QUASI-LEGAL SOLUTIONS. By Susan Isiko Štrba (2012). In this publication the author offers an understanding of the legal relationship between copyright regulation and access to education in developing countries, and explores both institutional and normative ways to facilitate access to printed educational and research materials. She also begs the questions of whether limitation in international property law can be utilised to balance the private interest of intellectual property right holders and the public interest of IP users. For more information, click [here](#).

LATIN AMERICAN ECONOMIC OUTLOOK 2013: SME POLICIES FOR STRUCTURAL CHANGE. Published by the Organisation for Economic Co-operation and Development (November 2012). This text delves into the economic hardships faced by many Latin-American countries and presents the reasons for their struggle along with medium-term solutions that can help relieve their privation. The report puts forward policy solutions aimed at making Latin American small and medium-sized enterprises agents of change by increasing their productivity and competitiveness. To learn more, click [here](#).

THE ARCHITECTURE OF DEVELOPMENT ASSISTANCE. Published by the Organisation for Economic Co-operation and Development (2012). This report, issued by the OECD, explores the topic of donations and the impact that they have on developing countries. Specifically, the publication describes how even small amounts of aid from developed nations can be extremely effective in jump-starting the economies of lesser-developed areas. The report also discusses the success of different forms of aid in the text, including assistance from governments themselves, and private organisations such as charities. To read more, click [here](#).

GLOBAL INVESTMENT TRENDS MONITOR: GLOBAL FDI RECOVERY DERAILS. Published by the United Nations Conference on Trade and Development (January 2013). This report, issued by UNCTAD earlier this month, describes how the organisation believes the global economic recovery is slowing down. The text cites data collected over the past year to show how the expected rate of global economic growth is substantially slower than expected. UNCTAD also assesses how the economic crisis affected each region of the world by comparing economic data from before the crisis to data collected in its aftermath. To learn more about the report, click [here](#).

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