

BRIDGES WEEKLY

Global trade news from a sustainable development perspective

VOLUME 20, ISSUE 4, 4 FEBRUARY 2016

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DIGITAL ECONOMY

EU, US Clinch Political Deal in "Safe Harbour" Talks

Officials from the EU and the US announced that they had concluded a political agreement on a "Privacy Shield" for trans-Atlantic data transfers, days after having missed a 31 January target date for reaching a solution.

The political pact came after round-the-clock negotiations between Brussels and Washington officials, particularly amid concerns that failure to reach a deal could potentially have severely damaging implications for e-commerce, both for technology giants such as Facebook and Google and smaller enterprises that are increasingly engaging in digital trade.

The efforts to clinch this new framework, which had been under negotiation for over two years as a way to update the "Safe Harbour" system that had previously governed trans-Atlantic data flows since 2000, took on new urgency in recent months after the EU's highest court ruled that the European Commission decision adopting "Safe Harbour" was invalid. (See Bridges Weekly, [8 October 2015](#))

"This historic agreement is a major achievement for privacy and for businesses on both sides of the Atlantic," [said](#) US Secretary of Commerce Penny Pritzker on 2 February.

"It provides certainty that will help grow the digital economy by ensuring that thousands of European and American businesses and millions of individuals can continue to access services online," she continued

Pritzker's EU counterpart in the negotiations, Věra Jourová, the Commissioner for Justice, Consumers, and Gender Equality, [told reporters](#) on Tuesday that the deal will provide "a strong and safe framework for the future of trans-Atlantic data flows."

"This result comes after very tough negotiations, especially over the past 3 months, where we have worked literally day and night to find an arrangement that protects the fundamental rights of Europeans and ensures legal certainty," she said.

Framework

The Privacy Shield announced on Tuesday includes plans to boost transparency obligations and safeguards for American authorities seeking access to data for law enforcement or national security reasons; legal avenues for EU citizens concerned over data misuse; and requirements for US companies involved in the data transfer process.

According to the European Commission, the framework will now require American companies to sign onto “robust obligations on how personal data is processed and individual rights are guaranteed” should they need to import personal data from the EU. These include, for instance, making public these commitments, which will then be monitored and subject to enforcement by domestic authorities, along with complying with decisions by EU data protection authorities when it comes to using human resources data.

Washington also agreed to provide Brussels with “written assurances” that law enforcement and national security authorities will face limits and oversight in accessing personal data, while not being permitted to undertake “indiscriminate mass surveillance.” As part of ensuring this commitment is met, the shield includes planned joint reviews between the two sides, to be held each year.

Another key concern in the “Safe Harbour 2.0” talks had been providing an opportunity for EU citizens to seek judicial redress regarding data collection concerns, particularly given that legislation on the subject has passed the US House of Representatives and is currently under consideration in the Senate.

Officials say that the new Data Privacy Shield will give EU citizens various options in this respect, such as setting deadlines for companies to reply to their complaints. It will also allow for European data protection authorities to refer complaints to the relevant US federal agencies, with those complaints specific to national intelligence agencies being directed to a designated Ombudsperson.

Eyes on Working Party meeting

One key question since the announcement has been how European data protection authorities will respond to the decision, both in terms of the content itself and also given that a legal text is still forthcoming.

The Article 29 Working Party, an independent advisory body on data protection and privacy made up of representatives from the national data protection authorities of EU member states, the European Commission, and the European Protection Supervisor, met on 2-3 February to discuss the next steps on Safe Harbour, in light of the ECJ ruling.

[Previously](#), the group had said that they were examining the ruling’s implications for other data transfer mechanisms, while confirming that standard contractual clauses and binding corporate rules would still, for the time being, be an option. The authorities had warned, however, that they were “committed to take all necessary and appropriate actions, which may include coordinated enforcement actions,” should Brussels and Washington fail to strike an agreement by end-January 2016. (See Bridges Weekly, [5 November 2015](#))

In [a statement](#) issued on Wednesday, the Article 29 Working Party welcomed the end of the talks, while noting that it would need to see the “relevant documents” by the end of February so as to better judge the agreement’s provisions and legal nature, along with how well the planned measures tackle the issues raised in the ECJ ruling.

Meanwhile, standard contractual clauses and binding corporate rules can continue being used, the Working Party said, with an assessment on their long-term viability forthcoming.

Mixed reactions, next steps

Despite the praise from EU and US officials, reactions from other quarters since the deal was announced on Tuesday afternoon have been mixed, with some calling the new "shield" a positive step for ensuring [improved data protection](#) and continued stability for trans-Atlantic digital commerce, while others questioning whether it was sufficiently stringent in order to be in line with current European law and privacy concerns.

Another question that remains is whether this shield will be strong enough to withstand any future legal challenges, particularly in the wake of the ECJ ruling on the earlier framework.

While the political agreement has already received the sign-off from the EU's College of Commissioners, a few more steps remain to put it in place. On the European side, Jourová and Andrus Ansip, who serves as European Commission Vice-President for the Digital Single Market, will now be working toward developing a "draft adequacy decision" for commissioners to adopt.

This process will include input from the Article 29 Working Party as well as a committee of EU member state representatives. Across the Atlantic, the US will need to begin setting up the agreed monitoring mechanisms and framework, while choosing an Ombudsman. The two sides aim to have the privacy shield in place from April onward.

The result comes as the EU and the US are currently involved in two major trade negotiating efforts – a bilateral trade and investment deal known as the Transatlantic Trade and Investment Partnership (TTIP), as well as talks with over 20 fellow WTO members for a Trade in Services Agreement (TISA).

How the new privacy agreement may affect these is another question for trade watchers. The issue of data transfers and the protection of personal data has already come up in the TISA talks, including in discussions relating to financial services during the most [recent round](#) in December 2015.

ICTSD reporting; "European courts should provide a clear 'Safe Harbor' for the internet," THE HILL, 2 February 2016; "U.S. and Europe in 'Safe Harbor' Data Deal, but Legal Fight May Await," THE NEW YORK TIMES, 2 February 2016; "Last gasp Safe Harbor 'political deal' struck between Europe and US," ARS TECHNICA, 2 February 2016; "European and U.S. negotiators agree on new 'Safe Harbor' data deal," WASHINGTON POST, 2 February 2016.

ENVIRONMENTAL GOODS

APEC Members Slash Tariffs on Environmental Goods, Group Says

Members of the 21-nation Asia-Pacific Economic Cooperation (APEC) alliance have released [documents](#) detailing progress on implementing their joint pledge to cut applied tariffs to five percent or less by 2015 on environmentally-friendly goods contained under 54 product categories.

The products involved range from wind turbines and solar panels to water filtering machinery and oceanographic, hydrological, or meteorological surveying equipment.

The "implementation lists" provide information on applied tariffs levied last year and for 2016, although some also do so for 2012, in order to take into account early implementation. For the most part, goods are identified at the six-digit level of World Customs Organization (WCO)'s Harmonised-System (HS) tariff category nomenclature; by a national tariff line (NTLs); and with an accompanying description, in order to provide clarity where APEC members agreed only to liberalise specific items within these.

While most APEC economies were already in compliance, China and South Korea were among those that reported significant drops in most-favoured nation (MFN) applied tariff rates on several goods as a result of the exercise.

However, according to the submissions five economies – Malaysia, Thailand, Russia, Chinese Taipei, and Indonesia – have partially missed the deadline, with a handful of tariff lines or specific products not yet in compliance for various reasons.

APEC leaders signed up to lowering applied tariffs on select environmental goods at a meeting held in Honolulu, Hawaii in 2011, as part of a commitment to promote green growth and seek "trade-enhancing solutions" to global environmental challenges. The 21-country group released an [agreed list](#) of products the following year in Vladivostok, Russia. (See Bridges Weekly, [16 November 2011](#) and [12 September 2012](#), respectively)

Several analysts have suggested that some sectors in the APEC region, particularly clean energy, would benefit from the initiative. The overall value of trade flows affected by the cuts is likely to be relatively small for now, however, due to the specific nature of the commitments.

Environment, trade commitment

Some experts welcomed the implementation lists and said that APEC economies appear to have taken the exercise "very seriously." The level of specificity indicated in the implementation lists suggests a commitment to "environmental credibility," given that the cuts should focus on NTLs that include green products, and only a small number of unrelated products in these also benefit.

Since announcing the initiative, APEC delegates and experts have met regularly to address some of the challenges linked to implementing the tariff cuts, which were said to have varied in nature and scope between members. Identifying specific goods at the national level was considered by many to be a key hurdle, given that the WCO's HS six-digit subcategories often included a wider array of items.

In some instances, countries have used existing NTLs to implement the cuts, whereas others have split certain existing lines into two or more, therefore creating new NTLs to address the environmental goods more narrowly. Some, such as South Korea, have in certain cases created entirely new national lines by indicating the environmental end-use of certain parts and components.

Some commentators also said last week that the implementation lists provide a practical demonstration of a trade-related commitment directly targeting environmental goods that could be useful for other efforts.

A group of 17 WTO members are currently working towards securing a binding tariff-cutting "Environmental Goods Agreement" (EGA). At the initiative's launch in 2014, EGA participants had signalled plans to build on the APEC list, although varying interpretations of this mandate were among the reasons these negotiations stumbled at the end of last year. (See BioRes, [9 December 2015](#))

Marie Sherylyn D. Aquia, chair of the APEC Committee on Trade and Investment, said last week in a [press release](#) that the Asia-Pacific group's progress on implementation would now add "impetus" to the EGA talks.

More time needed, more work ahead

How the group will respond to the five nations not yet fully in line remains to be seen. Unlike the EGA, the APEC effort is technically non-binding, with no formal penalties for non-compliance.

Malaysia's implementation document reveals seven items still undergoing legislative approval for tariffs cuts to five percent. However, six items are not directly covered by the APEC list, but instead represent additional commitments taken under a relevant HS six-digit tariff line. Kuala Lumpur explains that these reductions should be in place by March.

A 20 percent tariff on bamboo flooring products will also be tackled this year. In order to do so, Malaysia will need to create a new specific national tariff line, in order to exclude "other types of flooring" that fall within the HS six-digit code, but are not on the APEC list.

Bamboo flooring products also proved challenging for Russia and Thailand. As a member of the newly-formed Eurasian Economic Union (EAEU), which implements a common customs tariff, Russia indicates that the changes from the current 11 percent will be completed once approved by Armenia, Belarus, Kazakhstan, and Kyrgyzstan. (See Bridges Weekly, [5 June 2014](#))

Moscow cites several other items, including parts of steam turbines and of civil aircraft engines or motors, where tariffs are expected to go down to five percent by next September at the latest.

Thailand's 20 percent tariff on bamboo flooring products is marked as "under consideration" by its Ministry of Finance, along with more than a dozen other items, with tariffs at 10 percent. According to Bangkok, these products will be considered for cuts between 0-5 percent, following domestic consultations with stakeholders. A final determination, however, will only be made later as part of the country's ongoing tax reform.

Indonesia highlighted 13 items whose tariffs remain at 10 percent, with reductions scheduled to take place gradually year by year, with full compliance targeted for 2021. These include condensers for steam or other vapour power units, some wind-powered generating sets, along with some electric generating sets, among others.

Chinese Taipei, an EGA participant, has also signalled that a legislative review remains ongoing for reducing a 10 percent tariff on electric generating sets that involve turbines and an 8.5 percent tariff on alternating current (AC) turbine generators.

Progress on further implementation and next steps is on the agenda for an APEC officials meeting being held in Lima, Peru, later this month. Further [work](#) on an Environmental Services Action Plan ([ESAP](#)) to help boost trade and cooperation within the region by the end of the decade is also on the docket. (See BioRes, [3 June 2015](#))

EGA talks in Geneva

According to trade sources, an EGA negotiating round has been set for the first week of March, although the meeting's agenda was not finalised at press time. Several players expect the talks to identify next steps, after difficulties in December held back a potential delivery at the WTO's Tenth Ministerial Conference (MC10) in Nairobi, Kenya.

Some players had also hoped to secure an initial EGA deal around the time of the UN climate talks in Paris, France in December that resulted in a new universal emissions-cutting deal, given that lower tariffs on certain climate-friendly goods could help to boost their uptake worldwide. (See BioRes, [13 December 2015](#))

Some stakeholders suggest that China's G-20 presidency this year might provide a new opportunity to land an EGA deal, although no formal discussions have taken place on this front yet, and key details would need to be addressed. For example, not all EGA participants are members of the G-20, and vice versa.

Progress on the EGA negotiations is nevertheless included in a list of priorities for bolstering a robust international trade and investment system, along with several other objectives, according to a [document](#) by Chinese President Xi Jinping on the G-20 process published in December.

ICTSD reporting.

EUROPEAN UNION

EU Trade, Development Ministers Hold First Joint Gathering, Eyeing Increased Cooperation

Better aligning trade and aid policies, such as through more responsible supply chains, was high on the agenda as European trade and development ministers convened for an informal meeting on Tuesday, with the 2 February luncheon in the Dutch capital of Amsterdam marking their first-ever joint gathering.

The luncheon was hosted by Lilianne Ploumen, the Dutch Minister for Foreign Trade and Development Cooperation, and came on the same day as both development and trade ministers also held separate meetings to address other policy topics, ranging from the migration crisis to the pace of the negotiations for a bilateral trade and investment pact with the US.

The Netherlands holds the six-month rotating presidency of the Council of the European Union through 30 June 2016.

Ploumen explained to reporters that one of the key topics raised during the high-level meet between trade and development ministers was how to make global value chains (GVCs) more sustainable, and what role the 28-nation bloc – with its 500 million consumers and 25 million businesses – could play in the process.

"[The EU has] a lot of bargaining power, so to say, but also a lot of responsibility," she said, remarking on the enthusiasm among the participants "for this perspective," which will be the subject of future discussions.

Tuesday's meeting, which officials emphasised was an introductory discussion, included an exchange on best practices, including the Kimberley process as well as the conflict minerals dossier currently undergoing EU legislative procedures, along with garment-related trade initiatives undertaken in the wake of the tragic factory collapse in Bangladesh in 2013.

"The important point to make here is that the EU can work with producing countries using not only aid instruments, but also trade instruments" as a way to provide incentives for responsible business practices, said Ploumen, adding that this will be a key theme of the Dutch EU presidency.

Along with EU ministers, the meeting also included among its participants Cecilia Malmström, the EU's Trade Commissioner, as well as Neven Mimica, the EU's International Cooperation and Development Commissioner.

"We had very useful discussions... and this falls very much into the Trade for All agenda which the Commission presented earlier this fall, where want to put further emphasis on the different foreign policy tools which we have to use trade as an instrument to promote sustainable development but also development cooperation," said Malmström.

The EU trade chief was referring to its new proposal on the bloc's trade and investment strategy for the next five years, released in October 2015. (See Bridges Weekly, [15 October 2015](#))

"We are promoting responsible supply chains and enabling an environment for their development through a whole variety of policies in our trade and investment agenda. All

our trade agreements do contain a sustainable development chapter," she added, noting that the EU's [newly-agreed trade deal](#) with Vietnam provides a useful example.

The EU's [recent report](#) on the implementation of GSP+ was also cited as an example by the trade commissioner, referring to the enhanced Generalised System of Preferences, which eliminates tariffs for the same goods that would see tariff reductions as the regular GSP, but with the added condition that those countries involved ratify and implement international conventions on labour, human, and environmental rights.

The report found that while there had been progress seen in the 14 countries involved, much more needed to be done.

Trade ministers' meeting: WTO, TTIP 12th round

After the joint luncheon meeting, EU trade ministers then met informally to address issues such as the future of the WTO, bilateral trade and investment talks with the US, and a plurilateral effort with several other countries to clinch a deal liberalising environmental goods trade.

Regarding the WTO in the wake of last December's ministerial conference in Nairobi, the EU trade chief called for the international and European policy communities to reflect on how to address implementation of what was agreed in Nairobi and in 2013 in Bali, as well as how to deal with existing, unresolved issues and ways to address newer trade topics.

"This is not the moment to decide upon [new topics], but to see how we can bring important global issues, for instance e-commerce and digital trade, investment, regulatory issues, local content, and other issues to the global agenda," she said.

While noting that the EU's preference is for multilateral pacts, she referred to advances in the Environmental Goods Agreement (EGA) and Trade in Services Agreement (TISA) negotiations, as well as the recently-completed negotiations for an expanded Information Technology Agreement (ITA), as examples of other ways to move ahead.

These pacts "show that if that is not possible immediately, we can start with a coalition of the willing and then bring it into the WTO," she said, indicating the hope also to complete the EGA and TISA talks this year.

The EU trade commissioner also confirmed that the next round of negotiations for a Transatlantic Trade and Investment Partnership (TTIP) with the US will be held the week of 22 February in Brussels, Belgium. The meet will mark the twelfth round since talks began in mid-2013.

"We are stepping up the game quite considerably and we are determined from both sides to see if we can work really hard to finish [TTIP] by the end of the year. Of course, a lot of work remains, but we have achieved quite a lot," she told reporters, reaffirming earlier indications that the EU is aiming for a pact before US President Barack Obama leaves office next January. (See Bridges Weekly, [21 January 2016](#))

The two sides need to be "approaching the endgame by the summer," she added, noting that they are not there yet.

Following the February round, which will focus on services, public procurement, and a first discussion on the EU's proposal for an investment court under TTIP, there will then be additional rounds in April and July, with the goal of having consolidated texts on almost all items by this spring.

Development ministers discuss migration, Post-Cotonou, Global Strategy

The migration crisis in Europe – and what role development cooperation can play in tackling the situation – was one of the key topics during an earlier meeting that day among EU development ministers, officials said.

How to proceed with ACP ties was another issue raised during the joint luncheon, officials confirmed. The Cotonou Agreement between the EU and the ACP countries was inked in 2000, outlining a trade, political, and cooperation framework for the 28-nation bloc's ties with 79 countries.

The agreement, which entered into force in 2003, is due to expire in 2020, though the pillar on trade and economic cooperation was only from 2000-2007. The EU is still working on concluding [EPA negotiations](#) with ACP members, which have been conducted with different regional groupings.

"The EU has a commitment with African, Caribbean, and Pacific countries that consists of aid, trade, and political cooperation. That [Cotonou] agreement needs to be looked at again," Ploumen told journalists on Tuesday. Mimica, in his own remarks, indicated that they are aiming to have concrete proposals by year's end on the subject.

Another key item on the docket was the EU's Global Strategy on Foreign and Security Policy, which the EU's High Representative for Foreign Affairs and Security Policy, Federica Mogherini, is working on developing ahead in consultation with member states, EU institutions, and other key stakeholders.

Mogherini is slated to present the document to EU leaders this coming June. Trade, humanitarian assistance, and development cooperation are among the policy areas under discussion, with the Global Strategy website classifying these together under the heading "[Humanitarian Aid and Economic Prosperity](#)."

This strategy will need to take into account the "universal and comprehensive" 2030 Agenda adopted in New York last September during the UN Sustainable Development Summit, Mimica said. (See Bridges Weekly, [1 October 2015](#))

ICTSD reporting.

AGRICULTURE

China's Farm Policy Hints at New Market Orientation, Maize Reforms

China's farm policy will be "modernised," the government has said, with a movement towards more market-oriented policies in areas such as the maize sector. However, farm subsidies aimed at narrowing the growing income gap between urban and rural areas are likely to remain a central feature of the Asian country's agricultural policy, sources said.

The new approach is spelled out in an annual government white paper named "[Policy Document No. 1](#)." Timed to coincide with the Chinese New Year, it is widely seen as setting out the government's broad policy orientation on a key priority – and for the last thirteen years has focused on agriculture. (See Bridges Weekly, [8 February 2012](#), [13 February 2013](#), [23 January 2014](#), and [26 February 2015](#)).

Buried deep in the text is a commitment to "push forward the reform of the maize purchasing and storage system, and reflect market supply and demand in corn prices." While the timing and specifics of the new approach remain unclear, trade sources told Bridges that Beijing was believed to favour making compensation payments to farmers when prices fell short of a target price, instead of purchasing stocks to support prices when these fell below a pre-established floor.

"Government support would not be related to price: it would be decoupled," one source familiar with the proposed maize policy reforms told Bridges.

China has already introduced a similar reform in the cotton and soybean sector, which experts said had helped reduce distortions on markets for the products concerned. (See Bridges Weekly, [23 January 2014](#))

In other signs that Beijing is seeking to modernise its farm sector, Reuters reported on Wednesday that the Chinese state-owned company ChemChina had agreed a US\$43 billion bid for the Swiss agro-chemical giant Syngenta. News reports said that the purchase was the largest ever foreign purchase by a Chinese firm.

Ballooning farm stockpiles

Intervening directly on markets for key commodities has led government stockpiles to grow rapidly over the past few years, sources said.

A growing gap between domestic and international prices has "led to mounting warehousing costs and costs of market price support and increasing pressure to import more from the world market," said Wusheng Yu, Associate Professor in the Department of Food and Resource Economics at the University of Copenhagen.

At the same time, the low tariff barriers that Beijing agreed to nearly 15 years ago as part of its onerous WTO accession package have meant that trading firms have favoured cheap foreign imports over domestic production.

"They have a huge problem," said Andrzej Kwieciński, senior agricultural policy analyst at the Organisation for Economic Cooperation and Development (OECD).

Kwieciński told Bridges that it was still unclear to what extent the new policy would “decouple” farm support from production.

However, a source familiar with the new strategy said that there was no doubt that the government had decided to move towards greater market orientation for some key commodities over the next five years.

“The direction is quite clear,” the source commented to Bridges.

At the same time, the policy document clarifies that wheat and rice will still be purchased at government-set prices, while cotton and soybeans in the Xinjiang region would continue to be procured under the target price system introduced under recent reforms.

Recognising the importance of world markets in supplying farm goods represents a “major change of strategic thinking,” said Yu.

Beijing has historically aimed at near total self-sufficiency for a basket of key food grains such as wheat and rice, with a numerical target for doing so. However, the new document simply states that the government will seek to ensure self-sufficiency in food grains, without specifying a target share for domestic production.

Raising rural incomes

Structural transformation of the economy, along with new social security policies, would be needed to lift millions more people out of poverty, the document says.

However, decoupled payments to support farm incomes is also expected to remain a central aspect of the government's approach, sources said.

“The support for agriculture should not be weakened,” one source told Bridges.

Chinese farm subsidies have increased rapidly in recent years. Beijing's most recent agricultural domestic support notification to the WTO indicated that the country had spent around US\$18 billion in trade-distorting farm payments in 2010, while another US\$78 billion was classified as only minimally trade-distorting under the global trade body's rules. (See Bridges Weekly, [13 May 2015](#))

“The three input subsidy programs on grain production, seed varieties, and inputs are to be combined,” said Professor Yu, who told Bridges that the move could signal the government's intention to dissociate these subsidies from actual production decisions.

“A comprehensive approach”

Other sections of the document also spell out how Beijing plans to make rural areas more competitive, more environmentally sustainable, more economically diversified, and better integrated with urban areas, including through investment in public goods.

It also reaffirms the government's commitment to tackling the three “nongs” or three rural issues – agriculture, farmers, and the countryside.

“It's very comprehensive,” said one source who cautioned against focusing on the proposed maize market reforms in isolation.

ICTSD reporting; “China seeks food security with \$43 million bid for Syngenta,” REUTERS, 3 February 2016.

DISPUTES

As US-Cuba Ties Evolve, Havana Club Dispute Draws Renewed WTO Scrutiny

The long-running dispute over the Havana Club rum trademark has drawn renewed WTO scrutiny in recent weeks, in the wake of a US government agency decision on the subject in January.

Last month, the US Patent and Trademark Office announced that it would be granting Cubaexport – a state-owned Cuban company – a specific license allowing it to renew in the US its trademark registration for Havana Club, marking a significant change in policy.

Pernod Ricard, the French company which partners with Cubaexport to help market and distribute Cuban-produced Havana Club rum in the rest of the world, [confirmed](#) that the latter company had applied for and received the license in the US until 27 January, and has since applied for this to be renewed through 2026.

Bacardi, for its part, has [openly lambasted](#) the US Patent and Trademark Office's decision, calling it contrary to domestic law. On Tuesday, the spirits giant submitted to the US Treasury Department a Freedom of Information Act (FOIA) requesting that the reasons behind the decision be made public.

Prolonged dispute

Section 211 of the US Omnibus Appropriation Act, enacted in late 1998, prohibits the registration or renewal of trademarks in cases involving the seizure of businesses or assets by the Cuban government, unless the trademark's original owner agrees.

In practice, this meant that Cubaexport has not been permitted in recent years to renew its Havana Club trademark registration in the US, with the registration instead being given to Bacardi. The latter company is headquartered in Bermuda and makes rum for US distribution in Puerto Rico. Bacardi bought the trademark from the Arechabala family, the rum's original creators and exporters.

However, the Arechabala family's trademark in the US lapsed decades ago, after the family fled the country in the wake of the Cuban revolution, with its facilities and assets having previously been seized. Subsequently, in the 1970s, Cubaexport registered the Havana Club trademark in several countries, [including with the US](#) in 1976 – with the renewal later denied in light of the 1998 law.

The result has been a famously heated disagreement between the spirits producers involved, as well as the countries affected, including several protracted legal battles on the subject.

A WTO dispute ([DS176](#)) was lodged in 1999 by what was then the European Communities, now the EU, given the implications for a European company with a base in Cuba. In early 2002, the Appellate Body ruled that Section 211 was in violation of multilateral trade rules, particularly those relating to intellectual property rights.

The controversial agreement between [US President Barack Obama](#) and [Cuban President Raúl Castro](#) in July 2015 to re-establish diplomatic ties has allowed for the loosening of some trade and travel restrictions between the two countries, located just 90 miles apart.

However, some restrictions – such as the 1961 United States embargo on Cuba – are part of US law and would require congressional approval.

In other words, the US Patent and Trademark Office's decision is not expected to have any actual effect until the embargo is lifted. When and if that takes place, given the politically sensitive nature of the topic in the United States, remains to be seen.

Questions in Geneva

Over the years, the US has drawn criticism from several WTO members for not taking the necessary steps to address the Appellate Body ruling, which was issued 14 years ago. Many countries have particularly taken issue with the potential negative systemic implications of one of the world's largest traders not abiding by a dispute settlement ruling's terms. (See Bridges Weekly, [3 October 2012](#))

The Washington agency decision came up during a meeting last week of the WTO's Dispute Settlement Body (DSB) in Geneva, with the US including in its regular [status report](#) on the dispute a brief description of the changes.

These steps “resolving a longstanding issue of concern to the European Union and others,” the US said.

The EU and Cuba, for their part, both welcomed the US agency's decision as a constructive move forward, while also noting that they will not view the matter as being resolved until Section 211 is repealed, sources confirmed.

However, the EU and Cuba differed on whether the US should still be required to provide monthly status updates to the DSB. The EU reportedly said that such updates are no longer necessary, while noting that the 28-nation bloc still reserves all of its rights on the subject – a suggestion that Cuba disagreed with, citing the importance of monitoring the US' efforts toward compliance until a resolution is reached.

Various other WTO members also suggested keeping the item on the DSB agenda – as well as repealing the US law in question – with Cuba ultimately requesting to maintain the reports as an agenda item until resolved.

ICTSD reporting; “Pernod and Bacardi Back in Rum Trademark War,” THE SPIRITS BUSINESS, 18 January 2016; “Cuba prevails in Havana Club rum dispute with Bacardi,” MIAMI HERALD, 15 January 2016; “What happened when? The history of Havana Club,” JUST-DRINKS, 18 August 2006; “Pernod Ricard goes on the offensive after Supreme Court blow,” WORLD TRADEMARK REVIEW, 15 May 2012.

EVENTS & RESOURCES

Events

Coming Soon

8 February, Geneva, Switzerland. UNPACKING THE WTO NAIROBI OUTCOME FOR LDCs. This meeting, organised by the International Centre for Trade and Sustainable Development (ICTSD), will review the implications of the WTO's Tenth Ministerial Conference in Nairobi, Kenya, this past December for least developed countries (LDCs). The event will also examine what opportunities these countries may have in the future, given this context. Please note that the event is by invitation only. Further details are available on the ICTSD [website](#).

8 February, online. LEAVING NO ONE BEHIND. Organised by the Overseas Development Institute, this event will feature Dutch Minister for Foreign Trade and Development Cooperation Lilianne Ploumen, together with various experts and senior government officials, to discuss the way forward following the adoption last September of the Sustainable Development Goals (SDGs). Among the topics for discussion are how to identify those people most in need, as well as how to support those same needs, as governments and other actors work to meet the SDGs by 2030. More information about the event is available [here](#).

11 February, Washington, US, and online. RICH PEOPLE POOR COUNTRIES: THE RISE OF EMERGING MARKET TYCOONS AND THEIR MEGA FIRMS. This event by the Peterson Institute for International Economics will focus on a new study being released on the relationship between corporate innovation, growth, and inequality. The author, Caroline Freund of the Peterson Institute, draws upon research involving trade, growth, and global business leaders. The event will be webcast live on the Institute's website. More details can be found [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.

5 February: Informal Committee on Technical Barriers to Trade

11 February: Committee on Trade and Development – Session on Aid for Trade

Other Upcoming Events

26 February, London, UK. BRITAIN'S EU REFERENDUM: STATE OF THE RACE. This briefing is being organised by Chatham House and will focus on the upcoming British referendum on whether to continue being a member of the European Union. Among the various questions set to be discussed during the event are the role of UK Prime Minister David Cameron and the implications of the referendum on the UK's political parties. More information about this event is available at [here](#).

16 March, Geneva, Switzerland. UNCTAD EXPERT MEETING: TAKING STOCK OF IIA REFORM. This meeting, hosted by the UN Conference on Trade and Development

(UNCTAD), will take place during UNCTAD's two-day "Multi-year Expert Meeting on Investment, Innovation, and Entrepreneurship for Productive Capacity-building and Sustainable Development" being held on 16-17 March. Participants will include investment and development experts from governments, intergovernmental organisations, civil society, the private sector, and academia. To join either in person or via the live webinar, please e-mail WIF_IJA_Conference@unctad.org with either "In person attendance" or "Webinar attendance" in the subject line, respectively.

13-24 June, Geneva, Switzerland. WIPO-WTO COLLOQUIUM FOR TEACHERS OF INTELLECTUAL PROPERTY. This two-week course is being conducted jointly by the World Trade Organization (WTO) and World Intellectual Property Organization (WIPO), and will address topics such as the relationship between intellectual property and economic development; copyright issues in the context of trade in digital goods; and geographical indications, among various others. The course is prepared for intellectual property teachers from countries that are either developing or in transition. For more information, including information on how to apply and a provisional programme, please visit the WTO [website](#).

20-21 June, Washington, US. ANNUAL BANK CONFERENCE ON DEVELOPMENT ECONOMICS 2016: DATA AND DEVELOPMENT. Organized by the World Bank Development Economics Vice Presidency, this conference will bring together development researchers, policymakers, and practitioners with the goal of exchanging and discussing the latest trends in development, with this year's theme set as "Data and Development." A call for papers is currently underway. To learn more, visit the World Bank [website](#).

17-22 July, Nairobi, Kenya. FOURTEENTH SESSION OF THE UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. This high-level UNCTAD conference will focus on the best ways for delivering the 2030 Agenda, agreed during the UN Sustainable Development Summit last year. The meeting is expected to draw leaders from government, business, civil society, and academia. More information is available [here](#).

Resources

UPDATED INVESTMENT DISPUTE SETTLEMENT NAVIGATOR. Published by the UN Conference on Trade and Development (UNCTAD) (2016). This version of UNCTAD's Investment Dispute Settlement Navigator has now been updated to include information through 1 January 2016. The new information shows that the number of investor-state dispute settlement (ISDS) cases filed in the previous year hit a peak of 70 disputes, among various other findings. To learn more, visit the UNCTAD [website](#).

STATUS OF WTO LEGAL INSTRUMENTS. Published by the World Trade Organization (2015). This new publication provides a review of the various legal instruments prepared by different WTO members in relation to the Marrakesh Agreement and related plurilateral pacts. The publication can be downloaded online; printed copies can also be ordered. More information is available [here](#).

NEW STATISTICAL PROFILES ON GLOBAL VALUE CHAINS. Published by the World Trade Organization (2016). These new statistical profiles, which cover 61 economies, uses data from the joint OECD-WTO database on Trade in Value Added in order to better understand global value chains, the relationship between services and exports, trade facilitation, and more. The new profiles are available online at the WTO [website](#).

'HOW EU ETS REFORM WILL SHAPE THE LOW-CARBON ECONOMY' – DEBATE HIGHLIGHTS. Published by viEUws (January 2016). This video, published by the broadcaster viEUws, features a debate of how the EU's Emissions Trading System (ETS) may evolve between now and 2030. The discussants include Peter Zapfel, Head of Unit "Emissions Trading System – Policy Development and Auctioning" in DG Climate Action, Bas Eickhout MEP, Greens/European Free Alliance, Shadow rapporteur for the ETS reform proposal and Chris Scott-Wilson, Director Public Affairs, Cefic. The video is available [here](#).

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PUBLISHED BY



**International Centre for Trade
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Bridges Weekly Trade News is made possible
through generous contributions of donors and
partners including

**DFID - UK Department for
International Development**

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of publications is most welcome; if interested,
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Contributors to this issue are Sofia Alicia Baliño,
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edition of Bridges Weekly Trade News Digest is
edited by Sofia Alicia Baliño.

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

Price: €10.00

ISSN 1563-0

