

## Dr Luca Rubini submits an amicus curiae brief in WTO renewable energy subsidy litigation

Posted on Wednesday 13th March 2013

On 12 March 2013 Dr Luca Rubini submitted an *amicus curiae* brief to the Appellate Body of the WTO, in the context of the pending *Canada – Renewable Energy/FIT* disputes (DS 412, DS426). In this high-profile case the Appellate Body is called to clarify key concepts of the definition of subsidy, in some cases for the first time, and develop its existing jurisprudence.

What is at issue is the WTO legality of the 'Minimum Required Domestic Content Level' prescribed under the Feed-In Tariff (FIT) Program adopted by the Government of the Province of Ontario, in Canada. As many other countries, Ontario introduced a particularly advantageous tariff system to incentivise the generation of electricity from renewable energy sources. To benefit from the incentive, however, the eligible renewable energy generators have to source part of their inputs locally. This obligation is contested, inter alia as an illegal subsidy under WTO subsidy laws.

Dr Luca Rubini, whose current research focuses on the regulation of 'green energy subsidies', criticized the Panel report decision, appealed by Canada, Japan and the EU, on various points, and in particular the majority decision which, in his views, unduly confuses policy and legal considerations.

The Appellate Body is the 'world trade court', it is based in Geneva and hears appeals on points of law with respect to decisions taken in the first instance by ad hoc panels. The Panel in the present disputes issues its decision on 19 December 2012. Canada, Japan and the EU appealed this decision in February. The hearing of the Appellate Body is to take place on 14 and 15 March 2013. The Appellate Body decision, due in few months, is expected to have a huge importance for the support to the green economy, and more generally for the proper understanding and operation of the WTO system of subsidy control.

- [Read Dr Rubini's amicus curiae brief \(/Documents/college-artslaw/law/iel/rubini-2013-amicus-curiae.pdf\)](/Documents/college-artslaw/law/iel/rubini-2013-amicus-curiae.pdf)