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## CLIMATE CHANGE

# European Commission Announces Temporary Suspension of Aviation Emissions Law

The European Commission has announced that it plans to temporarily “stop the clock” for one year on enforcing the inclusion of aviation into its Emissions Trading System (ETS) for flights to and from non-European countries. The proposed suspension – announced by EU Commissioner for Climate Action Connie Hedegaard on Monday morning – came just days after a meeting of the International Civil Aviation Organization (ICAO) that saw signs of movement toward a possible deal on global aviation emissions.

### Suspension details

Under the current EU scheme, airlines landing in or taking off from any of the EU's 27 member states – as well as Iceland, Liechtenstein, and Norway – must surrender carbon permits for the emissions they produce. The aviation component of the ETS took effect on 1 January of this year, and requires airlines to buy permits for 15 percent of those carbon emissions, with the remaining 85 percent initially being provided to them for free. Carriers had originally been told that they would need to purchase and surrender these permits by 30 April 2013.

In effect, the one-year suspension [announced](#) on Monday means that the EU will no longer require that allowances be surrendered next April for the emissions from flights from or to non-EU countries during the year 2012. The monitoring and reporting obligations for these same flights will also be deferred for one year, according to the Commission.

While the requirement to purchase and surrender permits for non-EU flights is now on hold, the legislation still applies to all intra-EU flights, regardless of airline, according to the Commission.

### Move follows progress at ICAO Council meeting

The EU has long pushed for a global aviation emissions deal, but decided to incorporate aviation into its ETS after deeming that the decade-long discussions at the ICAO – the UN's civil aviation body – had been moving too slowly. However, Hedegaard [told](#) reporters on Monday, a global deal on aviation emissions has always been the 27-member EU



International Centre for Trade  
and Sustainable Development

bloc's top priority.

"The European Union has been very clear: nobody wants an international framework on aviation more than we do," she said. "Now it seems that because of some countries' dislike of our scheme, many countries are prepared to move in [the International Civil Aviation Organization], and even to move towards a market-based mechanism at a global level."

Following their meeting in Montreal last week, the ICAO's governing council agreed on Friday to establish a high-level policy group on market-based mechanisms (MBMs). The ICAO Council also agreed that the current options being discussed on regulatory market-based mechanisms will have to be reduced from the present three alternatives to one by the UN aviation body's General Assembly in autumn of next year. There is also, according to Hedegaard, an explicit reference in the Council's conclusions to the global market-based mechanism "that the world now needs to agree on."

"We think that now – for the first time in years, it seems – that a global deal on aviation should be within our reach. We must use that opportunity," Hedegaard explained on Monday, while acknowledging that difficult negotiations still lie ahead and that there are no guarantees of success in ICAO.

With that in mind, the climate commissioner warned that the EU would go back to enforcing the aviation component of its emissions scheme if the ICAO General Assembly in autumn 2013 fails to deliver on a global deal. "Let me also be very clear: if this exercise ends in nothing, then needless to say we are back to exactly where we are today with the EU ETS. And we are back there automatically," she told reporters.

Some environmental groups, meanwhile, have met the results from last week's ICAO meeting with a cautious – though optimistic – response. "After 15 years of ICAO inaction, it's crystal clear now that a global market-based measure for the aviation sector is simply a question of political will," Bill Hemmings of Transport & Environment, a Brussels-based NGO, said in a [statement](#). "These are critical times and the world can no longer wait."

"Similar and rapid effort is now required to resolve the political questions in a spirit of fairness and equity while remembering that addressing aviation's climate change impacts is a necessity. Everyone says a global approach is the way to go – now it's time to match these words with deeds," Johnson added.

### **"Freeze" of aviation rule still requires approval by Council, Parliament**

The move must still undergo a few more steps before taking effect, Hedegaard told journalists on Monday. While the EU's 27 member states have been informed of the Commission's plan, the suspension must still be endorsed by the European Parliament and the European Council – a process known as co-decision – before becoming formalised.

"This is politically what I recommend that we do, and I of course would not say this if I did not think that also we could get the [necessary] backing," she said.

So far, members of the European Parliament's Environment, Public Health, and Food Safety Committee – meeting with Hedegaard in an extraordinary session on Monday afternoon to discuss the ETS – have [expressed](#) a cautious welcome to the Commission proposal.

"I welcome the substantial progress under ICAO that shows that it was very important that the European Union took a firm stand," said Member of the European Parliament (MEP) Peter Liese.

"Now it is clear that we need to be flexible. But we have to look at the Commission proposal very carefully. On the one hand we shouldn't be too generous. On the other hand we should avoid distortion of competition as much as possible."

### **Response from non-EU government officials, aviation industry**

The original decision to include aviation in the EU ETS from 1 January of this year had prompted substantial pushback from a wide range of countries – including the US, China, India, and Russia, among others – who argued that Brussels was exceeding its authority by charging for emissions produced outside EU airspace. China and India eventually banned their airlines from participating in the scheme without government approval.

Chinese officials were among those to welcome the European Commission's announcement, with some officials – such as Li Gao, deputy director-general of climate change at the National Development and Reform Commission, calling the move "a step in the right direction" and arguing that the Brussels decision is a sign that "unilateral measures are not a good way to deal with climate change issues." Hong Lei, a spokesman for the Chinese Foreign Ministry, has said that Beijing is ready to continue work on the subject on a multilateral level.

Despite the suspension, the US House of Representatives yesterday [passed](#) a bill aimed at shielding US airlines from having to comply with the EU aviation rule. "We are notifying the EU that we are not going to support the scheme, and in fact we want a ... long-term solution, but we will not allow the United States to be held hostage," said Representative John Mica, a Republican who chairs the House Transportation and Infrastructure committee, in comments reported by Reuters.

The legislation – which would allow the US Transportation Secretary to stop airlines from participating in the EU ETS if he deems it necessary – mirrors a bill passed earlier this year by Congress' other chamber, the Senate; the legislation still requires presidential approval, however, before it can become law. (See Bridges Weekly, [26 September 2012](#)) While Obama administration officials have been critical of the inclusion of aviation in the EU ETS, the White House has not yet indicated whether it would approve legislation that could bar US airlines from complying.

With the upcoming United Nations Framework Convention on Climate Change (UNFCCC) Conference of the Parties (COP) in Doha just weeks away, observers will be watching to see whether the EU move will help ease tensions with its trading partners ahead of the annual climate change negotiations.

Airline industry officials had also argued against including aviation in the EU emissions scheme, citing fears that it could spark a global trade war with devastating effects on aviation-related jobs and revenue. Brussels, however, had always maintained that it would only consider abandoning the requirement should there be signs of a global framework emerging under the UN, and would not bow down to pressure from its opponents.

"Commissioner Connie Hedegaard's announcement that she has 'stopped the clock' on the imposition of the EU ETS on flights to and from non-EU countries represents a significant step in the right direction and creates an opportunity for the international community," [said](#) Tony Tyler, the Director General and CEO of the International Air Transport Association (IATA), which represents over 200 airlines.

### **Commission proposes plan to boost carbon prices**

Also on Monday, the Commission [submitted](#) to the EU Climate Change Committee a draft proposal to "backload" – in other words, delay the availability of – carbon permits in the ETS, in an effort to boost dangerously low carbon prices. The fall in market prices has

primarily been blamed on an excess supply of carbon permits, along with the EU's broader economic struggles.

Under the proposal, the auctioning of 900 million carbon allowances from 2013-2015 would be postponed to later in the EU ETS' "third phase," which is due to end in 2020. Commission officials have stressed that the overall volume of allowances auctioned in the third ETS phase will not change – just when they are distributed.

At Monday's meeting of the European Parliament environment committee, MEPs expressed some reservations to the Commission's plan, citing concerns that the backloading proposal might not be enough to prop up lagging carbon prices.

"Backloading the release of allowances will only buy time," Mathias Groote – the MEP who serves as rapporteur for the proposal – said in response to the suggestion. "We need to take account of all the concerns and doubts that have been raised."

ICTSD reporting; "Deal on Aviation Emissions Within Reach in 2013, EU Says," BLOOMBERG BUSINESSWEEK, 12 November 2012; "EU puts airline emissions rule on hold," CHINA DAILY, 13 November 2012; "U.S. House OKs bill to shield airlines from EU carbon fees," REUTERS, 13 November 2012.

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## AGRICULTURE

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# Developing Countries Table Food Security Proposal at WTO

The G-33 group of developing countries has tabled a new proposal on farm trade and food security, trade sources say, in a bid to fast-track elements of the draft Doha accord ahead of the WTO's ministerial meeting next year.

The group, which includes China, India, and other countries with a sizeable share of smallholder farmers, would like trade ministers to support more flexible rules for farm subsidies in the WTO's "green box" - those that are exempt from any ceiling or reduction commitments on the grounds that they cause not more than minimal trade distortion.

Negotiators told Bridges that the proposal has been circulated in advance of an informal meeting this Friday of the WTO's agriculture negotiations committee. The meeting was initially called to discuss two separate proposals from the G-20 developing country group, which favours reform of developed country farm policies. (See Bridges Weekly, [3 October 2012](#))

However, some officials warned that the G-33 proposal might be less likely to garner consensus than the G-20's initiative. "It might be seen as a slightly different beast," one negotiator cautioned.

### **"Low-income, resource-poor" farmers**

The G-33 proposal, a copy of which has been seen by Bridges, calls for new rules on public stockholding for food security purposes and on domestic food aid. The group says that if a developing country government purchases food for its stocks at administered prices in order to support "low-income, resource-poor producers," they should not have to count this towards the aggregate measure of support they provide - an amount referred to as the 'AMS' by trade negotiators, and capped for each country under WTO rules.

Similarly, if developing country governments acquire food for domestic food aid at subsidised prices, they should not have to count these towards their AMS ceiling, so long as the food was "procured generally" from low-income or resource-poor producers in developing countries.

The group also proposes that several kinds of developing country farm programmes should be exempt from any ceiling on subsidies by classing them with other green box programmes at the WTO. Policies and services related to farmer settlement, land reform programmes, rural development, and rural livelihood security in developing countries should be among them, the group said.

The three clauses are all taken unchanged from a part of the draft Doha agriculture text that members have tended to see as being close to consensus, subject to progress in the talks as a whole. However, the draft text itself has now been unchanged for four years as a result of the broader impasse in the talks.

Absent from the G-33 proposal were two elements – agricultural state trading enterprises, and international food aid – that had been included in an earlier draft prepared by India, which has taken the lead in pushing for the initiative at the WTO.

### **Market price support**

Some delegates told Bridges that they expected the proposal to be controversial amongst the broader membership.

"Would countries be well served to open up the way to market price support in the green box?" asked another, who feared the proposal could "de-rail the whole build-up for MC9" - negotiators' shorthand for the upcoming ninth WTO ministerial conference next year.

Others suggested that, with the exception of some of the larger developing countries, many simply lacked the resources to support farmers in this way.

Proposals to expand significantly the current provision of subsidised food in India under the country's Food Security Bill had some negotiators particularly worried, while others expressed concern that surplus foodstocks were being exported. (See Bridges Weekly, [18 July 2012](#))

However, another negotiator from the group rejected this assessment. "Nobody is going to be hurt" by the proposal, the source said.

### **A problem of definition?**

Negotiators observed that the term "low income or resource poor" producers has not been defined, even though it appears in both the WTO's current Agreement on Agriculture and the draft Doha accord.

However, one delegate pointed out that India's most recent official farm subsidy notification to the WTO states that 98.97 percent of farm holdings fell into this category. (See Bridges Weekly, [15 June 2011](#)) A previous notification, for marketing year 1995-96, put the figure at 79.5 percent, and defined low-income resource-poor producers as those with operational land holdings of ten hectares or less.

In response to a question on the subject from the US, India also told a September meeting of the WTO's committee on agriculture that farmers are not allowed to have more than ten hectares of irrigated land.

Brazilian delegates told the same meeting that low income or resource poor farmers produce 22.9 percent of the value of agricultural production in their own country.

One negotiator expressed concern about the broader implications of the proposal. "How does this affect other countries?" the source asked.

### **A bumpy road to Bali**

Trade officials have recently discussed whether the Bali ministerial could deliver a deal on easing customs administration and cutting time at border crossings - known as 'trade facilitation' - perhaps accompanied by an agreement on the administration of import quotas for farm goods, as the G-20 have suggested.

In comments to Bridges, a G-33 official nonetheless argued that these two areas "are not seen as being enough" for a Bali package.

One developing country negotiator told Bridges that some countries did not want a Bali deal to include trade facilitation. "This is why they are bringing issues that won't succeed," claimed the source.

Others supported the view that the G-20 proposals were more likely to gain traction quickly among the broader WTO membership.

The G-33 proposal "will present a difficult challenge," one source cautiously observed.

ICTSD reporting.

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## PREFERENTIAL AGREEMENTS

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# EU Trade Chief Renews Push for Brussels-Washington Trade Deal

With the US presidential election now over, Washington and Brussels should turn their attention toward launching negotiations for a bilateral trade deal, the EU's top trade official said last week, particularly given the continued economic difficulties facing both sides.

"They say the opposite of love is not hate, but indifference. In that case, the American election campaign does not bode well for transatlantic relations," EU Trade Commissioner Karel De Gucht said in a [speech](#) to the European Liberal Democrats Congress in Dublin last Friday.

"Europe, many Americans seem to think, Democrats and Republicans alike, is above all the place that can't get its economic act together," he continued, adding that this perception appears to have led some Americans to look elsewhere, particularly Asia, for opportunities.

"I believe we should convince people in Europe that a deepening of trade relations with the US is to our benefit, despite the sacrifices any compromise entails. And I also believe we can convince the US that Europe is still the most interesting and most reliable partner to do business with. As Churchill said, 'you can always count on the Americans to do the right thing, after they've tried everything else.'"

The comments came as new EU [forecasts](#) show the short-term outlook for the 27-country bloc as remaining "fragile," though projections for 2013 and 2014 show the possibility of improvement. The US, for its part, is facing the need to avert a looming "fiscal cliff" of scheduled tax hikes and spending cuts that could – if not lifted by Congress – plunge its economy back into recession.

The EU-US High-Level Working Group on Jobs and Growth, which is jointly chaired by De Gucht and US Trade Representative Ron Kirk, is expected to issue a final set of recommendations to US and EU leaders in the coming weeks regarding whether the two trading partners should begin negotiations for a trade deal. An interim report released by the group in June indicated that a broad, comprehensive bilateral pact could be the best option for deepening the already vast Brussels-Washington trade relationship. (See Bridges Weekly, [27 June 2012](#))

Recent comments by unnamed US and EU officials interviewed by Reuters suggest that the final Working Group report will indeed include recommendations for launching formal trans-Atlantic trade talks. (See Bridges Weekly, [24 October 2012](#))

### **De Gucht: US, EU must act to keep up with emerging economies**

Noting the rise of emerging economies, De Gucht argued that Brussels and Washington must act quickly to join forces in order not to fall behind their competitors.

"If we want to make the most of the global economy, we have to grasp the opportunities still on offer by strengthening the ties between the US and the EU," he said. "For others are surely making the most of their opportunities."

The US and EU together form the world's largest trading relationship, with trans-Atlantic trade in goods and services worth €700 billion last year alone, according to European Commission [data](#).

Comments from some EU national leaders have also echoed De Gucht's sentiments, noting that an EU-US deal could be a major way to reinvigorate both economies.

"There are so many things that we need to do: we need to kick start the world economy and I want to see an EU-US trade deal," British Prime Minister David Cameron [said](#) last Wednesday during a visit to Jordan, while congratulating the US President on his re-election. The British leader has been a vocal proponent of the EU's strategy to pursue more trade deals in light of the impasse in the WTO's Doha Round negotiations.

### **Support in Europe building, but obstacles remain**

Over the past month, the prospect of a Brussels-Washington deal has gained increased traction in Europe, with the European Council voicing its support for such negotiations after an EU summit. The European Parliament in its latest plenary in Strasbourg also voted on a non-binding resolution in favour of starting bilateral trade talks.

Despite the growing political momentum, EU officials have acknowledged that negotiations – if launched – could still face obstacles. Previous efforts to liberalise trade between the two economic powers have stumbled over topics such as health protections and regulatory standards. Access to Europe's agriculture markets, along with the bloc's own "offensive interests" in areas such as public procurement, are likely to "guarantee hard talks" should such negotiations indeed take place, the EU Trade Commissioner conceded on Wednesday.

"All this will not be easy," De Gucht warned. "There is no low-hanging fruit in such a relationship. There are no quick fixes for the complex issues that still hamper trade between the most developed economic blocs in the world. And it will not be easy for Europe to engage fully in such negotiations either."

### **De Gucht outlines trade pact wish list**

In his remarks, the EU trade chief outlined a series of goals for such a bilateral deal, should negotiations begin. Specifically, an "effective agreement" would attempt to remove most, if not all, duties on bilateral trade in industrial and agricultural goods. Such a deal would also open services markets that are currently closed, going beyond existing commitments that the two sides have made in other trade deals. The pact should also include a framework for better cooperation between regulators, along with addressing competitiveness barriers – including those at the sub-federal level on both sides.

As for public procurement – a topic where the EU has previously sparred with the US, specifically in the negotiations leading up to last year's revised WTO Government Procurement Agreement – this area remains "a market of crucial importance for Europe," De Gucht said.



"An effective agreement cannot ignore the fact that companies whose business depends on procurement represent 25 percent of European GDP and 31 million jobs," he added, stressing that the two sides in this area should aim to "get as close as possible to national treatment at all levels of government."

ICTSD reporting.

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## WASHINGTON

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# US House Ctte Adds Human Rights Provisions to Russia Trade Bill

The process to repeal a Cold War-era restriction on trade with Russia appears to be approaching the final stages in Washington, after having stalled earlier this year. The House Rules Committee approved yesterday the linkage of the trade bill with human rights-focused legislation, paving the way for a full vote in the House of Representatives that could occur as early as this Thursday.

The Committee's decision is the latest step in a process that began earlier this year to repeal the 1974 Jackson-Vanik amendment, a law meant to deny most favoured nation (MFN) status to countries with limited freedom of emigration. Required of all WTO members, MFN status mandates that all members treat their trading partners equally.

With Russia's accession to the WTO becoming official this past August, US lawmakers have been under immense pressure from business groups concerned that the government's failure to normalise trade relations with Moscow has placed US industries at a disadvantage compared to their Chinese and European competitors. Indeed, as MFN treatment must be a reciprocal agreement, WTO policy allows Russia to deny the US MFN treatment until Washington lifts the trade restrictions.

Calling themselves the Coalition for US-Russia Trade, more than 500 trade associations and businesses have come together to stress the importance of a bipartisan effort between Congress and the White House to quickly repeal the Jackson-Vanik amendment.

The US "simply cannot afford to sit idly by and continue to put US exports and jobs at risk when we know there is strong bipartisan support for this legislation in both chambers," Randi Levinas, Executive Director of the coalition and Executive Vice President of the US-Russia Business Council, told congressional newspaper The Hill on Monday.

### Human rights provision a continued source of controversy

Despite a general consensus from both major US political parties over the importance of normalised trade relations with Russia, the process has managed to stir up controversy regarding the incorporation of the human rights legislation to the otherwise trade-exclusive bill. (See Bridges Weekly [25 April 2012](#))

The so-called Magnitsky Act would demand freezing of assets and banning entry to the US for a number of Russian officials accused of connection to the death of attorney Sergei Magnitsky in 2009 – a well-publicised incident that sparked concerns over human rights protections in Russia – or of other alleged human rights violations.

Predictably, the proposed move has ignited a strong response from numerous Russian officials, who have promised that Moscow will retaliate if the Magnitsky legislation moves ahead. Earlier this year, Russian Ambassador Sergei Kislyak warned the possible linkage would have "a significant negative impact on Russian-American relations."

### Next steps

Moving forward, a full House vote is expected to take place either Thursday or Friday. If approved, the bill will go before the Senate, where lawmakers claim to have already proved their readiness to pass the bill after it was easily approved by the Senate Finance Committee in July. The legislation would then require presidential approval to become law.

The White House has long argued against associating the trade and human rights bills. Nevertheless, based on the support the Magnitsky Act has enjoyed to this point, including yesterday's approval by the House Committee, Obama administration officials have acknowledged that the linkage may be inevitable.

ICTSD reporting: "Business groups look for congressional finish line on Russian trade bill," THE HILL, 11 November 2012; "Russia trade bill set for House consideration," THE HILL, 13 November 2012.

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## RENEWABLE ENERGY

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# EU Launches Probe into China Solar Subsidies

Less than a week after Beijing launched a WTO case targeting local content requirements under renewable energy feed-in-tariff programmes in certain EU member states ([DS452](#)), the European Commission [announced](#) that it is initiating its own countervailing – also known as anti-subsidy – investigations into Chinese solar products reaching the EU market. (See Bridges Weekly, [7 November 2012](#))

At issue in the Brussels probe – which was announced by the European Commission last Thursday – are concerns that Chinese solar manufacturers have access to government-sponsored credit at below-market rates, with loans that may be written off if they cannot be paid back.

The Commission is already conducting anti-dumping investigations into Chinese solar imports, which it initiated this past September. (See Bridges Weekly, [12 September 2012](#)) The practice of "dumping" involves companies selling their products abroad at prices below their fair value, causing harm to the domestic industry of the importing country.

The two cases cover the full range of photovoltaic products, from solar panels themselves to the cells and wafers used in their production. The probes both were launched on the request of EU ProSun, an 25-member industry group led by Germany's Solarworld AG.

Solarworld's US arm had also been one of the solar panel producers behind similar complaints tabled in Washington, which ultimately led to both anti-subsidy and anti-dumping duties being imposed on Chinese solar imports to the US. (See Bridges Weekly, [10 October 2012](#))

### Decisions on duties expected next year

The EU's anti-subsidy investigations are expected to take nine months – in other words, until August of next year. If negative impacts of subsidisation are found at that time, the Commission can either impose provisional duties – usually for a four month period – or continue its investigation without implementing such duties. It can also choose to end the investigation.

The Commission must take its final decision on whether to impose these countervailing duties by December 2013. If Brussels does deem that such duties are warranted, these may be applied for a five-year period; otherwise, the investigation can be terminated without any duties.

In conducting both the anti-subsidy and anti-dumping probes, Brussels must also consider whether imposing these duties will not hurt the EU economy at a level greater than the benefits that such duties might provide EU ProSun. According to the Commission, the EU is the only WTO member to systematically conduct such a test, which is known as the "Union interest test."

While anti-dumping duties are relatively common, anti-subsidy duties are rarer, as injury is more difficult to prove and the applied duties tend to be lower. In addition, anti-dumping investigations target sensitive political practices.

The probes come at a time of intense competition in the solar sector. The substantial growth in Chinese solar panel production in recent years has largely been blamed for the 40 percent drop in the global price of solar panels between 2006 and 2011, and a resulting fall in profits for EU and US producers.

The EU is China's main export market for solar panels, making up nearly 80 percent of all Chinese export sales, according to European Commission data. Last year alone, China exported €21 billion worth of solar panels and their main components to the 27-member EU bloc.

ICTSD reporting; "EU Raises Duty Threat on Chinese Solar Panels With Subsidy Probe," BLOOMBERG, 8 November 2012; "EU to investigate Chinese solar panel subsidies," BBC, 8 November 2012; "EU steps up solar power trade battle with China," REUTERS, 8 November 2012.

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## INTELLECTUAL PROPERTY

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# TRIPS Council: LDCs Request Extension of Transition Period, While Members Discuss Innovation

Least developed countries (LDCs) have asked their fellow WTO members to again extend the transition period for implementing the organisation's intellectual property rules, citing concerns that the situation of the WTO's poorest members has not improved sufficiently since the last extension. The 6-7 November meeting of the WTO Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS) also saw members debate the relationship between intellectual property and innovation for the first time, while revisiting previous discussions regarding biological diversity.

### Poorest members ask for additional time to implement TRIPS

At last year's Ministerial Conference – the WTO's highest decision-making body – trade ministers directed the TRIPS Council “to give full consideration to a duly motivated request from least developed country members for an extension of their transition period.” (See Bridges Daily Update, [18 December 2011](#))

When the WTO agreements entered into force in 1995, the organisation's poorest members were given until 1 January 2006 to implement the obligations contained in the then-newly adopted WTO TRIPS Agreement. In 2002, the LDC transitional period was extended until 2016 for pharmaceutical patents, with a later [decision](#) extending the period for all intellectual property (IP) rights until July 2013.

The [proposal](#) presented last week by Haiti on behalf of the LDC Group would extend the period for such members to enforce the TRIPS Agreement further – specifically, until a given country “cease[s] to be a least developed country member.”

According to the proposal, “the situation of LDCs has not changed significantly since the last extension decision in 2005... [and they] have not been able to develop their productive capacities and have not beneficially integrated with the world economy.”

Sources tell Bridges that no decision was taken on the issue; the request will be discussed again at the next TRIPS Council meeting.

### Innovation makes its way into WTO discussions

Following a proposal by the United States and Brazil, members of the TRIPS Council kicked off their first-ever debate at the WTO on the interface between IP and innovation.

During the discussions, many delegations reportedly emphasised the crucial role of innovation in creating long-term economic growth and improving living standards, sources told Bridges. In addition, countries broadly agreed that intellectual property protection has strengths and weaknesses in spurring innovation.

However, developing countries argued that the current system gives an advantage to larger corporations, and emphasised the need to use existing flexibilities to achieve a balanced IP regime and innovation environment.

[According](#) to Brazil, the greatest challenge is how to create the optimal level of protection, while recognising that IP is not the only player in the innovation world. In this context, flexibilities such as exceptions and limitations “have a key role to play in calibrating national IP systems in such a way that individual goals of each country can be realistically pursued and eventually met.”

Some developed countries, in turn, contended that too much emphasis on flexibilities and mandatory technology transfer would undermine the incentive to innovate that IP protection provides.

“While governments can significantly enhance national innovation, including through IP awareness and an emphasis on quality, it is necessary to also stress the importance of avoiding the temptation of policies that degrade national innovation environments,” the US [said](#).

### **Members push to move talks forward on CBD**

At last week's meeting, some members also asked to revisit discussions regarding a proposed amendment to TRIPS that would align the WTO agreement with the Convention on Biological Diversity (CBD).

The CBD is the main international legal instrument regulating the conservation and use of genetic resources, along with the fair and equitable sharing of the benefits arising from their utilisation. (See Bridges Weekly, [9 March 2011](#))

Ecuador reportedly sought to push the stalled talks forward by asking that the WTO secretariat compile a list of key points in the debates over the past 15 years. The last [compilation](#) on the subject was issued in 2006.

However, some delegations argued that the TRIPS Agreement does not conflict with the provisions of the CBD, suggesting instead that the topic is better suited for the World Intellectual Property Organization's Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore – a forum where progress is already being made on drafting a new legal instrument. (See Bridges Weekly, [22 February 2012](#))

The next meeting of the TRIPS Council is tentatively scheduled for March 2013.

ICTSD reporting; “WTO Members Launch Debate On IP And Innovation; LDCs Seek More Time To Enforce IP Rules,” IP WATCH, 7 November 2012.

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## TRADE AND ENVIRONMENT

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# APEC Push to Liberalise Environmental Goods Spurs Debate at WTO

The question of fast-tracking tariff cuts for environmental goods and services (EGS) continued to divide WTO members during a meeting of the organisation's Committee on Trade and Environment (CTE) yesterday. Negotiations in this area – as part of the overall Doha package – have been stalling for years.

At Tuesday's CTE meeting, Russia and Australia introduced the recent agreement under the Asia-Pacific Economic Cooperation (APEC) regional grouping on a list of environmental goods set for liberalisation. (See Bridges Weekly, [12 September 2012](#)) Under the September 2012 non-binding agreement, countries will cut applied tariff rates to five percent or less by the end of 2015 for a list of 54 environmental goods – including solar panels and wind turbines. Australia provided a summary of the negotiating history and the final outcome, emphasising the opportunity this agreement presented for more progress in the area of EGS.

Following the presentation, several members took the floor. While some – such as the EU and Switzerland – strongly welcomed the announcement, others expressed concerns. Bolivia, India, and South Africa feared that the APEC agreement may influence talks at the WTO, or that the proponents of the list may later seek to "multilateralise" it at the WTO. As many members asked for the floor, the talks continued after the lunch break, which had not been originally scheduled.

Other topics included the effects of environmental measures and market access. The EU also gave a briefing on sustainable fisheries management, specifically focused on the EU's regulations on illegal, unregulated, and unreported fishing. Some countries felt these topics were more of a sectoral nature and should not be discussed at the CTE, as they fell outside its mandate. However, others said they felt more comfortable discussing these critical environment-related trade issues in the context of the CTE.

The meeting was preceded by a one-day workshop on environmental technology dissemination, organised by the WTO secretariat. The workshop had originally been proposed by Saudi Arabia to focus on carbon capture and storage, but was broadened to cover low emission technologies, waste management, and water treatment technologies as well.

ICTSD reporting.

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## PREFERENTIAL AGREEMENTS

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# Japanese PM Announces Goal of Joining TPP Talks

Japanese Prime Minister Yoshihiko Noda has pledged that he will seek entry to the Trans-Pacific Partnership (TPP) talks, in an announcement that is expected to spark major debate ahead of his country's upcoming election.

"We will simultaneously pursue the TPP and a trilateral free trade agreement among Japan, China, and South Korea. This stance will be outlined in our election manifesto," Noda told reporters on Saturday. Just days later, the Prime Minister formally announced that he will dissolve parliament on 16 November in preparation for a snap election which, by law, must take place within forty days of parliament's dissolution.

Noda's pledge comes less than a month before the next round of TPP negotiations, scheduled to be held in New Zealand. The upcoming talks will also be the first ones with Canada and Mexico as full members, after the two countries were formally invited to join the talks earlier this year. (See Bridges Weekly, [20 June 2012](#)) The other nine members currently involved in the negotiations are Australia, Brunei, Chile, Singapore, New Zealand, Malaysia, Peru, the US, and Vietnam.

To join the TPP, all 11 current members must agree on whether to accept Tokyo as a new negotiating party – a process that took seven months for Mexico City and Ottawa.

Including a list of countries with a combined annual economic output of over US\$20.5 trillion, TPP discussions centre on creating what proponents call a "21<sup>st</sup> century" free trade deal that would – among other provisions – slash tariffs and other barriers to goods and services trade and investment; the goods covered will represent some 11,000 tariff lines. If successful, the partnership could boost global trade up to 12 percent, according to some experts.

### **Noda's announcement could be politically risky, analysts say**

While Japan – like Canada and Mexico – had expressed interest last November in joining the trade talks, it ultimately wavered on whether to formally pursue entry as a result of domestic controversy over the proposed pact. (See Bridges Weekly, [16 November 2011](#))

With this recent change in tone, many observers are convinced that Noda's announcement is aimed at clawing back the 64 percent disapproval rating of the ruling Democratic Party, the highest since the Prime Minister took office last year. The drop in approval is widely viewed as a result of the public's displeasure at the current government's management of the economy, which is facing staggering debt levels and limited growth.

Experts say the move is likely to gain support among the Democratic Party's traditional base of urban white-collar voters and union members, who are expected to welcome the lower prices and increased exports from joining onto such a deal.

However, Japanese involvement in the TPP talks is expected to be met with strong opposition from one of the nation's most powerful voting groups: farmers. At this point in the TPP discussions, it appears likely that the proposed pact will force the liberalisation of member countries' agricultural industries, an unwelcome change for Japan's heavily protected farm sector.

Indeed, Noda's willingness to challenge such a politically influential contingent has given rise to opposition from members of parliament within his own party, who view embracing the proposed trade deal as self-destructive in light of the coming election. At this stage, the leading opposition – the Liberal Democrats – have yet to take a clear stand on the agreement in an attempt to keep the support of farmers and big businesses, the party's most influential supporters.

ICTSD reporting; "Japan Likely to Embrace Free Trade Pact," NEW YORK TIMES, 9 November 2012; "Japan PM eyes snap election after backing US-led trade pact," REUTERS, 11 November 2012; "Japanese PM looks to join trans-Pacific Partnership trade deal," THE GLOBE AND MAIL, 11 November 2012; "Noda to Dissolve Diet Nov. 16, Paving Way for Japan Election," BLOOMBERG, 14 November 2012.

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## DISPUTES

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# EU, Latin American Countries Formally Conclude Banana Dispute at WTO

Officials formally laid to rest a decades-long feud over bananas on Thursday, after the EU and ten Latin American countries signed an agreement and updated their WTO commitments to reflect changes brought about by the multilateral trading system's longest running dispute.

"This is a truly historic moment," said WTO Director-General Pascal Lamy. "After so many twists and turns, these complicated and politically contentious disputes can finally be put to bed."

The certified documents deposited at the global trade body in Geneva last week were the final nail in the coffin in a dispute that began with complaints from Costa Rican officials in 1991 under the General Agreement on Tariffs and Trade (GATT), prior to the establishment of the present-day WTO.

Nine other countries affected by European trade preferences for bananas from African, Caribbean and Pacific (ACP) countries had later joined the dispute to improve their access to consumers in the EU trade bloc.

Latin American banana exporting countries in the dispute had argued that the better trade terms offered to the ACP by the EU were not consistent with WTO rules. Many ACP members are former colonies and have historical trade links to the EU that form the basis of preferential treatment for some exports, such as sugar and bananas.

The "erosion" of such preferential treatment for their farm goods has been a critical negotiating concern for many ACP countries. The banana deal inked between Latin American countries and the EU went along with a €190 million aid package from the EU to the ACP called the Bananas Accompanying Measures. (See Bridges Weekly [11 November 2009](#))



Among the legal documents now formally in the WTO repository are the 2009 [Geneva Agreement on Trade in Bananas](#) and the EU's revised [commitments](#) on banana tariffs. (See Bridges Weekly, [16 December 2009](#) and [2 June 2010](#)) The nearly three-year-old deal cuts EU tariffs on Latin American bananas from €148 per tonne in December 2009 to €114 per tonne by 1 January 2017.

If WTO members as a whole fail to conclude the Doha Round of negotiations by the end of next year, the tariffs cuts slated for 2014 will be delayed until the trade round is concluded but will resume their progression no later than the end 2015.

ICTSD reporting.

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## EVENTS & RESOURCES

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# Events

### Coming soon

16 November, London, UK. CHINA-UK BUSINESS FORUM 2012: GLOBAL INNOVATION EXCHANGE. Hosted by Chatham House, this half-day forum aimed at senior business executives and government officials seeks to provide a networking opportunity for those interested in accelerating their understanding of the opportunities of complementary Eastern and Western innovation techniques. The event will address how the adaptive innovations that Chinese companies have practised are emerging as a competitive advantage in the 21st century, while Western economies manage a period of austerity. The forum also aims to provide complementary perspectives from CEOs in China and Europe on how their companies manage the creation and commercialisation of ideas. For more information, visit the Chatham House [website](#).

19-21 November, Bogotá, Colombia. BOGOTÁ SUMMIT: CITIES AND CLIMATE CHANGE. Organised by the Mayor of Bogotá, with support from the Latin American Development Bank (CAF), the French Embassy, the French Development Agency (AFD), UN-HABITAT, and others, this summit aims to bring together a range of stakeholders engaged in the governance of a city. The summit will explore the leadership role that local governments play in both facing the challenges and maximising the opportunities derived from climate change impacts. Key issues addressed will include urban resilient infrastructure and smart public services; integrated strategies to mitigate and adapt to climate change in cities; and systemic planning of human settlements, cities, and regions, among others. For more information, visit the event [website](#).

19-23 November, Casablanca, Morocco. WORKSHOP ON INTERNATIONAL INVESTMENT POLICIES, INVESTMENT PROMOTION STRATEGIES AND SUSTAINABLE DEVELOPMENT FOR AFRICAN IDB MEMBER COUNTRIES. Organised by the United Nations Conference on Trade and Development (UNCTAD), this workshop aims to shed light on a new generation of international investment policies and how they can be used to foster sustainable development in African Islamic Development Bank (IDB) member countries. The workshop will bring together government officials from African IDB member countries in charge of investment promotion and protection issues. For more information, visit the UNCTAD [website](#).

20-21 November, Marrakesh, Morocco. ENVIRONMENTAL MAINSTREAMING IN DEVELOPMENT PLANNING PROCESSES: KEY CONCEPTS, TOOLS AND SUCCESSFUL PRACTICES. Organised by the North-South Research Center for Social Sciences; the Deutsche Gesellschaft für Internationale Zusammenarbeit; the National Council for Climate Change, Sustainable Development and Leadership; and the International Center for Biosaline Agriculture, this workshop aims to provide an opportunity to understand the importance of mainstreaming environmental change and environmental risks management into poverty reduction and development strategies. For more 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.

16 November: WTO Introduction Day

16 November: Dispute Settlement Body

19 November: Committee on Trade and Development – Dedicated Session on Small Economies

19 November: Committee on Trade and Development

19 November: Committee on Budget, Finance and Administration

19 November: Dispute Settlement Body

20-21 November: Committee on Regional Trade Agreements

21 November: Workshop – Rules of Origin (Transposition HS 2007)

21+23 November: Trade Policy Review Body – East African Community (Kenya, Tanzania, Uganda, Burundi, Rwanda)

### Other Upcoming Events

22 November, London, UK. WHAT SHOULD AN INCOME POVERTY TARGET LOOK LIKE POST-2015? Hosted by the Overseas Development Institute (ODI), this event will explore how the world has changed since the Millennium Development Goals framework was finalised in 2000. The event will discuss the recent trend of decreased extreme poverty worldwide, while an increased number of poor people now live in middle income rather than low income countries. Discussions will explore what these developments mean for the post-2015 development framework currently under discussion. While the event is by invitation only, it will also be streamed online. For more information, visit the ODI [website](#).

22 November, London, UK. MORE HEAT THAN LIGHT? PERSPECTIVES ON BRITISH EUROSCEPTICISM. Hosted by Chatham House, this event aims to address how the euro crisis seems likely to push the countries that use the euro into a full fiscal union, while appearing to push the UK away at the same time. The event will explore trends in what has been dubbed the "Euroscepticism" in the UK, looking at patterns in public opinion, the perspective of other EU member states on the British debate, and the views and interests of British business. For more information, visit the event [website](#).

29-30 November, Santiago, Chile. **WORKSHOP ON MEASURING THE POTENTIAL OF GREEN GROWTH IN CHILE.** Jointly organised by Chile's Environment and Labour Ministries, in cooperation with the Organisation for Economic Co-operation and Development (OECD), this workshop will seek to identify, within the framework of the OECD Green Growth Strategy, measurable indicators for Chile's transition to a low-pollution, low-carbon, and resource-efficient economy. The focus will specifically be on the following sectors of the Chilean economy: construction, tourism, and consumption and production of firewood. For more information, visit the event [website](#).

3 December, Doha, Qatar. **MARKET MECHANISMS IN A POST-DURBAN INTERNATIONAL CLIMATE REGIME.** The Harvard Project on Climate Agreements will conduct this official side event to the Eighteenth Conference of the Parties (COP) of the United Nations Framework Convention on Climate Change (UNFCCC). Participants will assess the design and potential role of "new market mechanisms" in the Kyoto Protocol second commitment period, Copenhagen/Cancun regime, and a new arrangement arising from the Durban Platform process. The event is co-hosted by the Enel Foundation and the International Emissions Trading Association. For more information, visit the event [website](#).

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## Resources

**UNTAPPED TRILATERALISM: COMMON ECONOMIC AND SECURITY INTERESTS OF THE EUROPEAN UNION, THE UNITED STATES AND CHINA.** By Bates Gill and Andrew Small for the Europe China Research and Advice Network (November 2012). In this paper, the authors point out that the EU, the US, and China – though together comprising over half of global GDP and being major players in the international policymaking arena – will face difficulties in meeting major global and regional challenges effectively unless they work together. Showing that there are strong imperatives for increasing convergence between the three parties on common economic and security interests, the authors state that the EU can play a linchpin role in fostering greater trilateral partnership between the world's three biggest actors but to do so, it will need to step its engagement with the rapidly growing Asia-Pacific region. The full paper is available [here](#).

**COMBATING WIDESPREAD CURRENCY MANIPULATION.** By Joseph E. Gagnon for the Peterson Institute for International Economics (July 2012). In this policy brief, the author refers to widespread currency manipulation, mainly in developing and newly industrialised economies, as the most important development of the past decade in international financial markets. Defining currency manipulation, the brief shows that the result of this trend is a net drain on aggregate demand in the US and the euro area by an amount roughly equal to the large output gaps in these regions. The author uses this fact to support the statement that millions more Americans and Europeans would be employed if other countries did not manipulate their currencies and instead achieved sustainable growth through higher domestic demand. The full brief is available [here](#).

**POLICY OPTIONS FOR LOW-CARBON POWER GENERATION IN CHINA.** Published by the Organisation for Economic Co-operation and Development (OECD) and International Energy Agency (IEA) (2012). China faces a dynamic of rapid economic development that drives ever-increasing energy use, primarily of electricity, and consequently increases carbon emissions. It has taken a pledge to curb its emissions intensity, and is exploring various policy approaches to fulfil that aim, including emissions trading. This report explores the conditions needed for effective functioning of a carbon emissions trading system in China's electricity generation sector. It is based on extensive discussions with

power generation stakeholders and observers of the electricity sector in China, as well as quantitative analyses of the impact of a carbon emissions trading system (ETS) at plant, company, and provincial levels. The full publication is available [here](#).

HOW CAN TRADE POLICY HELP AMERICA COMPETE? By Robert Z. Lawrence for the Peterson Institute for International Economics (October 2012). In this policy brief, the author states that America deserves credit for not having succumbed to the global financial crisis by repeating the protectionist mistakes of the 1930s. The author argues that the United States needs new initiatives that discipline foreign practices, increase access to foreign markets, revitalise the World Trade Organization, improve the administrative and regulatory environment for trade, and assist workers and communities adversely affected by change. The full brief is available [here](#).

TRENDS AND IMPACTS OF FOREIGN INVESTMENT IN DEVELOPING COUNTRY AGRICULTURE. Published by the UN Food and Agriculture Organization (November 2012). This report finds that investment projects that combine the strengths of the investor (capital, management and marketing expertise, and technology) with those of local farmers (labour, land, local knowledge) are the most successful in having positive effects on local economies and social development. The authors argue that business models that leave local farmers in control of their land give them an incentive to invest in land improvements and also favour sustainable development. The publication features a series of case studies on the impact of foreign investment in Africa. To learn more, or to read the report, please click [here](#).

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