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BILATERAL TIES

China, EU Pledge to Consider Bilateral Trade Pact

The EU and China agreed on Monday to consider the possibility of a bilateral trade pact, should their current negotiations for an investment deal prove fruitful. The announcement came as part of Chinese President Xi Jinping's high-profile visit to Brussels, which also saw the EU publicly support Beijing's bid for joining talks on a plurilateral deal in services trade.

The summit showed a marked change in tone from the bilateral trade tensions seen in recent years, which saw the two sides spar heatedly over topics ranging from support of their renewable energy sectors to trade in wine and telecommunications products.

The trip also marked Xi's first visit to Brussels since assuming his country's top leadership position a year ago, and also the first time a leader from the Asian economic powerhouse has visited the EU institutions since diplomatic relations were established in 1975.

EU, China: investment talks could open FTA door

The EU and China made headlines last year when they agreed to negotiate a sweeping bilateral investment pact, and have held two rounds of talks so far, with the latest one [occurring](#) the week before the high-level summit. (See Bridges Weekly, [24 October 2013](#))

The level of foreign investment between the two sides is famously low, particularly when compared to their trading relationship. According to European Commission data, China accounts for 2-3 percent of EU investments abroad, while Chinese investments in the 28-country bloc are even lower.

While the investment talks could in themselves yield substantial gains to both economies, trade observers have also noted the potential that such a pact might have in paving the way for a bilateral free trade agreement (FTA) in the long-term.

Trade flows between the two sides already surpass over €1 billion daily, making the EU China's biggest trading partner. China, meanwhile, is Europe's second-largest trading partner after the US.



International Centre for Trade
and Sustainable Development

However, until this week's meeting, European officials had been reticent to openly back an EU-China bilateral deal, particularly given the long history of trade irritants on both sides. In the statement issued at the end of Xi's meeting with European Council President Herman Van Rompuy and Commission President José Manuel Barroso, the two sides agreed to consider the trade pact option – so long as the investment talks proceed smoothly.

"Negotiating and concluding such a comprehensive EU-China investment agreement... will convey both sides' joint commitment towards stronger cooperation as well as their willingness to envisage broader ambitions including, once the conditions are right, towards a deep and comprehensive FTA, as a longer term perspective," the EU-China joint [statement](#) said.

In a speech at the College of Europe the following day, the Chinese President openly called for a trade pact, saying that the two trading partners should aim to increase their integration to become "twin engines" for global economic growth.

"We must uphold open markets, speed up negotiations on investment agreements, actively explore the possibility of a free trade area, and strive to achieve the ambitious goal of bringing two-way trade to a trillion US dollars by 2020," Xi said.

The push by Xi for an EU-China deal – which could have a market of 2 billion consumers – comes at a time when so-called mega-regional trade pacts have become increasingly commonplace. China is not currently involved in either the 12-country Trans-Pacific Partnership talks, nor the US-EU Transatlantic Trade and Investment Partnership, and many analysts have questioned whether such initiatives are an effort by advanced economies to partly counter Beijing's growing economic weight.

EU backs China entry into TiSA talks

In another victory for China, Brussels also declared on Monday that it will be backing Beijing's bid to join the Trade in Services Agreement (TiSA), a plurilateral negotiation among a subset of the WTO's membership that aims to liberalise services trade.

China declared its interest in the services talks late last year, despite having earlier been sceptical of such plurilateral initiatives. However, some current TiSA participants have reportedly questioned whether China indeed shares their level of ambition, particularly given the Asian economy's role in last year's breakdown of a separate set of negotiations on expanding the WTO Information Technology Agreement.

Beijing will ultimately need the backing of the entire TiSA group in order to join, and sources say that its entry will now largely depend on whether the US is convinced of China's goals.

"China has reassured the EU that it shares the objectives of the TiSA negotiations and that it would respect the results of the negotiation achieved by other participants if it joins," EU Trade Commissioner Karel De Gucht said on Monday in explaining the decision.

The TiSA talks, while attracting 23 participants so far, have been controversial in certain quarters, with some WTO members worried that these types of efforts could distract from the global trade body's attempt to re-energise the Doha Round negotiations, which have long been stalled.

TiSA supporters, meanwhile, have said that the plurilateral deal could give multilateral talks new momentum, particularly given the WTO's goal this year of preparing a work programme to resolve the outstanding issues of the Doha Round.

The EU has also noted that having China on board could make it easier to multilateralise the deal in the long run, which is a stated aim of TiSA participants.

Change in tone?

This week's events show a significant improvement in tone from a year ago, when the two sides found themselves openly at loggerheads over myriad trade issues.

Tensions had flared in 2012 when the European Commission began investigating allegedly unfair subsidisation and dumping of Chinese-made solar panels onto the EU market. After reporting evidence of dumping, Brussels confirmed in 2013 that it was prepared to impose hefty duties to "level the playing field" for EU producers, unless the two sides reached a settlement first.

Shortly after these investigations were launched, Beijing began its own anti-dumping and anti-subsidy investigations into EU exports of wine and polysilicon – the latter of which is a key component in solar panel manufacturing – in what some observers deemed was a tit-for-tat style response.

While the two sides reached a deal last July on the Commission's solar investigations– just days before the anti-dumping duties were set to triple from their preliminary amounts – China's investigations into European exports of wine and polysilicon had been left outstanding. (See Bridges Weekly, [5 September 2013](#))

In the weeks ahead of Monday's summit, the two sides were able to confirm that they had reached settlements in both of these remaining cases. The EU has also confirmed that it will not move forward on a proposed investigation into imports of Chinese mobile telecommunications networks, which are valued at over €1 billion per year. (See Bridges Weekly, [23 May 2013](#))

ICTSD reporting, "EU commissioner attacks China's telecoms subsidies," FINANCIAL TIMES, 27 March 2014.

AGRICULTURE

Farm Trade: WTO Members Spar over Doha Direction

WTO members clashed on Friday over whether draft Doha texts tabled six years ago should remain the basis for future talks on farm trade, ahead of a December deadline for agreeing on a work programme to resolve the outstanding issues in the round.

Developing countries said the 2008 texts should still be the starting point for any new deal at the global trade body. (See Bridges Weekly, [10 December 2008](#)) However, the US argued for a fresh start.

The chair of the farm trade talks, New Zealand ambassador John Adank, warned members that a "sterile" debate over the status of the drafts could stymie progress towards agreement on a work programme on the unresolved issues of the Doha round, which is now in its thirteenth year.

During their meeting in Bali, Indonesia last December, WTO ministers gave trade officials twelve months to agree on how best to tackle these remaining Doha questions – agriculture and otherwise. (See Bridges Daily Update, [7 December 2013](#))

In the months since, preliminary consultations have indicated that any Doha work programme will need to address the three toughest areas of the talks – agriculture, non-agricultural market access, and services. Some members have said that what is achieved in agriculture will determine the level of ambition of the rest of the Round. (See Bridges Weekly, [20 March 2014](#))

But sources told Bridges that the farm trade talks last week had gotten off to a fairly slow start, in what was the first full meeting of the agriculture negotiating group this year.

"I wouldn't say there was a meeting of minds," one negotiator observed drily.

"Theological" debate

Some members echoed the chair's fear that talks could easily become bogged down in a fruitless discussion of whether the draft texts from 2008 should form the basis of a future deal.

Although the draft text has not been agreed, negotiators also need to recognise that it "reflects extensive discussions and negotiations," one country from the Cairns Group of farm exporters argued.

The EU similarly cautioned against "theological debates" over the status of the draft texts – dubbed "Rev.4" by trade negotiators due to the WTO document symbol used to refer to it.

In contrast, the US argued against basing further talks on the texts, and called instead for countries to focus first on updating the data they need to discuss trade policies and possible new concessions.

Washington wants to ensure that countries have access to current information in areas such as farm subsidy spending before talks begin, trade sources say. Although WTO rules

require this information to be made reported on a regular basis to its committee on agriculture, a number of trading powers are several years behind in doing so.

Sequencing work?

The G-20 developing country group, which favours trade policy reform in the developed world – not to be confused with the G-20 coalition of major industrialised economies – argued against “sequencing” aspects of the work, in what appeared to be a direct rebuttal of the US position.

“We believe that the discussions on the implementation of the Bali results, on new information gathering exercises, and on the Work Program should happen concomitantly,” the group argued, according to a copy of their statement seen by Bridges.

The G-20 includes Brazil, China, and India, as well as a number of farm exporting countries from Latin America.

One developed country negotiator questioned whether large countries like the US really needed help obtaining data on trade before engaging in talks.

“They’re not the country with capacity constraints,” the source said, who contrasted the ability of large delegations to analyse trade policies and flows with that of smaller members, which may face difficulties accessing information.

Another developing country coalition, the G-33, argued that eighty percent of the draft text was already “stabilised” – language that was agreed, subject to an overall deal. The group includes countries with large populations of small farmers, including major trading powers such as China, India, and Indonesia as well as smaller nations such as Barbados and Jamaica.

Talks now should focus on addressing ten outstanding issues that were identified in a report from a previous chair of the negotiating committee in April 2011, the G-33 said. (See Bridges Weekly, [27 April 2011](#)).

Three questions

Members mostly said they would postpone answering three questions posed by the chair while they consulted with capitals and other members on how best to proceed.

Adank had called on members to clarify what they saw as “desirable and doable” in the farm trade talks; what contributions they and others therefore need to make; and what new information would be needed in order to update earlier discussions.

While the G-10 group of countries with protected farm sectors provided brief responses to the chair’s questions, the G-20 and G-33 both said they would reflect and get back to the chair at a later time. The Cairns Group of farm exporting countries appeared to be the only negotiating coalition to have provided a detailed response to the chair.

Preferential trade deals

Some sources suggested that major trading powers may be more focused on preferential trade deals being negotiated outside the WTO system – meaning negotiators were less than fully engaged in pushing for a rapid outcome on the Doha talks.

While the US and EU are currently negotiating a trans-Atlantic free trade deal, another set of countries including the US and Japan are trying to negotiate a trans-Pacific accord. Other negotiations are also proceeding in parallel with the Doha talks at the WTO.

One negotiator bemoaned the lack of clear options being put forward in the negotiations. Countries that rejected the latest draft Doha text have yet to “come out clearly with an alternative,” the source said.

The chair closed the meeting by urging members to intensify talks amongst each other, trade delegates said, but without setting out a detailed roadmap or timeline for the next steps in the consultations.

Sources say that the next meeting of the WTO's Trade Negotiations Committee, slated for 7 April, might provide more clarity on how the talks will now proceed.

ICTSD reporting.

AFRICA

West Africa Endorses EU Trade Pact, Despite Lingering Concerns

West African leaders endorsed "in principle" their Economic Partnership Agreement (EPA) with the EU last Saturday, two months after the negotiations were completed. However, divisions linger over some outstanding technical issues, particularly as some African countries – most vocally Nigeria – raise questions over the deal's potential economic impact.

The EU and West Africa had reached a compromise on an EPA at the senior officials' level at the end of January, pending political endorsement. However, the deal must also be initialled, signed, and ratified ahead of a 1 October deadline. Otherwise, some of those West African countries may lose their existing preferential access to the EU market. (See Bridges Weekly, [13 February 2014](#))

The West African endorsement came at a [summit](#) of the Economic Community of West African States (ECOWAS), which was held in the Ivorian political capital of Yamoussoukro just days ahead of a separate EU-Africa summit in Brussels. The latter event, which is also expected to address the EPA subject, was still ongoing as Bridges went to press on Thursday.

The planned EPA, if ratified, would establish a free trade area between the EU and West Africa, replacing the previous non-reciprocal regimes that have largely guided the EU's trade relations with those 16 countries over the past several years.

The ECOWAS group consists of Benin, Burkina Faso, Cape Verde, Gambia, Ghana, Guinea, Guinea-Bissau, Ivory Coast, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo. The EPA with the EU also includes Mauritania.

Nigeria concerns

Since October of last year, the efforts to close an EU-West Africa pact have advanced quickly, after a two-year stall over differences involving market access offers and the level of support that Brussels would provide the region in implementing the EPA, particularly given the region's development needs.

Under the draft compromise text, ECOWAS and Mauritania have agreed that they will phase in access to 75 percent of their markets over the next two decades. The EU, for its part, has pledged to make a €6.5 billion contribution to an EPA-focused development programme over the 2015-2019 period, along with providing West Africa full access to its market.

Despite last week's endorsement, some African countries still have concerns over whether to approve the final deal. At Saturday's summit, Nigeria reportedly questioned whether the deal could potentially harm some of its industries, should certain EU products be granted tariff-free entry into its market.

"Nigeria is the biggest country in the ECOWAS and we are already producing some of those goods that they want us to liberalise their importation," Nigerian trade minister Olusegun Aganga said this week, in comments reported by Premium Times Nigeria.

"What this means is that, not now, but from 2025 to 2026, based on the items that have been included and excluded, there will be significant loss of revenue to the government, loss of jobs, investment, and loss of even the ECOWAS market," he added.

Nigeria is the largest economy in the region, and has struggled to rally domestic support around the EU pact. Meanwhile, Ivory Coast and Ghana – the next two largest economies of the group – have been ardent backers of the deal, as both have initialled bilateral interim EPAs with the EU that are due to expire later this year.

While Ivory Coast has also signed its interim EPA, the EU deadline requires Economic Partnership Agreements to be ratified as well by the October deadline. Together, the three countries [account](#) for 80 percent of the region's exports to the EU.

"We need to negotiate an EPA that is beneficial to our sub-region and will contribute to the prosperity of our people," said Ghanaian President John Mahama, who assumed the ECOWAS bloc's rotating chairmanship at the summit.

Even with the scepticism from some West African countries, some officials say that they remain assured that these differences will be resolved in time.

"The deadline for the entire sub-region is 1 October and we are working towards that deadline. Our agenda is to work towards a signature, so I am confident," Ivorian trade minister Jean-Louis Billon told the Reuters news agency.

Others were less certain, however, with one member state official from the region noting that "there are still countries with reservations" about the EU deal.

"There's not exactly unanimity at the level of the ministers," the official said.

Back in Brussels, European officials have touted the trade pact's potential for Africa, both economically and otherwise.

"Europe is open for business from and with Africa – contrary to what some critics seem to think," European Commission President José Manuel Barroso [told](#) a meeting of African and European business leaders on Monday.

"Beyond tariffs, [EPAs] contribute to wider reforms to strengthen the rule of law and to ensure a stable, predictable, and transparent business climate, which helps African countries attract much needed investment," he continued.

Next steps

West African leaders have urged their chief negotiators – the presidents of the ECOWAS Commission and the West African Economic and Monetary Union (UEMOA) – to resolve the remaining technical questions over the next two months, in order for both sides to sign the deal.

The two negotiators will establish a committee of representatives from Ghana, Ivory Coast, Nigeria, and Senegal to revisit these issues and make proposals for leaders to review.

ICTSD reporting; "West African leaders fail to agree on EU trade deal," REUTERS, 29 March 2014; "Why Nigeria delayed signing EU/ECOWAS trade liberalisation pact – Aganga," PREMIUM TIMES NIGERIA, 31 March 2014.

CLIMATE CHANGE

UN Panel Warns of Far-reaching Climate Consequences

The Intergovernmental Panel on Climate Change (IPCC) released its latest global climate science study on Monday, [indicating](#) that the effects of climate change had already left their mark on "all continents and across the oceans," with the effects felt everywhere.

Although ambitious climate actions are called for that could stem many potential consequences, the study acknowledges that a certain amount of consequences are already locked-in.

"Nobody on this planet is going to be untouched by the impacts of climate change," said Rajendra K. Pachauri, chairman of the panel, at a news conference.

The UN body – established in 1988 – periodically assesses the state of climate change. The most recent study represents the second part of its Fifth Assessment Report, following the first part which was published last September. The findings, together with the final instalment due out in mid-April, will likely add fuel to the ongoing climate negotiations to pin down a universal climate pact by the end of next year.

For the first time in seven years, the panel makes [observations](#) on the impacts, adaptation needs, and vulnerabilities caused by climate change. Listed observations include affected food production and threatened future food security. Ocean ecosystem shifts have led to certain fish species extinctions, while other populations could alter their migratory patterns, with the potential to reduce fish catches in some areas of the tropics by as much as 60 percent.

Furthermore, sea ice in the Arctic is collapsing, while continued altered snow and ice melts are predicted, in turn affecting water resources. Heat waves and heavy rain intensification are also on the agenda.

The study – which represents input from a total of 309 lead coordinating authors drawn from 70 countries – also warns of major economic consequences caused by rising emissions, suggesting that a 2 degree Celsius temperature increase above pre-industrial levels could cut global economic output by between 0.2 and 2.0 percent a year.

In its previous September study, the scientists focused on the cause of global climate change, confirming a 95 percent probability that it is primarily influenced by human activity. In the panel's previous report, issued in 2007, scientists had put that same figure at 90 percent. (See Bridges Trade BioRes, [2 February 2007](#)).

The Nobel-prize winning IPCC faced a slew of criticism after the 2007 report, which incorrectly cautioned that the Himalayan glaciers could melt as early as 2035.

In a move seemingly designed to address the past mishap, Monday's [executive summary](#) notes that the volume of scientific publications for assessing climate sciences has more than doubled between 2005 and 2010, with significant increases in publications related to adaptation.

Risk assessment, mitigation, and adaptation

The study also takes the unprecedented step of framing climate change as a series of risks. These include risk of death for those in low-lying coastal zones, severe ill-health and disrupted livelihoods for urban populations, further mortalities due to extreme weather, eco-system degradation, and loss of livelihoods, particularly among rural communities.

Three broad categories are put forward as affecting climate risk – vulnerability or lack of preparedness, assets or people in harm's way, and climate hazards. The study contends with high confidence that both adaptation and mitigation choices in the near future will affect the scale of climate risks throughout the 21st century.

"We live in an era of man-made climate change," said Vicente Barros, co-chair of the working group charged with producing the document. "In many cases, we are not prepared for the climate-related risks that we already face. Investments in better preparation can pay dividends both for the present and for the future," he continued.

"When we look ahead to the possibilities of changes in climate that are much larger than the ones we've already seen, the risk of much greater impacts is very clear," said fellow co-chair Chris Field, echoing his colleague's comments.

But Field also signalled that adaptation based on sound risk assessment was feasible. "Climate-change adaptation is not an exotic agenda that has never been tried. Governments, firms, and communities around the world are building experience with adaptation," he said.

Poverty impacts, climate finance hurdle

Among the vulnerable populations identified, the study also suggests that climate-related hazards may disproportionately affect those least able to cope economically.

"Over the coming decades, climate change will have mostly negative impacts," said Michel Jarraud, Secretary-General of the World Meteorological Organization (WMO). "The poor and the vulnerable will be most affected," he added.

The 2,500-page tome includes [language](#) noting the gap in available funding for climate change responses in developing countries. "Therefore, there is a related need to design delivery channels so that funding benefits the poor, as they often are most vulnerable to the impacts of climate change and climate-related disasters," the authors continue.

According to the New York Times, detailed references to the issue were scrubbed out of the executive summary, destined to be read by top policymakers. During the final editing session held last weekend in Yokohama, Japan, several developed countries suggested the finance language was too controversial.

Funding for climate action has been one of the most difficult issues to resolve in international climate negotiations. The troubled 2009 Copenhagen climate meet saw developed countries agree to provide US\$10 billion per year as "fast start" financing for the years 2010-2012, as well as to establish a separate Green Climate Fund (GCF) that would offer US\$100 billion by 2020 to help developing countries tackle rising emissions and adaptation challenges.

Although rich nations initially provided a degree of financing, subsequent contributions have been more limited. A number argue the agreed-upon sum is far too high, given the lack of public funds due to domestic hardship and fragile economic recovery.

At the Warsaw climate conference last year, red lines were once again seen around financing, with developing countries seeking to operationalise previously negotiated and

unspecified language on "institutional arrangements" to help them deal with extreme weather events. A key stumbling block of the meeting, the outcome document referenced a "Warsaw international mechanism," although the governance of the body remains unclear. (See Bridges Trade BioRes, Warsaw Update No. 2, [24 November 2013](#)).

Author controversy

A high-profile row clouded the release of the study, with a senior author requesting that his name be removed from the executive summary.

Professor Richard Tol of the University of Sussex – who had been working as a senior economist on a chapter addressing climate change's economic impact – called the report "alarmist," telling the Financial Times that identifying people in war zones as more vulnerable to climate change was "silly."

Tol's comments caused backlash from other members of the climate community, who also complained of small errors in his research.

Next instalment leaked

Coming hot on the heels of Monday's news, [Reuters](#) reported that it had seen a chapter of the next study in the series.

The news agency claimed that the draft text would call for tougher curbs on greenhouse gases, by both rich nations as well as emerging economies, in order to keep global warming from breaching an internationally agreed-upon 2 degree Celsius limit above pre-industrial levels.

ICTSD reporting; "Panel's Warning on Climate Risk: Worst Is Yet to Come," THE NEW YORK TIMES, March 30 2014; "Threat from global warming heightened in latest UN report," REUTERS, 31 March 2014; "Coping with climate change to cost up to \$10bn a year, says UN," FINANCIAL TIMES; "Climate change 'already affecting food supply' – UN," THE GUARDIAN, 31 March 2014; "U.N. draft sounds alarm as world looks set to miss emissions target," 1 April 2014, REUTERS.

PREFERENTIAL AGREEMENTS

EU Launches Public Consultation on T-TIP Investment Provisions

The European Commission has launched its public consultation on the investment protections and investor-state dispute settlement (ISDS) mechanisms that it hopes to include in an EU-US trade pact, as part of a larger effort to respond to the growing debate over the trade deal's merits.

The prospect of including certain investor protections, particularly ISDS, in the Transatlantic Trade and Investment Partnership (T-TIP) has rankled civil society groups on both sides of the Atlantic, who fear that such measures could open the door to foreign corporations taking governments to court over hard-won public policies, such as those involving the environment or public health.

As a result, the investment portion of the trans-Atlantic talks have been on hold since late January, after the European Commission announced that it would be opening up a public consultation on the subject in order to address concerns that have been raised by the European people. (See Bridges Weekly, [23 January 2014](#))

European Commission officials, such as Trade Commissioner Karel De Gucht, have said that including these investment protection policies are essential for assuring that the rights of investors are upheld, and have warned against falling for "misconceptions and misrepresentations" about these policies.

The consultation comes amid reports that some EU member states – such as France and Germany – may be wavering over whether to back ISDS' inclusion in a final deal. US officials, for their part, have continued to push for the inclusion of these investor protections, with chief negotiator Dan Mullaney saying last month that a "comprehensive and ambitious" deal would need to feature such provisions. (See Bridges Weekly, [20 March 2014](#))

Some trade analysts, such as Daniel Ikenson of the right-leaning Cato Institute, have [suggested](#) that a bilateral deal could have a better chance at survival without ISDS, and has questioned whether it is indeed necessary. However, EU Trade Commissioner Karel De Gucht has warned that the entire T-TIP pact could be thrown in jeopardy if these provisions are dropped from the final agreement, according to the Financial Times.

T-TIP an opportunity for improvement, officials say

Though EU officials have defended the need for ISDS and other investor protections, they have also acknowledged that some improvements are needed on past versions of these policies, touting T-TIP as a potential testing ground for better measures.

"To be perfectly clear, I fully agree with the many critics who claim that ISDS up until now has resulted in some very worrying examples of litigation against the state," De Gucht said last week in announcing the consultation.

"Many of these existing arrangements have vague legal wording that has left the agreements vulnerable to expansive interpretation by some arbitration tribunals," the EU trade chief said. "The only way to put a stop to this and close down such legal loopholes is to re-do investment protection standards and ISDS."

For instance, the EU hopes to include a mechanism for appeals in ISDS; a clarification that non-discriminatory measures taken for public welfare objectives cannot be considered the same as indirect expropriation; and a clearer definition of what constitutes "fair and equitable treatment" for investors, including a clarification that ensures parties would not be able to modify or introduce new legislation.

These changes, Commission officials say, would mark significant improvements over past investment agreements, if they are included in the final T-TIP pact.

The online public questionnaire includes 12 issue areas, such as the right to regulate, fair and equitable treatment for investors, transparency of the ISDS system, expropriation, and reducing the risk of frivolous and unfounded cases. The form outlines the EU's negotiating objectives and approach in these areas, along with providing a space for participants to provide detailed comments.

The consultation text is currently available in English, and will be made available in the other EU languages. The consultation will last 90 days from when the last EU language version has been published.

ICTSD reporting; "Official warns EU-US trade deal at risk over investor cases," FINANCIAL TIMES, 27 March 2014.

DISPUTES

WTO Panel Hands Mixed Victory to Washington in Trade Remedy Case

A WTO panel has granted a mixed victory to Washington in its dispute with Beijing over the use of trade remedies, finding that a 2012 law allowing the US to impose anti-subsidy tariffs on non-market economies was in line with international trade rules. ([DS 449](#))

At issue in the case was a bill passed by the US Congress in March 2012 that essentially preserved the Commerce Department's authority to impose anti-subsidy tariffs – known formally as countervailing duties (CVD) – on subsidised goods from non-market economies (NMEs), such as China and Vietnam. (See Bridges Weekly, [7 March 2012](#))

The legislation, which was also designed to apply retroactively, overrode a 2011 federal court ruling which held that US law did not permit such a practice. Beijing filed a WTO challenge shortly thereafter, objecting to the lack of transparency and due process in the enactment of the law. (See Bridges Weekly, [19 September 2012](#))

"This practice puts Chinese enterprises in an uncertain legal environment," in clear violation of WTO rules, Chinese Ministry of Commerce (MOFCOM) spokesman Shen Danyang said at the time.

The dispute panel ultimately found that the 2012 law did not bring about an increase in rates of countervailing duties on imports from China as an NME country, or impose a new restriction on those imports.

Furthermore, recognising that the 2012 law – as the US states – "ensured" the 2011 court ruling would "never have any effect under US law," the panel found that the WTO provision raised by China does not prohibit a member from taking such legislative action.

"The WTO panel's decision to reject China's challenge to our law is a significant victory for the United States," US Trade Representative Michael Froman said in a [statement](#). "The WTO report preserves the ability of the United States to remedy unfair subsidies and dumping by China, for the benefit of American businesses and workers."

US criticised for possible "double remedies"

China's classification as an NME has long been a source of frustration between Beijing and some of its major trading partners, particularly the US and EU. Under WTO rules, goods from non-market economies can be treated differently when calculating anti-dumping duties, which are meant to counter instances where products are sold overseas below cost.

In these calculations, the US uses a surrogate country to determine what constitutes a "normal" market price for the goods in question, on the grounds that Chinese prices are distorted by government involvement in the market.

In some instances, however, certain calculation methodologies can lead to the imposition of so-called double remedies, in which both anti-dumping and countervailing duties are being applied on the same product, if the subsidies being targeted by the latter duties are also responsible in part for the dumping.

The panel found that the US had failed to investigate whether such double remedies arose from 25 CVD and anti-dumping proceedings, initiated over the period 2006-2012, involving certain goods from China.

Citing a previous Appellate Body decision on anti-dumping duties and CVDs ([DS379](#)), the panel said that these double remedies can also refer to "double counting," and may therefore contravene global trade rules. (See Bridges Weekly, [16 March 2011](#))

The exports targeted in those specific trade investigations included Chinese exports of paper, steel, tyres, magnets, chemicals, kitchen appliances, wood flooring, and wind towers, which Beijing officials say were worth over US\$7.2 billion annually.

Beijing welcomed the finding on double remedies, urging Washington to "correct the erroneous practice of abusing trade remedy measures as soon as possible."

Washington officials, meanwhile, have said that the Department of Commerce will review any possible overlap of countervailing and anti-dumping duties, while noting that the panel's concerns deal with past determinations that were made before the 2012 law came into effect.

The 2012 law included language aimed at resolving the double remedy problem, specifically by requiring that the price margins used for calculating anti-dumping duties be adjusted in instances where the import's low price is due partly to a subsidy.

Next steps

Chinese officials have said that Beijing is currently assessing the panel report to determine its next steps. Both sides have 60 days from when the report was issued to appeal the panel's findings.

Under WTO rules, the Appellate Body can review aspects of law – such as legal interpretation – but generally will not interfere with the factual findings of the original panel.

ICTSD reporting.

CLIMATE CHANGE

Obama Outlines Plans to Slash Methane Emissions

The White House has announced a new [strategy](#) to slash domestic methane emissions from the oil and gas industry. Released last Friday, the public document includes a review of the sources and trends of methane emissions, and targets new executive steps to address the potent greenhouse gas.

The measures followed a 2013 [pledge](#) made by US President Barack Obama to move the climate change issue back to the top of the domestic agenda, even if it required him to take executive actions to do so.

"Reducing methane emissions is a powerful way to take action on climate change; and putting methane to use can support local economies with a source of clean energy that generates revenue, spurs investment, improves safety, and leads to cleaner air," the strategy read.

Among the other industries and areas considered, the administration indicated that the US Environmental Protection Agency (EPA) will examine possibilities of further cuts to methane emissions from landfills, coal mining, and agriculture, as well as new standards for oil and gas production on public lands. The latter could include updated standards to lower venting and flaring in extraction.

As much of oil and gas production takes place on private land, however, the EPA would also evaluate whether further, more comprehensive regulation would be required for the sector under the Clean Air Act, according to Dan Utech, the President's chief energy and climate aide.

The provision has drawn a backlash from the industry's main lobby association, the American Petroleum Institute. The group expressed concern that the steps could scupper future natural gas drilling by raising costs, thus threatening jobs, growth, and competitiveness.

Environmental groups, however, welcomed the announcement, having long argued that the gas is a significant cause of climate change. Although methane accounts for a small portion of the US' climate warming emissions – around 9 percent – its potency is over 20 times greater than carbon dioxide.

International talks on methane fund

The US announcement followed hot on the heels of news that the country was also in talks with other rich nations to establish a new fund to pay for methane emission reduction projects in developing nations, as part of a broader effort to cut greenhouse gas emissions globally by 2020.

"Sweden has said it is prepared to pledge around \$US20 million to this. The US and some other countries have also indicated they would be prepared to contribute," said Caroline Dickson of Sweden's environment ministry.

UN climate negotiators are aiming to have a global emissions deal by next year, which would take effect by the end of this decade.

The proposed fund, which would have US\$100 million in pledges, would be administered by the World Bank. Once enacted, the Methane Abatement Facility would buy and cancel carbon credits, starting with emissions-cutting projects at landfill waste sites.

According to a paper published by the international development agency, the Facility would allow for multi-national auctions, with credits gained from investment in methane emissions sold by the fund at a set price.

The new proposal comes at a time of tense international negotiations over climate finance. The Clean Development Mechanism (CDM) – a market mechanism agreed upon at the troubled Kyoto global climate meet in 2009 – has channelled more than US\$400 billion to carbon-cutting projects in developing nations. Investments have since dried up, however, as prices for CDM projects crashed due to an oversupply of projects amid the global economic slump.

ICTSD reporting; "Obama considers new climate regulations for oil, gas sector," REUTERS, 28 March 2014; "White House Unveils Plans to Cut Methane Emissions," THE NEW YORK TIMES, 28 March 2014; "Rich nations to start fund to help cut methane emissions abroad," REUTERS, 21 March 2014.

EVENTS & RESOURCES

Events

Coming Soon

5-11 April, Medellín, Colombia. SEVENTH WORLD URBAN FORUM. This forum will focus on the theme "Urban equity in development – cities for life." The annual event is convened by the UN Human Settlements Programme (UN-HABITAT), with the goal of examining current issues involving such settlements, including rapid urbanisation and its impact on economies, climate change, and policies. This year's edition will feature discussions on equity in urban development law; urban planning and design for social cohesion; local businesses; innovative financing instruments for local authorities; and raising standards on urban resilience. For more information, visit the event [website](#).

7-9 April, New York City, US. THE FUTURE OF ENERGY SUMMIT 2014. This annual summit, hosted by Bloomberg New Energy Finance, will gather decision-makers from the private and public sectors to discuss the future of energy markets, industry, finance, and policy. The theme will be "Phase Change: New Business Models, New Market Structures" and topics for discussion include funding renewable energy projects; equipment and technology for the future energy system; the development of new grid systems; and sustainable energy trade initiatives. For more information, visit the event [website](#).

7-10 April, San José, Costa Rica. INTERNATIONAL FORUM ON PAYMENTS FOR ENVIRONMENTAL SERVICES OF TROPICAL FORESTS. This forum, organised jointly by the Food and Agriculture Organization of the UN (FAO), the International Tropical Timber Organization (ITTO), and the National Forest Financing Fund of Costa Rica, will discuss possible benefits from payments for ecosystem services (PES) in tropical countries. The event will also address ways to build capacity for the development and implementation of PES mechanisms, with a view to support sustainable forest management. More information can be found at 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.

4 April: Sub-Committee on Least-Developed Countries

7 April: Trade Negotiations Committee

7 + 9 April: Preparatory Committee on Trade Facilitation (followed by Inf.)

8 - 9 April: Committee on Regional Trade Agreements

9 April: Council for Trade in Goods

9 April: Committee on Trade and Development – Session on Aid for Trade

10 April: Committee on Rules of Origin

Other Upcoming Events

29-31 May, Bonn, Germany. 5TH GLOBAL FORUM ON URBAN RESILIENCE AND ADAPTATION. This conference, hosted by ICLEI – Local Governments for Sustainability, aims to connect government leaders and climate adaptation experts to discuss adaptation challenges facing urban environments worldwide. It will offer a number of sessions and events on topics such as urban risk, resilient urban logistics, ecosystem-based adaptation and biodiversity, urban agriculture, and making climate science work for local governments. For more information, visit the event [website](#).

May, online. CLIMATE-SMART AGRICULTURE. This UN Food and Agriculture Organization (FAO) e-Learning course will feature two webinars, combined with online discussions, on climate-smart agriculture approaches and policies. The first webinar will focus on how these approaches can be applied in practice, while the second will address the best agricultural policies for increasing productivity and climate change resilience. The presentations will be followed by a question-and-answer session. For more information, visit the event [website](#).

3 June, Bonn, Germany. MONITORING, REPORTING AND VERIFYING GHG EMISSIONS UNDER EXISTING AND DEVELOPING CARBON PRICING MECHANISMS. This conference, co-hosted by the World Bank's Partnership for Market Readiness and the Climate-KIC, will share the findings of the EIT Climate-KIC Research Programme on MRV (measurement, reporting, and verification) through an analysis of the existing and established carbon pricing initiatives and greenhouse gas (GHG) accounting frameworks globally. Emerging technologies for estimating emissions in both the academic and industrial research worlds will also be presented. For more information, visit the event [website](#).

Resources

GLOBAL AND LOCAL ENVIRONMENTAL SUSTAINABILITY, DEVELOPMENT AND GROWTH. Published by the Organisation for Economic Co-operation and Development (OECD) (2014). As part of a new OECD series, *OECD and Post-2015 Reflections*, this report discusses a foreseeable need in the post-2015 development agenda to reflect the relationships between poverty reduction, natural resource management, and development, along with environmental challenges at the local and international levels. Among other recommendations, the authors suggest constructing a common agenda that would involve the collective management of shared global environmental risks. The full paper can be found [here](#).

TRADE PROPOSALS FOR CLIMATE ACTION. By Rafael Leal-Arcas (March 2014). This paper examines different ways through which international trade can address climate change mitigation, including a regional model that would serve to promote such mitigation – along with technology transfer and sustainable energy – via the global network of preferential trade agreements. This paper also explores how more cohesive energy governance can help in promoting sustainable energy, and discusses the WTO's role in this regard. The paper can be found [here](#).

NAPAS AND NAPS IN LEAST DEVELOPED COUNTRIES. By Gabrielle Kissinger and Thinley Namgyel (March 2014). This paper considers differences and similarities between National Adaptation Programmes of Action (NAPAs) and National Adaptation Plans (NAPs) for least developed countries (LDCs), in the context of the United Nations Framework Convention on Climate Change (UNFCCC). The authors also discuss the integration of NAPs into national development plans, as well as NAP-related financial and technical support, monitoring, and evaluation. The full paper can be found [here](#).

POLICY COHERENCE FOR INCLUSIVE AND SUSTAINABLE DEVELOPMENT. Published by the Organisation for Economic Co-operation and Development (OECD) (2014). This paper discusses how the OECD can fully utilise its multidisciplinary expertise, evidence-based approaches to policy-making, and peer learning working methods to help achieve greater policy coherence for development in the post-2015 framework. The paper can be found [here](#).

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