

# BRIDGES WEEKLY

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## WORLD TRADE ORGANIZATION

# WTO Trade Facilitation Deal in Limbo as Deadline Passes Without Resolution

The 31 July midnight deadline for adopting the Protocol of Amendment for the WTO's Trade Facilitation Agreement (TFA) has passed without a resolution, as members were unable to bridge a divide that had emerged in recent weeks over whether to link the protocol with progress toward a "permanent solution" on public food stockholding.

"We have not been able to find a solution that would allow us to bridge that gap," WTO Director-General Roberto Azevêdo told members late on Thursday evening, with just a couple of hours to go before the midnight deadline.

Speaking at an informal meeting of Heads of Delegation (HoDs), which then became an informal gathering of the WTO's Trade Negotiations Committee (TNC), he told members that they "tried everything we could. But it has not proved possible."

Though the WTO chief noted that there was still a little time left in case any member was able to come forward with a proposal, "at present there is no workable solution on the table, and I have no indication that one will be forthcoming."

The report caps a suspenseful week for the international trade community, as questions grew over whether the hard-won "Bali deal" – a series of decisions agreed by WTO members at their latest ministerial conference in December – could be lost, or at least be put at serious risk, and what this might mean for other negotiations currently underway.

### Public food stockholding

Earlier this month, India had made clear that it would not approve the TFA protocol – which would annex the newly-minted agreement to the global trade body's overall legal document – unless it saw visible signs that its concerns, namely regarding public food stockholding, were being addressed. (See Bridges Weekly, [24 July 2014](#))

The demand had received a cold welcome from many of India's trading partners, coming so close to the 31 July deadline for adopting the TFA Protocol. Without the protocol, the TF pact would not be part of the WTO's legal framework, and is a necessary pre-condition for countries to ratify the deal in their domestic legislatures.

In Bali, members had agreed to refrain from challenging subsidised purchases of farm goods under public food stockholding schemes, in exchange for additional information about the scale and nature of support provided to farmers. (See Bridges Daily Update, [7 December 2013](#))

India has said that it is dissatisfied with the pace of progress towards a "permanent solution" to replace this interim mechanism, which WTO members had previously agreed would be concluded by the global trade body's eleventh ministerial conference in 2017.

New Delhi had therefore said last week that it wanted to link the two issue areas – TFA implementation and public stockholding – along with proposing a series of changes to the agreed timelines for the Bali decisions.

"In order to fully understand and address the concerns of Members on the TF Agreement, my delegation is of the view that the adoption of the TF Protocol be postponed till a permanent solution on public stockholding for food security is found," India's representative to the WTO [told fellow members](#) last Friday at a meeting of the General Council.

"Timelines are important but we cannot afford to act in haste in the WTO ignoring the concerns expressed by members," India continued.

A permanent solution should be reached by 31 December of this year, India said, with a meeting of the General Council in October to review progress of these "accelerated discussions." The talks should be held under an institutional mechanism "establish[ed] immediately," with New Delhi suggesting a special session of the WTO's Committee on Agriculture as being an example of such a system.

Such an approach, India added, should also be adopted for the other decisions reached in Bali, particularly those relating to least developed countries (LDCs).

Sources say that India was backed at last week's meeting by Bolivia, Cuba, South Africa, Venezuela, and Zimbabwe. However, many developed and developing country members, for their part, lambasted the move, warning in a [joint statement](#) that members' commitment toward implementing the Bali deal "would not survive a decision to step away from any element of the package approved by ministers."

"The package of decisions reached in Bali was finely balanced... It would not be possible to reopen one of those decisions without unravelling the entire package," said the 26-member group, which included countries such as Australia, Chile, Pakistan, and Nigeria. The Bali deal, they added, is "central" for the conclusion of the Doha Round talks and the global trade body's negotiating function overall.

The EU similarly noted last week that it was "not ready to renegotiate basic elements or timelines that were agreed as integral part of the Bali package," [warning](#) that missing the 31 July TFA deadline would translate into a lost opportunity for growth and development.

"Most of the members – both developed and developing – would like the trade facilitation deal to go through," said one G-33 negotiator ahead of the Thursday deadline.

### **Waiting game**

India's request at last Friday's General Council kicked off a flurry of meetings at various levels as WTO members, and Director-General Azevêdo, tried to resolve the stand-off before the 31 July deadline. Sources say that the WTO chief met twice over the past few days with the coordinators of the major groups in Geneva to update them on the latest developments in the situation and outline efforts being made to resolve them.

One of those efforts, sources confirmed, included a suggested way forward that the Director-General conveyed to India. A developing country source explained that Azevêdo had suggested that a dedicated session be established within the Committee on Agriculture's special session to deal specifically with the process of finding a permanent solution.

That proposal, the official said, did not appear to satisfy India, given that it did not feature a change to the timeline for the permanent solution.

"India wants substance, not process," said one delegate close the talks. He added, however, that it was unclear what sort of concessions on substance India was actually seeking.

Many had eyed a Thursday meeting in New Delhi between US Commerce Secretary Penny Pritzker and Secretary of State John Kerry and their Indian counterparts – including Finance Minister Arun Jaitley, Minister of State for Commerce and Industry Nirmala Sitharaman, and External Affairs Minister Sushma Swaraj – as an opportunity for a resolution.

While Pritzker and Kerry had told reporters earlier on Thursday that they were still hopeful of a positive outcome, after the issue was reportedly raised in the US Secretary of State's meeting with Jaitley, Indian officials for their part confirmed that they would be holding firm in their stance.

"At this stage, we're all just waiting," one developed country source said on Wednesday, a comment that was repeated by many in the hours leading up to Thursday night's meeting.

### **Time for reflection**

With no sign of a solution before midnight, the Director-General said, members must now take the August break to reflect and consider what to do next.

"You will be the ones that determine the consequences of today's events," he said, asking Geneva-based officials to discuss this with their capitals "at the highest possible level."

"I urge you to stress the importance of the situation we find ourselves in, and how significant the position you take in September will be," Azevêdo continued. The 31 July deadline, he reminded them, was not one he had set for them, but one that their own trade ministers had agreed this past December.

The prospect of missing the TFA deadline has prompted both WTO members and the broader trade community to speculate – both publicly and privately – on what ramifications there might be for efforts to resolve the remaining elements of the Doha Round trade talks, with many saying they were deeply concerned.

The Bali deal had been hailed in December as a stepping stone in advancing the 13-year Doha negotiations, which were declared at an impasse in 2011. Along with the TFA and other Bali decisions, ministers had agreed to begin preparing a work programme that would outline a potential path forward for resolving the Doha Round.

The deadline for developing such a programme had been set for end-2014, with consultations and meetings so far in Geneva still said to be at an early stage. While the Director-General [reported last week](#) that these discussions have reflected good engagement, some sources have noted that members have appeared hesitant so far to push these talks forward too much, unless it is clear that the Bali deal will go forward.

Furthermore, many members, such as the US, have openly warned that a failure of the Bali deal could be catastrophic for the WTO, particularly for the efforts to develop a post-Bali roadmap for the Doha Round.

"It's pretty serious," one developing country trade official speaking to Bridges confirmed. Another warned that, in the event of no resolution by midnight Thursday, "it would be a serious breach of good faith."

Others, however, told Bridges that while the situation was far from ideal, it would not mark the first time a ministerial deadline had been missed. Some developing countries pointed, for instance, to slow progress on eliminating export subsidies – which WTO members had agreed nine years ago would take place by 2013.

### **Plurilateral approach next?**

In the final hours before the midnight deadline, the question of whether a plurilateral approach might be taken toward trade facilitation – should a resolution not be found multilaterally – began to be raised in the corridors, following reports that some of the major economies were considering that option.

One source from an African developing country noted that there was a "tendency" to consider this sort of approach – either bilaterally or plurilaterally – by some countries before Bali.

However, the source suggested, the fact that there is an agreed text from the Bali ministerial conference means that taking a plurilateral approach would likely not be the first choice. Others concurred that a plurilateral would, at best, be just a second or third option.

"It's just an implementation problem; we have an agreed text," the source said. "Even those opposed to adopting the Protocol have no issue with the TFA itself."

A developed country official, meanwhile, noted that while it was not involved in the reported discussions among some members for a plurilateral TF approach, members had considered that idea in the past and decided against it.

Others noted that, should the plurilateral idea gain traction, how it would work, in legal and technical terms, was not yet clear.

ICTSD reporting.

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## AFRICA

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# US Trade Chief Outlines AGOA Goals Ahead of Leaders' Summit

The US' top trade official outlined on Tuesday a series of priorities for updating the African Growth and Opportunity Act (AGOA), a 14-year-old programme aimed at boosting US trade with sub-Saharan African countries that is set to expire in September 2015.

The suggestions, outlined in a speech given by US Trade Representative Michael Froman at the Brookings Institution, come just days ahead of the first-ever US-Africa leaders' summit, being held next week in Washington from 4-6 August.

The summit is set to bring together over 50 African leaders, who will meet with US President Barack Obama and various other officials with the goal of examining ways to deepen trade and investment ties. The topic of the AGOA renewal is expected to be one of the main items on the three-day meeting agenda, with the annual AGOA Forum being scheduled to coincide with the event.

The programme at issue dates back to 2000, and provides thousands of African products with preferential quota and duty-free access to the American market. AGOA expands upon the US Generalised System of Preferences (GSP), a set of formal exceptions from the WTO's most-favoured nation (MFN) principle that allows Washington to offer developing countries preferential treatment on select goods.

While the GSP is designed for developing countries, African or otherwise, AGOA is specific to sub-Saharan African nations.

The GSP expired a year ago, and efforts in Washington to renew it have advanced little since then. Re-authorising and updating AGOA will similarly require US congressional approval. Therefore, while the Obama Administration can provide input in shaping the new version, the actual terms of the revised scheme will depend on US lawmakers.

### **Growing commercial ties**

In the 14 years since AGOA was instated, sub-Saharan African exports to the US have tripled, according to USTR estimates. The scheme, Froman noted on Tuesday, has also helped these economies diversify, moving well beyond just oil and mineral exports. Even so, he noted, non-oil exports still remain low and have much room for additional growth.

The benefits have gone both ways, he said. "Since 2000, US goods exports to sub-Saharan African increased fourfold, from US\$6 billion to US\$24 billion," Froman explained.

"Given that Africa is home to the world's fastest-growing middle class and six out of the top ten fastest-growing economies in 2014, it's easy to see why global companies like GE, Caterpillar, and Procter & Gamble increasingly view engaging with Africa not as a choice, but as a necessity," he said.

### **AGOA upgrade**

Over the past year, the US has been reviewing the AGOA programme, seeking ways to improve it and ensure a "seamless renewal" process, as promised. Based on this review, Froman indicated that an AGOA renewal – including that of its third-country fabric

provision – should last long enough in order to “encourage meaningful investment and sourcing.”

The third country fabric (TCF) provision was added to the US trade law in 2002, and allows eligible countries to use yarn and fabric from abroad when producing their final textile exports, while still qualifying for trade preferences.

Froman did not specify exact terms for how long the AGOA renewal should be, and the subject is expected to be one of the main items to feature in next week's talks. Some African countries, such as South Africa, have been calling for a 15-year extension. Others have suggested a ten-year renewal in the past, noting that this will help foster long-term investments.

Furthermore, the US trade chief said, the coverage of the deal should be expanded, while accounting for American domestic considerations. Another improvement would be to simplify rules of origin (RoO), given that overly stringent rules make it difficult African countries to take full advantage of intended trade preferences. Such rules define how much processing must occur before a given product can be deemed as having originated from a specific country.

How to determine which countries are eligible for AGOA treatment should be another consideration, he added, with the goal of ensuring that the US is “raising standards” in the continent.

To qualify for AGOA preferences, countries must meet a series of criteria. These include, for instance, labour protections, efforts to limit corruption, and rule of law, along with economic criteria such as development levels and poverty eradication efforts. A country's AGOA eligibility is reviewed annually by the US executive branch.

Non-compliance can lead to removal from the trade programme. In 2010, for example, Madagascar was removed from AGOA following a coup d'état the year prior. Last month, the Obama Administration [re-instated](#) the island country in light of the successful 2013 elections, while removing Swaziland from the scheme due to concerns over worker rights protections.

Whether South Africa might be graduated from the programme is another major question for officials, given the economic advances seen in recent years. The country stands as one of the African continent's largest economies, though South African government officials warn that various development challenges – such as high unemployment and inequality levels – still exist, and are thus pushing to remain in AGOA.

### **Beyond market access**

During his speech, the US official suggested that the next version of AGOA should aim to go beyond just providing tariff preferences, as in the existing scheme.

“Perhaps the clearest lesson from AGOA over the past 14 years is that market access – while important for spurring trade and development – simply is not enough,” Froman said.

To really help the region reach its full economic and development potential, the US official said, would require a “comprehensive, whole-of-government trade and investment strategy,” one that has the AGOA legislation at its centre.

This strategy – which he labelled an “AGOA Compact” – should also focus on developing hard infrastructure, such as improved roads and electricity access; additional training and support for entrepreneurs and small businesses; capacity building and technical assistance; and trade facilitation through the easing of customs and border procedures within the African continent.

In addition to considering supply-side constraints, the USTR said, the need for increasing demand and building markets – such as by improving integration within the region, or promoting public-private partnerships – is essential.

### **Reciprocal arrangements?**

Another consideration in the AGOA renewal process, Froman said, was how to ensure that the US-Africa trade relationship advances from one characterised by non-reciprocal preference schemes to more reciprocal arrangements in the future.

The changing relationship that the EU has with Africa has been repeatedly raised by US officials in the past as reason to consider updating AGOA.

"We are not operating in a static world," Froman said on Tuesday. "European companies have preferential access to Africa's markets while we are giving African firms preferential access to the US market... We need to take these developments into account as we consider our approach going forward.

The EU [recently revised](#) its Generalised System of Preferences (GSP), instituting a series of changes aimed at directing preferences to those countries that would most benefit from them, while strengthening labour and human rights incentives and improving predictability and transparency. The 28-nation bloc is also working to conclude a series of reciprocal Economic Partnership Agreements, or EPAs, with different African country groupings.

An EU deal with West Africa was endorsed during a leaders' summit in Accra, Ghana just weeks ago. (See Bridges Weekly, [17 July 2014](#)) Negotiations for a separate deal with the Southern African region were also [completed](#) this month, and the pact is now awaiting signature and ratification from the parties involved.

ICTSD reporting; "South Africa Urges U.S. Renewal of Africa Trade Deal," WALL STREET JOURNAL, 28 July 2014.

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## CLIMATE CHANGE

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# EU Commission Backs 30 Percent Energy Efficiency Target for 2030

The European Commission has proposed a 30 percent EU-wide [energy savings target](#) for 2030, officials confirmed last week. The proposal is the third and final component of the draft 2030 climate and energy framework, which the bloc's leaders are aiming to finalise this coming October.

The three-pronged climate and energy strategy would take effect from the end of this decade, and would be in place through 2030. The process of shaping this new framework has fuelled debate over what effect the potential strategies will have on job creation and sustainable and inclusive growth within the 28-country bloc, as well as what signals the final result may send for ongoing UN-level talks for a new global climate deal.

### Level of ambition

After several weeks of lobbying and negotiation, the energy savings target proposed last week appeared to be for the EU as a whole, and does not currently refer to member state-specific reduction commitments. It was also not clear whether the target would be legally binding, with analysts suggesting that the measure appears not to be at this stage.

However, leaders may decide to make the target binding when they meet in October, along with finalising the other components of the climate and energy plan.

Whether to make the proposed target legally binding – along with the question of what the optimal energy efficiency goal should be – had sparked controversy among EU officials in recent weeks.

Some had warned against setting an even higher target – such as the rumoured 40 percent that was previously under consideration – given the significant investment and potentially uneven financial burden that would be required to achieve these efficiency gains. Current estimates place the cost of achieving the 30 percent energy efficiency target at a projected €89 billion annually.

European Commission President José Manuel Barroso had reportedly backed a more modest goal of 27-29 percent improvement in energy efficiency, citing concerns that larger cuts could undermine the EU's Emissions Trading System, a mainstay in the bloc's climate policy that has struggled to stay afloat due to an oversupply of carbon allowances.

Others, however, had suggested that having a less ambitious target will only perpetuate the EU's energy dependence on outside sources, while at the same time failing to generate the cost savings to individuals that come from improved efficiency. Green groups have also suggested that a stronger target could lead to more jobs, not less.

"The Commission's own research shows efficiency could also create three-and-a-half million jobs, while helping tackle climate change," said Greenpeace energy policy adviser Frederic Thoma in [a statement](#). "It's a no-brainer that EU leaders cannot ignore. They must put Europe's energy policy back on track."

Incoming European Commission President Jean-Claude Juncker and current Climate Commissioner Connie Hedegaard had reportedly favoured a more ambitious energy savings target.

However, EU Energy Commissioner Günther Oettinger highlighted viability as a critical factor in support of the new target, suggesting that the result was a compromise measure designed to get a range of different actors on board.

"You need to have objectives that are achievable both in Bulgaria and in London. Member states of course can go further if they like," Oettinger told reporters.

Furthermore, officials have said, the 30 percent target goes beyond the 25 percent energy savings that would be needed to meet the Commission's proposed goal of a 40 percent reduction of greenhouse gas emissions by 2030, compared to 1990 levels. The latter was tabled in January by the Commission, which also suggested a binding renewable energy target of 27 percent.

### **Paris talks**

Back in March, over a dozen EU ministers, which dubbed themselves the "green growth group," had indicated that a "speedy EU agreement would be important to adding momentum to current UN climate talks," referring to longed-for progress ahead of both the UN Climate Summit in September and the anticipated climate deal in Paris at the end of next year. (See BioRes [6 March 2014](#))

However, whether the final 2030 framework will be deemed sufficiently ambitious by the international climate community remains an open question, given that the January draft framework received heavy criticism in some quarters for "setting a very low bar" ahead of the 2015 Paris conference. (See BioRes [7 February 2014](#))

The tenor of domestic discussions on climate change has increasingly been in focus over the past few months, in light of the upcoming 2015 meeting. The debate has largely focused on the whether certain climate strategies can hurt economic growth or spur it forward, particularly given the long shadow cast by the global financial crisis.

Australia, for instance, recently repealed its controversial carbon tax, on the grounds that it was hurting job prospects and increasing the costs of living and doing business. (See Bridges Weekly, [17 July 2014](#)) US President Barack Obama, meanwhile, has been undertaking a series of executive actions aimed at tackling climate change, having been unable to gain sufficient support on cap-and-trade legislation in Congress.

### **Energy dependence**

Along with the question of climate change, another key issue for the EU has been on how to best reduce its high dependence on foreign energy sources. The Commission estimates that for every 1 percent increase in EU energy efficiency, gas imports will fall by 2.6 percent, a shift that it says would enhance energy self-sufficiency and security within the Union.

The worsening diplomatic – and economic – relationship between the EU and Russia in the wake of the Ukrainian crisis has further intensified the already mounting pressure in Brussels to increase energy security.

Six EU member states depend solely on Russia for their gas imports and Russian gas and oil imports make up one-third of EU oil demand. This, along with the deep economic and trade ties between the two sides, has been partly blamed for the EU's previous reticence to impose hard-hitting sanctions on Moscow in response to the latter's handling of the Ukrainian crisis.

"Today the Commission is sending a strong message on energy efficiency: a 30 percent energy savings target for 2030," [said](#) Hedegaard last week. "[This is] also good news for investors, and it's very good news for Europe's energy security and independence. Meaning no such good news for Putin."

#### **Forecasts: 2020 target unlikely to be met**

The Commission also presented last week its review on the progress made to date on the bloc's 20 percent energy efficiency target for 2020. The EU's 2020 climate and energy goals include a 20 percent cut in greenhouse gas emissions, together with ensuring that at least 20 percent of the bloc's energy mix comes from renewable sources.

Under current forecasts, the energy savings are likely to be closer to 18-19 percent, much of which can be attributed to improved energy efficiency standards in modern buildings and more efficient appliances. The Commission has thus urged member states to "step up their efforts" to reach the previously agreed goal.

The European Commission is projected to evaluate progress related to the 2020 energy efficiency goal in 2017.

ICTSD reporting; "Europe proposes 30% energy savings target for 2030," RTCC, 23 July 2014; "European Commission proposes a higher and achievable energy savings target for 2030," EUROPEAN COMMISSION, 23 July 2014; "EU Sets 30% Energy Savings Target Under New Proposals," THE WALL STREET JOURNAL, 23 July 2014; "EU Regulators Propose 30% Energy-Savings Target for 2030," BLOOMBERG, 23 July 2014.

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## RENEWABLE ENERGY

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# US Commerce Dept Confirms Preliminary Duties on China, Taiwan Solar Products

The US Commerce Department confirmed preliminary anti-dumping duties on certain Chinese and Taiwanese solar products last Friday. The move, coming just weeks after the government agency announced anti-subsidy duties on such products in a separate probe, has drawn a harsh rebuke from Beijing and is expected to worsen long-running tensions between the two sides on renewable energy trade.

The probe was launched in January, and specifically covers crystalline silicon photovoltaic (PV) cells, and the modules, laminates, and/or panels that use them. The US agency began the investigation following a petition by the American branch of SolarWorld Industries, which had claimed that Chinese producers were skirting an existing set of duties on these goods. (See Bridges Weekly, [30 January 2014](#))

SolarWorld had alleged that, in order to avoid the duties already in place, Chinese producers were using cells made abroad, primarily from Taiwan, in their production processes.

According to the US Commerce Department, the preliminary dumping margins for Chinese producers are set at rates between 26.33 to 58.87 percent, depending on the producer. The China-wide entity, meanwhile, received a preliminary dumping margin of 165.04 percent. Taiwanese producers received dumping margins between 27.59 percent and 44.18 percent.

The cash deposits that will be collected by customs officials on the Chinese goods are lower than these dumping margins, Commerce said, in order to adjust for the export and domestic subsidies that were found in the US agency's separate countervailing duty investigation.

Under the latter countervailing duty probe, Chinese producers are facing preliminary duties of 18.56 to 32.51 percent. A final determination in that investigation is expected from Commerce by mid-August, unless a decision is made to extend the deadline. (See Bridges Weekly, [5 June 2014](#))

"We and our workers are gratified to hear that the US government once again has moved to block foreign government interference in our economy and clear the way for the domestic production industry to be able to compete on a level playing field," said SolarWorld Industries America President Mukesh Dulani.

According to US statistics, Chinese imports of these solar products amounted to nearly 33 million units – the equivalent of US\$1.49 billion – last year.

### Trade litigation taking a toll, industry groups warn

Though US producers of these goods, such as SolarWorld, have welcomed the duties, industry officials representing many of the downstream producers that use these cells have been openly against the investigations.

The Coalition for Affordable Solar Energy (CASE), a group that represents various companies ranging from local installers to project developers, has been one of the most vocal critics, warning that these duties will hurt – rather than help – the American solar industry's competitiveness.

Furthermore, the group says, trade litigation is only serving to heighten uncertainty in the comparatively new renewable energy market, and has pushed instead for a negotiated settlement.

"CASE members, which represent the industry majority, demand a solution that ends uncertainty in the marketplace by preventing further trade litigation and that allows solar power to compete cost-effectively with traditional energy sources," said CASE president Jigar Shah.

A negotiated solution was reached in a similar row between the EU and China last year. However, European solar industry groups have since claimed that Chinese producers are violating the terms of the settlement, known as a "price undertaking" agreement, with EU officials now in the process of reviewing those claims.

Under the terms of the EU deal, participating Chinese exporters can export up to 7 gigawatts of solar products to the EU at a price of at least 53 cents per watt. While the US was reportedly involved in the original discussions for such an arrangement, it did not take part in the final deal. (See Bridges Weekly, [12 June 2014](#))

### **China lambasts investigation**

The US Commerce Department announcement drew harsh criticism from the Chinese Ministry of Commerce, which warned that these duties would only harm downstream producers.

"Frequent trade remedy measures taken by the US PV industry cannot solve their own development problems," Chinese commerce ministry officials said in a [statement](#) following the news.

Furthermore, the ministry said, the US investigation also ignored the facts and legal basis for conflicting rules of origin, constituting an "abuse" of trade remedy measures.

### **Final results due date**

The final determinations are expected by 15 December of this year, Commerce said. Should those final determinations indicate dumping, the International Trade Commission (USITC) – another agency that is involved in US trade remedy investigations – will then examine whether such imports materially injure, or threaten to injure, US industry.

The deadline for the latter probe is 29 January 2015. If injury is found by USITC, then final anti-dumping orders will be issued. Otherwise, no duties will be applied.

ICTSD reporting.

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## PREFERENTIAL AGREEMENTS

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# EU, Canada Negotiators Push to Finalise Trade Pact Details

Months after the EU and Canada announced an agreement in principle on their long-awaited free trade pact, key questions reportedly remain, including on whether the final terms will receive the necessary backing when it comes time for ratification. The talks have come under particular scrutiny in recent weeks amid reports that Germany – the EU's largest member economy – may have significant qualms over some of the pact's investor protection provisions.

Canadian Prime Minister Stephen Harper and European Commission President José Manuel Barroso had announced an agreement in principle in Brussels last October, after four years of negotiations. (See Bridges Weekly, [24 October 2014](#))

Since then, negotiators have been working to resolve the remaining technical questions in order to have a legal text that is acceptable to the European Parliament and the EU's 28 individual member states, as well as Canada and its respective provinces and territories, which must all ratify the agreement.

While this latter stage has taken longer than originally hoped, officials reportedly aim to initial a final text at an upcoming summit between the two sides in late September or early October, which would then allow the pact to be submitted for ratification to their respective domestic legislatures.

The Comprehensive Economic and Trade Agreement (CETA), as the pact is formally known, could potentially increase bilateral trade by 23 percent – or €26 billion – annually, according to European Commission estimates, and would cover a market of over 530 million people.

### ISDS controversy

Whether the deal will receive the backing of Germany has been a key question in the trade community in recent weeks, following a report from German newspaper *Süddeutsche Zeitung* which suggested Berlin might reject the pact over concerns regarding its investor-state dispute settlement (ISDS) clause.

Under ISDS provisions, foreign investors may file a case against a host country in front of an international tribunal if the company finds that one of its key protections – such as against expropriation or discrimination – has been violated.

Some observers have noted that Germany may not consider it essential to have these types of provisions with countries that have similar domestic legal and administrative systems, such as Canada or the US.

Regarding the necessity of ISDS in trade deals, German Deputy Economy Minister Stefan Kapferer reportedly said in a 26 June letter that his government “does not view as necessary stipulations on investor protection, including on arbitration cases between investors and the state, with states that guarantee a resilient legal system and sufficient legal protection from independent national courts.”

However, Shannon Gutoskie, spokeswoman for Canadian Trade Minister Ed Fast, commented to Reuters that existing German bilateral investment treaties, or BITs, include investor protections "that are far more stringent than those in the Canada-EU agreement."

Since the release of the *Süddeutsche Zeitung* report, German officials have said that the claims that Berlin is set to reject the EU-Canada pact do not reflect their government's actual position, while not commenting specifically on the ISDS question.

For Canada's part, spokeswoman Gutoskie has said that Ottawa and Brussels are making "excellent progress" in their endeavours to complete the text. Regarding other technical questions that remain unresolved, officials have indicated privately that – while difficult – these are unlikely to derail the completion of the pact.

### **Implications for TTIP?**

CETA has been touted by some officials and trade observers to be a possible template for future agreements, particularly the Transatlantic Trade and Investment Partnership (TTIP) that is currently under negotiation between the EU and the US.

That latter negotiation is still in its early stages, having just been launched last year. The EU and US recently held their sixth round of talks in Brussels, with negotiators reporting progress on some of the technical issues.

"The free trade treaty with Canada is a test for the agreement with the United States," said a senior Commission official in Brussels, according to the *Süddeutsche* report. The official reportedly warned that a rejection of the EU-Canada deal could have damaging implications for the Brussels-Washington talks.

Whether to include an ISDS clause in TTIP – and in what form – has also been a major source of contention in the EU-US negotiations. Both sides have said that such a provision is important both for protecting investors against potentially unfair expropriation or discrimination, as well helping set a new global benchmark for these types of clauses.

However, various civil society groups have rallied against the measure, saying that it could put domestic public policies – such as those pertaining to public health or the environment – at the mercy of international tribunals. Furthermore, some have argued, the two sides already have sufficiently strong domestic legal systems of their own, thus obviating the need for an ISDS clause.

Government officials have sought to assuage those concerns, stressing that ISDS clauses do not give multinational corporations "unlimited rights" to challenge any domestic legislation, and are important if the EU and US still want to be at the forefront of developing global trade norms.

The TTIP discussions on ISDS and other investor protections were put on hold in January in order for Brussels to conduct a public consultation on the subject. The public consultation ended earlier this month, with a report on the results expected late this year. (See Bridges Weekly, [24 July 2014](#))

ICTSD reporting; "Germany Threatens To Reject EU-Canada Free Trade Deal," EURACTIV, 28 July 2014; "Update 1-Germany To Reject EU-Canada Trade Deal-Sueddeutsche Newspaper," REUTERS, 26 July 2014; "Germany Throws Down Gauntlet In Investor-State Negotiations," iPOLITICS, 27 July 2014; "Harper Government Shies Away From Report Germany To Reject EU-Canada Trade Deal," NATIONAL POST, 26 July 2014; "Germany plays down report that Canada-EU free trade deal in jeopardy," FINANCIAL POST, 28 July 2014; "EU trade deal troubles denied by Canadian, German officials," CNC NEWS, 28 July 2014.

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## EVENTS & RESOURCES

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# Events

### Coming Soon

4 August, Washington, US. THE GAME HAS CHANGED: THE NEW LANDSCAPE FOR INNOVATION AND BUSINESS IN AFRICA. This event, hosted by the Brookings Institution, will examine the US' past and present engagement in Africa. Held in parallel to the US-Africa Leaders' Summit, also being held in Washington next week, participants will examine new priorities for US-African policy, including business strategies for economic growth and development, innovation, and governance. For more information, visit the event [website](#).

3 September, London, UK. IMPLICATIONS OF ASIAN INTEGRATION FOR THE US, EUROPE AND THE UK: SCENARIOS WITH AND WITHOUT TPP. At this Chatham House event, Dr. Ganeshan Wignaraja, the Director of Research at the Asian Development Bank Institute, will examine recent developments in Asian integration, and explore what might come next for Asia-US and Asia-EU ties. The seminar will place a particular focus on the Trans-Pacific Partnership (TPP) talks, along with other regional developments, such as the ongoing maritime disputes among some Asian countries. To learn more, please visit the event [website](#).

12-13 September, Changsha City, China. CHINA-LAC BUSINESS SUMMIT. This event, hosted by the Inter-American Development Bank in conjunction with the China Council for the Promotion of International Trade (CCPIT), the People's Bank of China, and the Government of the Hunan Province, will bring together top executives, policy makers, and high public officials from both China and Latin America in order to exchange ideas and experiences that will help identify cross-regional trade and business opportunities. For more information, visit event [website](#).

13-16 October, Geneva, Switzerland. WORLD INVESTMENT FORUM: INVESTING IN SUSTAINABLE DEVELOPMENT. This high-level biennial event, hosted by the UN Conference on Trade and Development, will focus specifically on the ongoing process to develop Sustainable Development Goals (SDGs) for when the Millennium Development Goals (MDGs) expire next year, and what role investment policy can play. The forum will feature over thirty events, including the World Leaders' Investment Summit, ministerial roundtables, and other high-profile stakeholder events. Participation in the event is free; to learn more, or to register, visit the UNCTAD [website](#).

### WTO Events

An updated list of forthcoming WTO meetings is posted [here](#). Please bear in mind that dates and times of WTO meetings are often changed, and that the WTO does not always announce the important informal meetings of the different bodies. Unless otherwise indicated, all WTO meetings are held at the WTO, Centre William Rappard, rue de Lausanne 154, 1211 Geneva, Switzerland, and are open to WTO members and accredited observers only.

29 August: Dispute Settlement Body

16 + 18 September: Trade Policy Review Body – Chinese Taipei

17 September: Committee on Budget, Finance, and Administration

26 September: Dispute Settlement Body

### **Other Upcoming Events**

23-24 October, Copenhagen, Denmark. GREEN TRADE: ENSURING A POSITIVE CONTRIBUTION OF TRADE POLICY TO CLIMATE ACTION TOWARDS COP 21. This event, hosted by the International Centre for Trade and Sustainable Development (ICTSD) and the Danish Ministry of Foreign Affairs on the sidelines of the Global Green Growth Forum (3GF), will focus on how to advance the agenda of climate change action and green growth through trade in the area of clean energy technologies. The meeting will bring together government representatives, business leaders, and key experts in this field. For more information, please visit the ICTSD [website](#).

3-4 November, London, UK. CLIMATE CHANGE: RAISING AMBITION, DELIVERING RESULTS. The 18<sup>th</sup> Annual Chatham House Conference on Climate Change will take stock of recent climate change developments. These include a review of the latest science and related implications for business, society, and politics; the findings of high-level commissions; and initiatives from the business community; and the upcoming UN Secretary-General's Climate Summit. It will also examine the benefits of a low carbon economy, evaluate the costs of climate action, and review concrete measures to decarbonise key sectors and potential barriers to action. For more information, visit the event [website](#).

4-6 November, New Delhi, India. INDIA ECONOMIC SUMMIT: REDEFINING PUBLIC PRIVATE COOPERATION FOR A NEW BEGINNING. This meeting, hosted by the World Economic Forum and the Confederation of Indian Industry, aims to provide an opportunity for the Forum's global multi-stakeholder community to meet the new Indian government and help to collectively define and shape policies for inclusive growth. For more information, visit the event [website](#).

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## Resources

OECD GREEN GROWTH STUDIES: OECD GREEN GROWTH INDICATORS 2014. Published by the Organisation for Economic Co-operation and Development (OECD) (July 2014). This book presents an updated OECD framework for monitoring progress towards green growth, featuring various indicators that illustrate the progress that OECD countries have made over the past two decades in this area. More information about this publication can be accessed [here](#).

BILATERAL INVESTMENT TREATIES, MINING AND NATIONAL CHAMPIONS: MAKING IT WORK. By Aaron Cosbey, Howard Mann, and Maxine Cunningham for the International Institute of Sustainable Development (July 2014). This paper discusses the surge of national and regional efforts to re-envision the role of mining in East Africa and analyses how mining can be shaped to best contribute to a range of social, environmental, and economic goals. This paper also identifies the policy tools available to countries interested in pursuing a new vision of mining. To access the paper, click [here](#).

GOVERNMENT SUPPORT TO UPSTREAM OIL & GAS IN RUSSIA: HOW SUBSIDIES INFLUENCE THE YAMAL LNG AND PRIRAZLOMNOE PROJECTS. By Lars Petter Lunden and Daniel Fjaertoft for the International Institute of Sustainable Development (July 2014). This report evaluates government support measures for two upstream oil and gas developments in the Russian Arctic, analysing how such support has impacted the economics of these projects. The authors discuss how the "manual control" of tax breaks and other types of support lead to unnecessarily large rent transfers from government and taxpayers to companies. The lack of solid quantitative estimates, they say, also makes it difficult to determine whether the overall social benefits of such development outweigh their costs, such as the potential environmental risks. The paper can be found [here](#).

THE IPCC'S FIFTH ASSESSMENT REPORT: WHAT'S IN IT FOR SOUTH ASIA? Published by the Climate & Development Knowledge Network (2014). This region-specific report, put together by experts from the CDKN and the Overseas Development Institute (ODI) summarises the effects of climate change for South Asia, building on the Intergovernmental Panel on Climate Change's (IPCC) Fifth Assessment Report. The authors raise possible opportunities for climate mitigation and adaptation, and include information aimed at helping decision-makers in developing countries design and deliver climate-compatible policies. The complete report can be accessed [here](#).

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