

# BRIDGES WEEKLY

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## AGRICULTURE

### US, Brazil Clinch Deal Resolving Cotton Trade Row

Brazil and the US have reached an agreement to bring their long-running WTO dispute ([DS267](#)) over Washington's cotton subsidies to an end, officials confirmed on Wednesday.

"Through this negotiated solution, the United States and Brazil can finally put this dispute behind us," [said](#) US Secretary of Agriculture Tom Vilsack, who announced the deal together with US Trade Representative Michael Froman.

"Without this agreement, American businesses, including agricultural businesses and producers, could have faced countermeasures in the way of increased tariffs totalling hundreds of millions of dollars every year," he continued.

Under the terms of the deal, the US will make a one-off payment of US\$300 million to the Brazilian Cotton Institute, a technical fund for Brazilian farmers. The payment will be sent within the next three weeks.

According to the [Memorandum of Understanding](#) released on Wednesday, the money provided to the Brazilian Cotton Institute (IBA, by its acronym in Portuguese), can be used for technical assistance and capacity-building activities involving the Brazilian cotton sector. These could include, for example, promotion of the use of cotton; pest and disease control and eradication; natural resources management and conservation; and the use of technologies to improve cotton quality.

The funds can also be used for international cooperation in cotton in sub-Saharan African countries, an apparent nod to the C-4 group of cotton producers – Benin, Burkina Faso, Chad, and Mali – who have long had a particular interest in the results of this dispute. Fellow members and associate members of South American customs bloc Mercosur, along with Haiti and any other developing country that the two sides agree on, could also benefit.

The US has also agreed to a series of rules regarding how it administers export credit guarantees under its GSM-102 programme, which was one of the schemes found to be in violation of WTO law.

Unlike some other programmes found to be WTO-illegal, it was not removed following the global trade body's ruling, but rather changed.

Specifically, Washington has now said that it will not offer guarantees under the programme for loans lasting longer than 18 months, nor it will extend or renew any guarantees once issued. Fees under the GSM-102 programme will also have to meet a series of conditions.

The US will also provide Brazil with information on the GSM-102 programme on a semi-annual basis.

In return, Brasilia will make sure that the IBA meets all applicable terms of Brazilian law, for instance in terms of auditing and accounting, while also providing the US with regular reports of IBA disbursements and activities.

Furthermore, Brazil will no longer hold onto its right to retaliate against the US on this particular issue. It has also committed not to file any WTO challenges to the GSM-102 export credit guarantee programme under the GATT articles referring to consultations or nullification of benefits, as long as the US scheme meets the criteria listed in the Memorandum.

Brasilia will also not challenge any existing cotton domestic support programmes, notably the Stacked Income Protection Programme (STAX) included in the latest Farm Bill, under those GATT articles. STAX is a supplemental crop insurance initiative that builds on top of traditional crop insurance.

### **Dozen-year dispute**

The dispute dates back to 2002, when Brazil first challenged a series of US support schemes to its cotton producers. In both the original panel stage, as well as in the subsequent appeals process, the US was faulted by the global trade arbiter as having violated its WTO obligations.

After a compliance panel then deemed that the US had not brought its WTO-illegal measures in line with global trade rules, Brazil was then granted the option of retaliating both in goods and intellectual property, to the tune of over US\$800 million.

The decision to grant Brazil the latter option was a rare one for the WTO – countermeasures, when granted, are usually in the same sector as the product in question.

Brazil had requested the option of cross-retaliation based on the concern that retaliation in goods alone would only hurt its own economy, and thus make it an inappropriate countermeasure.

Just days before the countermeasures were set to come into force, the two sides clinched a “framework deal” in 2010 that put the cross-retaliation on hold until a new revision of the US Farm Bill – the omnibus legislation that governs US government spending on agriculture – could be passed. (See Bridges Weekly, [23 June 2010](#))

In the meantime, the US [agreed](#) to pay US\$147.3 million per year in compensation to Brazilian cotton farmers via the Cotton Institute.

A new Farm Bill was concluded earlier this year, and covers spending over the next five years. Brazilian officials had suggested at the time that they were dissatisfied with the resulting legislation with regards to how it handled the cotton question, and indicated that they could pursue further WTO action. (See Bridges Weekly, [30 January 2014](#))

Significantly, the entry into force of the new Farm Bill essentially meant that the framework deal agreed in 2010 expired, giving an additional impetus to negotiators to find a solution to the dispute.

**Next steps**

To formally end the dispute, the solution will need to be notified to the WTO's Dispute Settlement Body. The parties have said that this will occur within 21 days following this Memorandum of Understanding.

The Memorandum will be in force until 30 September 2018.

ICTSD reporting.

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## WORLD TRADE ORGANIZATION

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# Obama, Modi Highlight TFA Impasse Concerns, Call for “Urgent” WTO Consultations

US President Barack Obama and Indian Prime Minister Narendra Modi concluded their leaders' meeting in Washington on Tuesday, directing their officials to “consult urgently” with their fellow trading partners in the hopes of resolving the current WTO impasse on the implementation of the Trade Facilitation Agreement (TFA) and the issue of public food stockholding.

The two said that they discussed both their “concerns” about the ongoing stalemate, as well as its potential effects of the multilateral trading system, according to a [joint statement](#) released following the meeting.

“We had a candid discussion on [the] Bali ministerial of the WTO,” Modi acknowledged to reporters on Tuesday, referring to the December 2013 meeting whether the TFA text was agreed. “India supports trade facilitation. However, I also expect that we are able to find a solution that takes care of our concern on food security.”

The Indian premier added that he believes “it should be possible to do that soon.”

Neither leader went into further detail in their remarks, and it remains to be seen what impact their statements may have on the ongoing WTO discussions.

Speaking at the New York-based Council of Foreign Relations on Monday ahead of his meeting with Obama, the Indian premier had reiterated his stance that, while being in favour of the trade facilitation pact itself, advancing its implementation would need to go “hand-in-hand” with a result on food stockholding.

“It cannot be that you do this first and we will see the other later on,” he said.

### Months of discord

The highly-anticipated summit in Washington, which was the first between the two leaders since Modi took office in May, had been looked to by trade observers as an opportunity for potentially resolving the conflict, which has dominated WTO talks in Geneva for the past couple of months.

Efforts to advance the implementation of the TFA – one of the main deliverables from last December's WTO ministerial conference in Bali, Indonesia – screeched to a halt in late July, after India refused to back the adoption of a Protocol of Amendment that would have incorporated the text of the deal into the global trade body's legal framework. (See Bridges Weekly, [31 July 2014](#))

At the time, India explained that it would not be able to support the Protocol until it saw sufficient signs of movement on developing a “permanent solution” on public food stockholding. This solution, it has said, should be reached by the end of this year.

The latter issue had been a subject of protracted discussions during the December meeting in Bali, with India having agreed to accept an “interim solution” on the subject while a

permanent one was being negotiated in advance of the 2017 ministerial. (See Bridges Daily Update, [7 December 2013](#))

Under the terms of the [interim solution](#), WTO members committed to "refrain from challenging through the WTO Dispute Settlement Mechanism, compliance of a developing member with its obligations under Articles 6.3 and 7.2 (b) of the Agreement on Agriculture (AoA) in relation to support provided for traditional staple food crops in pursuance of public stockholding programmes for food security purposes."

This commitment is subject to certain conditions, such as the notification of these programmes to the WTO's Committee on Agriculture by the developing country in question. The latter must also take steps to make sure that the stocks procured under these stockholding schemes do not distort trade, nor affect the food security of others.

### **Questions of trust**

Back in Geneva, delegates have been meeting in various configurations in an effort to determine next steps.

A meeting of the WTO's Trade Negotiations Committee (TNC) – which is tasked with the overall Doha talks – is scheduled next Monday, with the TFA stalemate set to be the main focus on the agenda.

Director-General Roberto Azevêdo has instructed the chairs of the negotiating groups to report back on their discussions at that time. (See Bridges Weekly, [18 September 2014](#))

The WTO chief has warned that a prolonged stalemate could have a "freezing effect" on the global trade body's other work, including on efforts to advance the remaining parts of the Doha Round negotiations.

Sources say that meetings of the agriculture and non-agricultural market access committees have already shown signs of this difficulty, with members unable to agree on how – or whether – to advance any post-Bali work, given the current impasse. Many have reportedly raised the question of whether too much trust has been lost. (See Bridges Weekly, [18 September 2014](#))

During the global trade body's annual Public Forum this week, Azevêdo told a packed conference hall that the Bali deal – of which the TFA and interim solution on food stockholding were a part – is "this kind of construct that, when you touch one piece, everything moves."

"The biggest gain from Bali was the recovery of trust," he noted, given the long-running struggles of the Doha Round of trade talks, which have been underway since 2001. "We're beginning to lose that trust once again, and we cannot let that happen."

### **TF Committee hits snag**

A meeting on Monday of the Preparatory Committee on Trade Facilitation – which was established following the Bali ministerial, and is tasked with shepherding the trade pact into force – saw notable divergences among members over its future work.

The US said that discussions on TFA implementation are now at the General Council level, and should not be continued in the Preparatory Committee. Furthermore, the US delegation said that the Committee had completed its work and should thus not host further meetings – a statement that reportedly drew considerable pushback from other members, with some saying that the committee still has more to do.

Others reportedly said that it is up to the chair – Ambassador Esteban Conejos of the Philippines – to determine when the next meeting should take place, and asked him to get clarification as to whether a single member could block the hosting of a meeting. The ambassador had suggested 7 November as a tentative meeting date.

While Australia reportedly agreed that the situation is a political one, and the Preparatory Committee is a technical body, the EU reportedly urged fellow members to wait until next Monday's TNC before deciding whether to proceed with another meeting.

ICTSD reporting; "Modi expresses support for trade facilitation deal," THE HILL, 29 September 2014.

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## PREFERENTIAL AGREEMENTS

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# EU Commission Hearings: Malmström Pledges TTIP Political Assessment By Year's End

If confirmed later this month as the EU's next Trade Commissioner, Cecilia Malmström will make one of her first objectives a political review of the 28-nation bloc's ongoing trade talks with the US, the Swedish politician told a meeting of the European Parliament Committee on International Trade earlier this week.

"I will take the first months of the new term to make a political assessment of our objectives and our progress, on the basis of the existing negotiating mandate," the Commissioner-designate told EU lawmakers on Monday during her confirmation hearing.

The result of this assessment, she said, would be presented to parliamentarians and member states by year's end.

Malmström is one of the 28 commissioners-designate that were nominated by Juncker earlier this month. The European Parliament, which must sign off on the slate of commissioners as a whole, has been holding hearings with each official this week.

The official is currently part of José Manuel Barroso's outgoing College of Commissioners, helming the Commission on Home Affairs. (See Bridges Weekly, [18 September 2014](#))

"Trade policy is about cooperation, but also about backbone," Malmström told EU parliamentarians on Monday, according to a copy of her [prepared remarks](#). "I will make sure Europe stands up for its interests in trade negotiations: that means ensuring trade agreements support rather than weaken protections for the environment, labour rights, and human rights in general."

### **Malmström: Vigilance needed for TTIP**

Malmström's testimony comes in the middle of the seventh round of TTIP negotiations, which are being held from 29 September-3 October in Chevy Chase, Maryland.

The size and scope of the deal has made it both high-profile and controversial. The talks were launched over a year ago with the aim of reducing trade barriers and generating job opportunities and economic growth on both sides of Atlantic. The last round of negotiations was held in Brussels in July.

"If there is one area where the next trade Commissioner will need to be particularly vigilant, it is the Transatlantic Trade and Investment Partnership," she said on Monday, noting that the trade talks are both the Commission's most demanding and also the one that has faced the most public scrutiny.

Public debate in Europe has escalated in recent months, focusing mainly on concerns over how the trade pact could affect the regulation of health and safety issues.

"Over the last several years I have been following these important talks from a distance... I have been amazed by what I have heard," Malmström continued.

"I hear claims that the Commission is negotiating lower safety standards for food, restricting Europe's ability to regulate on health and the environment, and that we are doing this through secret backroom negotiations," she commented.

"I know this is not the case. However, I do hear those concerns," she continued, adding that it was time for a "fresh start" to the negotiations, which were launched in June of last year.

"I also want to state here very clearly that it is not about lowering any standards when it comes to consumer protection, environmental, or health," she said in response to TTIP [questions](#) from lawmakers. "But we will not sacrifice the European model for the benefit of free trade."

Similar statements were made this week by Commissioner-designate Vytenis Andriukaitis, who has been nominated for the Health and Food Safety division.

"One cannot compromise on that. These standards shall not be sacrificed for free trade. The high EU standards have also facilitated our global exports," Andriukaitis said during his own hearing on Tuesday in a separate committee, according to comments reported by EurActiv.

### **ISDS in focus**

In the questioning that followed her opening remarks, Malmström was asked various questions over the issue of investor-state dispute settlement (ISDS) with relation to TTIP. The US has made clear that it would like to see this provision in a final deal.

Earlier this year, the portion of the TTIP talks dealing with investment protections was suspended, after the European Commission decided to hold a public consultation on the subject.

Civil society groups have particularly questioned the ISDS mechanism, concerned that it could allow foreign corporations to take governments to court over public policies in areas such as public health and safety or the environment. Proponents of the provision have said that it is necessary to ensure investor rights are upheld, for instance in cases of unfair expropriation. (See Bridges Weekly, [3 April 2014](#))

The consultation has since concluded, with a report on the findings expected later this year. How the results will factor into the negotiations – and whether the investor-protection talks will be restarted at all – remains to be seen.

Malmström told lawmakers that "there are several problems with the investor-state dispute settlement mechanism as it exists today." However, she did note that new agreements are an opportunity to design improved versions of such a policy, correcting past questions on scope and transparency.

The ISDS issue has also come up in the context of the EU's trade agreement with Canada, which was signed just last week. (See related story, this edition). The Commissioner-designate, while saying that it would be inadvisable to remove it from the Ottawa pact, notably avoided committing to an inclusion – or exclusion – of the provision in TTIP.

"Eliminating it from the Canada [deal]... would not be a good idea, because then it would open the whole Canada agreement and then it'd risk falling apart, and it is a very good agreement," she said.

"Does this mean that we'll include it automatically in TTIP? No, it does not mean that. And I don't exclude that in the end it will be taken out of this. But this is too early to say."

**TPP timeline in the background?**

Recent negotiating rounds on TTIP have primarily focused on technical issues, given both the Commission change-over and the upcoming US midterm elections. However, other factors – particularly the 2016 US general election, as well as Washington's effort to conclude a separate trade deal with 11 other Pacific Rim nations – have caused many officials to press for faster progress.

US President Barack Obama has said, for instance, that he hopes to have something agreed on the latter talks, known as the Trans-Pacific Partnership (TPP) by this November, though that date has been questioned by officials from some other member countries.

"Europe only has one chance to start to talk about these things and that's now," said German economy minister Sigmar Gabriel earlier this month. "If Europe failed to agree a deal with the United States, Washington would turn elsewhere in search of a partner, such as Asia."

**22 October vote**

The European Parliament is set to vote on the entire set of Commission nominees on 22 October, in an up-or-down vote. The Parliament's International Trade Committee, which interviewed Malmström, already gave their sign-off on her nomination this week.

The new Commission, if approved, would then take office in November.

ICTSD reporting; "German minister: EU-U.S. trade talks not perfect but EU's best chance," REUTERS, 19 September 2014; "EU pushes for urgent energy deal in U.S. trade pact," REUTERS, 9 September 2014; "We won't drop food and safety standards for TTIP, Andriukaitis tells MEPs," EURACTIV, 30 September 2014.

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## ENVIRONMENTAL GOODS

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# Environmental Goods Trade Talks Move Forward

A second round of talks towards clinching a tariff-cutting agreement on select environmental goods was held last week in Geneva, Switzerland, with sources reporting significant progress on hammering out the substance of the deal, namely on what types of products to include.

Specifically, the group reportedly reached agreement on a number of categories that will serve as a basis for negotiating the final list of products.

In addition, last week saw discussion on two of these categories, namely around products related to the reduction and mitigation of air pollution and solid and hazardous waste management.

The effort to nail down the planned deal, known formally as the Environmental Goods Agreement (EGA), is being undertaken by 14 WTO members, though that group could expand.

The current group counts some of the world's largest importers and exporters of environmental products in its ranks, including the 28 member states of the EU as one, the US, and China.

"The global challenges we face, including environmental protection and climate change, require urgent action," EGA participants explained in a [joint statement](#) at the initiative's launch in July.

A first round of negotiations was held immediately following the initiative's launch, with participants focusing on the framework and structure of the negotiations. (See BioRes, [10 July 2014](#))

### Categories

While the EGA group is aiming to reach agreement on an ambitious and broad range of green goods, participants have indicated that the selection will also be based on a product's ability to address certain environmental challenges.

As such, the nomination of possible EGA products – and the related discussions – is moving forward based on different environmental goods categories, or sectors.

In addition to the two already discussed last week, the current list of categories set to be reviewed includes goods related to energy and resource efficiency; environmentally preferential products; soil and water treatment; noise and vibration abatement; protection of natural resources; environmental monitoring and analysis; and the scaling up of renewable energy equipment.

Participants will be invited to put forward products relevant to each category, which will then be discussed by the group as a whole, with a view to deciding whether or not it merits inclusion in the negotiations.

Several discussion rounds are scheduled until early next year, at which point delegates are reportedly aiming to have put together a compilation of potential products to be liberalised.

Formal negotiations on tariff lines and the final list are expected to start once each of the sectors has been discussed.

In an effort to bridge the gap between trade negotiators and environmental specialists, the latest round saw experts from the Organization for Economic Co-operation and Development (OECD), the International Energy Agency (IEA), and industry invited to present on various environmental products, their components, and recent market trends.

EGA officials have also explained to ICTSD's Trade BioRes that while the talks will initially focus on tariff issues related to environmental goods, participants have not ruled out returning to issues such as environmental services and non-tariff barriers (NTBs) at a later stage of the negotiations.

### **APEC list hurdles**

The EGA group first signalled its intention to pursue a green goods trade agreement in January at the World Economic Forum's annual meet in Davos, Switzerland.

At the time, participants said they would build on a list of 54 environmental goods agreed to by members of the Asia-Pacific Economic Cooperation (APEC) forum. (See BioRes, [28 January 2014](#))

In late 2012, the 21-nation APEC group announced plans to reduce applied tariffs on a list of 54 green goods – including wind turbines and solar panels – to five percent or less by the end of 2015.

While the deal was welcomed as a significant advance at the time, many were quick to note that this commitment is not legally binding, and includes some products that already have low tariffs. (See Bridges Weekly, [12 September 2012](#))

Given EGA participants' stated commitment to secure "global free trade" in environmental goods, trade watchers have suggested that this would envisage the reduction of bound tariffs to zero in these talks, in contrast to the APEC format.

Applied tariffs are the actual duty a country levies on goods at the border, while bound tariffs indicate the maximum ceiling level WTO members could potentially apply.

Ahead of last week's round, the US, Australia, New Zealand, Japan, and Canada – also APEC members – all tabled their initial indicative lists of air pollution and solid and hazardous waste management products that they favour for inclusion in the eventual Environmental Goods Agreement.

In each instance, the nominations are said to feature both relevant products from the APEC list, as well as additional products, consistent with the group's plans outlined in January.

Some of the other members of the EGA group have reportedly indicated that their respective internal consultations are still ongoing and will follow suit in due course.

Experts have also said that, while the APEC 54 list has provided a useful building block for the new initiative, concerns have been raised about how APEC members have implemented the voluntary cuts to their respective tariff systems and some provisions in that regional agreement.

For example, APEC economies have to decide whether or not to cut tariffs at the Harmonized System (HS) 6-digit level – a World Customs Organization (WCO) classification used to identify traded goods – or pick and choose more specific products from within these categories, creating the so-called "ex-outs" issue.

Although the EGA will not carry forward the provisions of the APEC agreement but rather just its list, WCO officials were invited last week to brief EGA negotiators on the technicalities of "ex-outs" related to environmental goods and their respective HS classifications, according to BioRes sources.

### **New members to join?**

When kicking off the initiative in July, the group stressed that they remained open to working with other trading partners interested in pursuing similar objectives and ambition.

Israel has been the first to take up the group's offer and has expressed an interest in joining.

In order for a new participant to join, however, each existing EGA member will need to undertake necessary domestic consultations for approval.

This includes a possible 90-day notification period to Congress for the US that would preclude Israel taking part in the negotiations until the notification period has ended.

Other WTO members that have reportedly shown an interest in joining are Turkey, Peru, and Chile.

### **Next steps**

The third round of the EGA negotiations is slated for the first week of December in Geneva. Goods and technologies related to water and wastewater treatment, as well as the abatement of noise and vibrations, will be under discussion at that stage.

The planned deal is expected to be negotiated as a most-favoured-nation (MFN) style pact, which would extend the eventual benefits of the EGA to the global trade body's entire membership once reaching a "critical mass" of participants.

This would build on the precedent set by the WTO's Information Technology Agreement (ITA), another plurilateral-type initiative whose participants have agreed to eliminate tariffs on select information and communication technology products.

Defining a threshold for a "critical mass," or a significant enough portion of trade in the list of covered goods to stave off potential free riders seeking to benefit from tariff concessions without offering anything in return, is one of the details that will need to be dealt with in due course with this MFN-style agreement.

ICTSD reporting.

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## INTELLECTUAL PROPERTY

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# Agreements Elude WIPO Assemblies on Key Norm-Setting Issues

The annual high-level meeting of the World Intellectual Property Organization (WIPO) failed to reach agreement on a number of important issues in its norm-setting agenda. Specifically, the 22-30 September gathering saw members openly at odds over the organisation's mandate, its relationship to development, and its governance arrangements.

With regards to norm-setting, the WIPO Assemblies reviewed the possibility of convening diplomatic conferences – the highest level of negotiations at the UN body – on three issues that are considered by many countries to have reached an advanced stage of discussions.

However, members ultimately either deferred their decision or were even unable to agree on the very need for convening such conferences. (See Bridges Weekly, [25 September 2014](#))

In his closing remarks, WIPO Director-General Francis Gurry asked countries to consider their next steps in these difficult areas.

"We find most of the lack of decisions related to the normative program of the Organization. So I would urge all delegations to reflect on our normative program and reflect in particular on where you would like to take multilateral cooperation in the normative area," he said.

### **No consensus on IGC work plan**

The Assemblies were unable to agree on a work plan for the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC).

The IGC was established over a decade ago, in response to concerns by biodiversity-rich countries and indigenous peoples regarding the misappropriation of their genetic resources and associated traditional knowledge and cultural expressions.

Text-based discussions at the committee have thus focused on developing an international instrument(s) to address one or all of these issues.

While many countries considered the IGC's work sufficiently mature to reach tangible outcomes, disagreements prevailed on the nature of such outcomes and their legally binding character.

The EU favoured a non-binding outcome which would not affect existing intellectual property rights (IPRs), particularly patents, and Germany had deemed the issue "too important to ask for a quick outcome."

The IGC will continue its work in 2015, though many developing countries were disappointed at the disagreement on a work plan for the committee.

Discussions on a separate treaty to protect broadcasters' rights also failed to yield significant advances.

### **Industrial designs decision postponed**

Separately, the decision on whether to convene a diplomatic conference on a Design Law Treaty – which aims to simplify the registration of industrial designs – was postponed to 2015.

Nevertheless, the African Group expressed reservations about the “balance between costs and benefits” in the proposed treaty. Some developed countries, in particular the United States, were unwilling to consider in advance the inclusion of a binding technical assistance provision in the text of the treaty.

The latter has been requested by many developing countries before the convening of a diplomatic conference. The US prefers to see the matter addressed at the diplomatic conference itself.

### **Reports of Standing Committees**

The Assemblies also discussed the work of a number of regular WIPO committees, such as the Standing Committee on Copyright and Related Rights (SCCR) and the Standing Committee on Patents (SCP).

In the context of the SCCR work, the discussions this past week focused in particular on exceptions to copyright for libraries, archives, research institutions, and universities, where proposals have been made for new norms that would ensure that copyright is supportive of access to knowledge and education. Deliberations on this subject will continue in 2015.

The SCP-related discussions addressed the sharing of work among patent offices, as well as on patent quality. Japan observed that work sharing is an “essential” mechanism, allowing patent applications to be “dealt with in an effective manner with limited resources.”

The EU hoped that discussions on patent quality would appeal to countries “across the spectrum of development” as improved patent quality could make the system more “accessible.” Iran and South Africa, however, pointed out that “patent quality” remains an undefined concept and could ultimately undermine national policy space and flexibilities.

A final issue that sparked intense discussion was proposed “technical” revisions to the Lisbon Agreement on Appellations of Origin, which would create a common international registration system, with equal legal protection, for both geographical indications (GIs) and Appellations of Origin. The EU hoped that the new agreement would be “more attractive” to other WIPO members.

Geographical indications are meant to identify goods by their geographical origin and which possesses certain qualities or traits due specifically to that origin. Famous examples include Parma ham or Feta cheese.

The US was among the various countries that are not members of the Lisbon Agreement in opposing these revisions. Others in opposition included Australia, Chile, and New Zealand, with the latter saying that these revisions “perpetually and extra-territorially” grant IP rights, with economic consequences for all countries.

Ultimately, no decision was made on the participation of non-members in the Lisbon Union's diplomatic conference, either as observers or with voting rights.

### **Mainstreaming development**

Members also sparred over the mainstreaming of development in WIPO's work, with the US claiming that the issue of development was being used to block progress in every committee, and has not just been confined to the Committee on Development and Intellectual Property (CDIP).

The US thus called for WIPO to quickly resume its "normal functioning" of providing valuable services to the global IP system.

Developing countries objected strenuously, claiming that the Development Agenda mandate – which involves a series of 45 recommendations meant to mainstream development into the agency's work - was far from fulfilled.

Furthermore, they said, the fact that WIPO is a UN agency means that its development role is central to its legitimacy. Algeria underlined that the Development Agenda is a reality of WIPO, and that all countries must accept and adapt to this reality and be united by its goals.

Given the lack of appropriate qualitative evaluation mechanisms, the African Group said that the implementation of the Development Agenda cannot be fully assessed. Egypt agreed, adding that the number of projects being implemented under the WIPO DA "is not in itself a benchmark of progress."

ICTSD reporting.

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## PREFERENTIAL AGREEMENTS

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# EU, Canada Sign Trade Deal as Germany Raises ISDS Questions

The EU and Canada signed their bilateral free trade pact last Friday, five years after launching the talks and almost a year after announcing that they had reached an "agreement in principle" on the subject. (See Bridges Weekly, [24 October 2013](#))

The deal, known formally as the Comprehensive Economic and Trade Agreement (CETA), was inked at a day-long EU-Canada summit.

The occasion also provided the two parties the opportunity to take stock of bilateral relations in areas such as energy and Arctic cooperation, as well as to sign a Strategic Partnership Agreement (SPA) set to facilitate collaboration on a number of issues including international peace and security, as well as sustainable development.

The CETA talks, however, faced several hurdles along the way. Since last October's "agreement in principle" announcement, negotiators had been working on ironing out the technical details in order to reach an acceptable text for both sides. Moreover, controversy over the pact's investor protection measures, particularly from Germany, began brewing over the summer. (See Bridges Weekly, [31 July 2014](#))

Launched back in 2009, the much-anticipated agreement is the first trade pact between the 28-member EU bloc and a major industrialised economy. It also grants Canada substantial access to the world's largest consumer market. The deal eliminates almost all customs tariffs on both sides barring a few exceptions sensitive to each party.

"Today marks a truly historic moment in the evolution of the Canada-EU relationship," said Canadian Prime Minister Stephen Harper, European Commission President José Manuel Barroso, and European Council President Herman Van Rompuy in a [joint statement](#) last Friday.

Meanwhile, the negotiations between the two economic behemoths have been keenly followed by trade watchers given the scale of the markets involved. Experts have also levelled claims that the CETA talks offer a litmus test for the Transatlantic Trade and Investment Partnership (TTIP) negotiations currently ongoing between the EU and the US.

Concurrent with Friday's summit, the two sides released the [consolidated text](#) of the trade deal, which numbers more than 1600 pages and will still have to undergo a legal scrubbing before being sent to each side's respective legislatures for ratification.

For the EU, this means ratification both in the European Parliament and approval by the governments of the bloc's 28 member states, meeting as the European Council. For Canada, this involves approval by the country's parliament. If all goes smoothly, the deal is expected to enter into force in 2016.

Statistics cited by the European Commission place the potential increase in bilateral good and services trade at 23 percent – or €25 billion – on both sides as a result of the deal. According to data from 2012, bilateral goods trade was valued at nearly €60 billion, with services trade amounting to €26 billion in that same year.

## Features

The deal will eliminate tariffs on nearly all industrial products upon entry into force. The remainder will be removed within seven years.

As agreed over a year ago, the deal opens up public procurement markets at all levels of Canadian government, both federal and sub-federal.

Canada will allow EU access to a broad range of government tendered contracts, including a federal government threshold of CDN\$205,000 in the areas of goods and services and CDN\$400,000 for the utilities sector at all levels of government, covering 75-80 percent of major Canadian energy entities.

EU entities will also be able to bid for up to CDN\$7.8 million worth of government construction services contracts. These pledges form part of one of the most generous market access offers by Canada compared with its other existing free trade agreements.

On the subject of agriculture, which proved particularly difficult in the negotiations, the two sides have agreed to eliminate tariffs on 93.6 percent of tariff lines for the EU, and 92 percent of tariff lines for Canada.

Canada will receive immediate duty-free, quota-free access to the EU dairy market, while tariffs have been removed for 50,000 tonnes of beef and veal. In return, Ottawa has signed off on a tariff-rate quota on imports of up to 16,800 tonnes of cheese, a concession expected to be unpopular with the country's dairy farmers. As a result, the Harper government has promised compensation for Canadian cheese producers who raised concerns in the course of the talks about being able to compete with subsidised EU farmers.

Around fisheries, the EU has agreed to duty-free treatment for 95.5 percent of tariff lines at entry into force, with full trade liberalisation over a seven-year horizon. Stocks slated for free trade – currently subject to tariffs of between 6 and 20 percent on the EU market – include salmon, frozen mackerel, and herring among others. For its part Canada has eliminated tariffs on all its fish and seafood tariff lines.

Significantly, sustainable development, environment, and labour chapters have also been included in the pact, in each instance a first for Canadian free trade agreements.

For its part, the sustainable development chapter includes a commitment to review, monitor, and assess the impact of the pact on green development for both parties.

Some other areas proved particularly tricky to navigate in the course of the negotiations.

For instance, the deal takes on the sensitive issue of geographical indications (GI), in other words, the exclusive right to use a location as branding identification. The issue has been of crucial interest to Brussels, and Canada has agreed to varying ways of addressing the EU's requests in relation to 179 such terms.

However, a number of caveats have been added to these arrangements. For example, Canadian producers may still deploy English- and French-language terms of some protected GIs where the original is in neither language.

Furthermore, current Canadian producers of products such as feta, Gorgonzola, and Munster cheese will still be able to use the label, while future users will need to add an accompanying expression signalling a difference to the original.

### ISDS provision final hurdle

Despite the fanfare on Friday, the ratification of the deal – which is essential for bringing it into force – could prove to be a final sticking point, given the reported opposition from Germany to a provision in the pact regarding investor-state dispute settlement, or ISDS.

Investor-state dispute settlement provisions offer a legal platform for foreign companies to 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 experts support the inclusion of such clauses, arguing that they are necessary to provide security for foreign investment.

A number of civil society and environmental groups in the EU have spoken out against the ISDS clause, however, saying that it could result in the sacrifice of public protections on health or environment to business interests.

Under the terms outlined in the deal, consultations and mediation provisions are outlined to encourage swift settlements, without recourse to arbitration. If the latter becomes necessary, submissions to an international panel will be made public and the eventual hearings will be open. The text also allows for submissions from participants not part of the dispute.

German economy minister Sigmar Gabriel told the country's Bundestag – the federal legislative body – last week that he intended to intervene to remove the ISDS clause from the final deal, while overall supporting the bilateral trade pact.

Speaking the day prior to the EU-Canada summit, the German official urged against what he termed “double standards.”

“It must not be that international investors have rights and influence before arbitration tribunals, which national enterprises don't have in their own country,” he said in comments reported by the Financial Times.

The move has thrown up uncertainty now around the safe passage of the deal through the ratification process.

The ISDS clause has also proved to be a hot issue with EU parliamentarians. A plenary debate in mid-September saw MEPs air their concerns to EU trade chief Karel De Gucht, calling for the ISDS clause to be removed from the final text.

EU Trade Commissioner-designate Cecilia Malmström, who if confirmed with her fellow Commission nominees later this month will take over from De Gucht, has said that it would not be advisable to remove ISDS from CETA given that it could unravel the rest of the deal. (For more on Malmström's testimony, including on ISDS in TTIP, see related story, this edition)

ICTSD reporting; “Germany expresses concerns about US and Canada trade deals,” FINANCIAL TIMES, 25 September 2014; “Stephen Harper plays down German concerns about Canada-EU trade deal,” TORONTO STAR, 26 September 2014.

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## WORLD TRADE ORGANIZATION

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# Azevêdo, Ban Highlight Human Dimension of Trade as WTO Public Forum Begins

The importance of advancing a holistic approach to trade – one that better integrates the human dimension and addresses sustainable development concerns – took centre stage during discussions at the WTO on Wednesday as the global trade body began its yearly Public Forum.

"The trade agenda of opening markets and promoting an interconnected global economy is not just about dollars and cents – or rand, rupees, or pesos. Rather, this is about the quality of our lives," WTO Director-General Roberto Azevêdo told a packed conference hall on Wednesday in Geneva.

"I want to put the human dimension at the heart of our work – to change the terms of the debate – to change this organisation," the WTO chief continued.

The remarks came during the opening plenary of the Public Forum, an annual outreach event that the global trade body launched in 2001, then under the name Public Symposium. The multi-day gathering has since become a staple of the Geneva trade calendar, regularly drawing over 1500 stakeholders from civil society, academia, and the public and private sectors.

The WTO chief, who was joined at Wednesday's plenary by officials ranging from UN Secretary General Ban Ki-moon to International Labour Organization (ILO) Director-General Guy Ryder, highlighted in particular the impact trade has on the poorest. He noted, for instance, the new opportunities provided via development, while saying that the rapid changes in trade and its perception require a new conversation.

"Now, more than ever, our work here has the potential to touch the lives of almost everyone on this planet," Azevêdo said. "That is a great responsibility."

### Interlocking processes

This year's event, held under the theme "Why trade matters to everyone," comes at a moment of particular significance for the international diplomatic and economic communities.

Along with trying to bring into effect the decisions made at last December's WTO ministerial conference, efforts are underway at the UN to develop a set of Sustainable Development Goals (SDGs) that would replace the Millennium Development Goals when they expire next year. Furthermore, countries are also trying to agree on a binding global climate deal, also in 2015.

The growing questions over the future of the WTO's negotiating function have been paired with the rise of so-called mega-regional trade deals, such as the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP), which have been touted by some as ways to advance trade policymaking in the meantime.

Plurilateral approaches, such as talks to develop an Environmental Goods Agreement (EGA) that would slash tariffs on a set of green goods, have also been pursued by some WTO members in this regard. (For more on the EGA, TPP, and TTIP, see related stories in this edition)

The various initiatives underway in the trade arena have fuelled debate across various circles about the implications of trade on issues as varied as renewable energy, labour and consumer rights, public health and safety, and inclusive growth, to name a few.

### **Sustainability**

The question is not about whether trade matters, the UN's Ban told the Geneva audience on Wednesday. Instead, he said, the question is about "how we can make trade a better driver of equitable, sustainable development."

"International trade is one of the defining activities of our era. Goods, services, and ideas [are] on the move as never before," he said. But now it is time to focus on how to make trade "a foundation of a life of dignity for all."

The UN chief placed particular emphasis on the SDG process, as well as the UN climate talks and the push to bring the MDGs to fruition.

"International trade is an essential component of an integrated effort to end poverty, ensure food security, and promote economic growth," he said, adding that "an ounce of trade can be worth a pound of aid."

In establishing these Sustainable Development Goals, the UN chief noted that it is important to "promote policy coherence" across areas ranging from environmental sustainability to the trade and financial systems.

"Throughout the centuries, trade has joined and lifted us," he said, noting the improvement of living standards around the world. "But we still have a long way to go," noting that climate change remains a pressing danger, and sustainable development still an "aspiration."

### **Winners and losers**

Sharing the benefits of trade was a topic raised by many on Wednesday, with ILO chief Ryder noting that, in today's world, "there are winners, and there are also some losers."

As a result, while continued trade liberalisation is "vital," this must also be paired with other policy interventions, he said, noting particularly the importance of equity and sustainability.

One key example of where problems have arisen, he noted, involve the dangerous working conditions in some Bangladesh factories, which came into focus last year following the Rana Plaza disaster. From this, he noted, it is important to both understand how supply chains operate in the global economy, but also to match trade liberalisation with other complementary policies.

"Trade can be an agent for development," added Monsignor Richard Gyhra, the charge d'affaires at the Holy See mission, who delivered an intervention from Cardinal Peter Turkson – President of the Pontifical Council for Justice and Peace – on behalf of Pope Francis.

However, "for all freedom comes with responsibility," he continued, saying that free trade can only be called that "when it conforms with the demands of social justice."

"Trade can only matter to everyone when it benefits everyone, and when no one is discarded or thrown away," he said.

In his intervention, Kenyan Deputy President William Ruto similarly noted that "trade does not take place in a vacuum."

Speakers on Wednesday focused also on consumer rights, with Chilean President Michelle Bachelet – who addressed the plenary via video message – saying that "quality trade practices are linked to progress of our societies."

"Each age has its own demands. It is not a mystery to anyone that the current trade dynamic has become more complex," she added, noting that building trust in this day and age relies on establishing a culture of consumer rights. The changing nature of the global trade landscape was referred to by many participants in the morning's proceedings, who also noted the evolving public perception of the subject.

"[Trade], at the end of the day doesn't happen without consumers," concurred Consumers International Director-General Amanda Long during the plenary.

This week's discussions, she added, are an opportunity to "put on the table that we need to rethink trade... put consumers at the heart of the whole conversation, and they're not at the moment."

### **More information**

Further details on the 1-3 October Public Forum, including audio and video from the plenaries on Wednesday and Thursday, are available [here](#). The event website also includes a full programme of the various workshops and working sessions being held, together with topics for discussion and practical information.

ICTSD reporting.

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## NOTICES

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### Revision

Update: A previous version of last week's (25 September) article on the EU's Economic Partnership Agreement negotiations with the East African Community countries mischaracterised the status of the bilateral talks between the parties. A revised version of the story, with a corrected headline and lead paragraph clarifying the current negotiations' status, is available [here](#).

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### Vacancy

The **International Centre for Trade and Sustainable Development (ICTSD)** – the publisher of Bridges Weekly – is looking for a managing editor for its Africa-focused publications, Bridges Africa (English) and Passerelles (French). The managing editor will lead ICTSD's communications efforts in engaging policy communities in Africa, with a focus on the intersection of trade and sustainable development. To learn more, or to apply, visit [the ICTSD website](#). The closing date is 17 October 2014.

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## EVENTS & RESOURCES

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# Events

### Coming Soon

2 October, Washington, US. ABENOMICS: WILL IT WORK FOR JAPAN AND THE REGION? This event, hosted by the Carnegie Endowment for International Peace and co-sponsored by the International Monetary Fund (IMF), will examine the current state of Japanese Prime Minister Shinzo Abe's "Abenomics" strategies and review their future prospects. Topics to be addressed by the panel include the recent IMF assessment on Abenomics progress to date; how the policies could affect flows of trade and capital; and the potential impact on sovereign funding and other markets in Japan and in the region. More information is available at the Carnegie Endowment [website](#).

2 October, online. LIVE WEBCAST: LATIN AMERICA'S MACROECONOMIC OUTLOOK IN AN INCREASINGLY UNCERTAIN GLOBAL CONTEXT. In light of the meagre growth prospects for Latin America, together with the increasing uncertainty of the global context, this event asks the question of what should policymakers do in response. A panel of experts will dig deeper into these questions during a discussion held by the Brookings Global-CERES Economic and Social Policy in Latin America Initiative. The event will be webcast online; to register or learn more, please visit the event [website](#).

8 October, online. WHAT THE NEW MULTILATERALISM MEANS: A DEVELOPMENT BANK LEADERSHIP PERSPECTIVE. The Peterson Institute for International Economics (PIIE) and the Centre for International Governance Innovation (CIGI) will host this panel discussion, featuring Suma Chakrabarti, president of the European Bank for Reconstruction and Development, and Donald P. Kaberuka, president of the African Development Bank. During the event, which will be webcast, panellists will discuss how banks are responding to shifts in the multilateral balance of economics and politics and the changing nature and setup of existing development and infrastructure banks. To register or read more, please visit the Peterson Institute's [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.

1-3 October: WTO Public Forum 2014: "Why trade matters to everyone"

6 October: Committee on Trade-Related Investment Measures

6 October: Trade Negotiations Committee

9 October: Working Party on State Trading Enterprises

### Other Upcoming Events

10-12 October, Washington, US. 2014 ANNUAL MEETINGS OF THE INTERNATIONAL MONETARY FUND AND WORLD BANK GROUP. This event will bring together finance

ministers, development ministers, central bankers, private sector leaders, and academics to review issues such as the global economic outlook, efforts to eradicate poverty, and the effectiveness of international aid. The annual high-level gathering will, as always, feature meetings of the International Monetary and Financial Committee (IMFC) and Development Committee, which are the policy steering bodies for those organisations. More information is available on the meeting [website](#).

13-16 October, Geneva, Switzerland. WORLD INVESTMENT FORUM 2014: INVESTING IN SUSTAINABLE DEVELOPMENT. This biennial high-level event, hosted by the UN Conference on Trade and Development (UNCTAD), will bring together nearly 4000 participants from over 140 countries in order to discuss investment-related challenges that have emerged in recent years. The conference aims to provide a platform for stakeholders to discuss "investment for development," with the goal of promoting investment flows that contribute to sustainable and inclusive development. More information on the meetings is available at the [UNCTAD website](#). A [multidisciplinary academic conference](#), focusing on "Shaping a Future Research Agenda for Investment for Development," will also be held on the occasion of the Forum.

24 October, London, UK. A GLOBAL ROLE FOR RENMINBI AND SHANGHAI: IS CHINA TRULY READY? During this Chatham House event, Wing Thye Woo, a professor at the University of California-Davis, Fudan University in Shanghai, and the Central University of Finance and Economics in Beijing – as well as the President of the Jeffrey Cheah Institute on Southeast Asia – will discuss the various challenges Beijing is facing in trying to promote the renminbi as an international vehicle currency and Shanghai as a top-tier hub for international finance. These challenges, for instance, include the potential of falling into the "middle-income trap" and improving the openness and safety of its financial markets. Other topics for review include the rise of India with relation to China. More information on this event, which is by invitation only, can be found [here](#).

9-11 November, Dubai, United Arab Emirates. SUMMIT OF THE GLOBAL AGENDA. This summit, convened by the World Economic Forum, will bring together more than 80 groups of experts from business, government, academia, and civil society to discuss latest developments in international trade, society and technology, and other related topics. The groups, which are from the WEF's Network of Global Agenda Councils, will work to provide a deeper understanding of the fundamental transformations affecting today's world and to brainstorm for innovative collaboration approaches to solve some of the most pressing global challenges. More information about the Summit is available [online](#).

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## Resources

THE STATE OF FOOD INSECURITY IN THE WORLD 2014. Published by the UN Food and Agriculture Organization (September 2014). This annual report takes stock of the estimated levels of undernourishment in the world, while also tracking progress to date in meeting the Millennium Development Goals and the World Food Summit hunger targets. This year's report calls for sustained political commitment in eradicating hunger, and places a particular focus on the experiences of seven select countries. To learn more, or to access the report in full, visit the FAO [website](#).

BRUSSELS BRIEFING ON ENVIRONMENT: ALL YOU NEED TO KNOW FOR OCTOBER 2014. By viEUws (September 2014). This video briefing by environment journalist Sonja van Renssen reviews various developments in EU environment policy, with a particular focus on the EU Commissioners-designate hearings; planned talks on the proposed market stability reserve for the EU's Emissions Trading System; and a review of the recent UN climate summit, among other topics. The video can be viewed [here](#).

"EUROPE CAN ENHANCE SECURITY OF SUPPLY BY OPENING ITS GAS MARKET TO THE US," CLAIMS ITRE CHAIR JERZY BUZEK. By viEUws (September 2014). In this video Jerzy Buzek, chair of the European Parliament's Industry, Research and Energy Committee (ITRE), notes that the reduction of energy prices and the enhancement of energy security in Europe are among his panel's top priorities. According to Buzek, the EU could guarantee its energy security by improving energy efficiency, diversifying supply, opening its gas market to the United States, fostering new energy production technologies, and turning to other energy resources. The official also defends the announced merging of the climate and energy portfolios at the European Commission by incoming President Jean-Claude Juncker, noting the linkages between climate and energy. To watch the interview, please [click here](#).

INTERNATIONAL TRADE BY COMMODITY STATISTICS, VOLUME 2014 ISSUE 3. Published by the Organization for Economic Co-operation and Development (OECD) (September 2014). This latest edition provides yearly data for the Czech Republic, Denmark, Iceland, Korea, New Zealand, the Slovak Republic, and Slovenia across a range of dimensions. The statistics feature not just these countries, but also their trading relationships with their partners. The information spans the years 2009-2013. The document is available [here](#).

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