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PREFERENTIAL AGREEMENTS

TPP Chief Negotiators Conclude Hawaii Meet as Washington Debate Continues

Chief negotiators from the 12 Trans-Pacific Partnership (TPP) countries wrapped up a weeklong meeting in the US state of Hawaii on Sunday evening, as part of a concerted push to conclude an agreement in the coming months.

Trade observers had been looking to the 9-15 March meet both for any announcements of progress on difficult areas, as well as any news of when a meeting of trade ministers might take place for making the tough political decisions needed to finalise a deal.

However, no announcement has been made yet of a possible date or location of the much-awaited TPP ministerial. Furthermore, the date and location of any subsequent chief negotiators' meeting had not been confirmed at press time, with a [statement](#) on the Canadian Department on Foreign Affairs, Trade, and Development website noting only that intersessional work will occur in the coming weeks.

Among the topics discussed last week, the statement said, were market access, intellectual property, rules of origin, state-owned enterprises, and textiles.

TPA breakthrough forthcoming?

Meanwhile, the debate in Washington over both the TPP's merits and the broader Obama trade agenda has shown little sign of abating in recent weeks, with reports indicating that the stalled negotiations on Trade Promotion Authority may soon advance.

Trade Promotion Authority (TPA), otherwise known as "fast track," allows the US executive branch to submit completed international trade deals to Congress for a straight up-or-down vote, without amendments. It also allows US lawmakers to set negotiating objectives for such agreements.

The previous version of TPA expired in 2007, and without it, analysts say, US trading partners are unlikely to make their toughest concessions in negotiations such as TPP.

The US is the largest economy in the Pacific Rim trade talks, followed by Japan, and officials say that the push to conclude the TPP negotiations this year stems partly from the apparent "political window" to ratify a final agreement before the preparations for the 2016 US presidential elections get underway.

US President Barack Obama's administration has said in recent weeks that it aims to conclude the TPP negotiations with its partners this year, with some trade officials from other member countries suggesting a deal within the coming months. (See Bridges Weekly, [5 March 2015](#))

"There's no deadline, but there's every prospect within the next two months that an agreement will be reached, because it's then got to go through political processes in 12 different countries, including the US which won't be easy," said Australian Trade Minister Andrew Robb in an [interview](#) with ABC Radio.

"But it is a 21st century remarkable agreement, so hopefully we can get there in the next two months, if we don't I think it'll have to wait until after the US election," the Australian official said.

However, negotiations in Washington on TPA reportedly hit a snag earlier this month, with US Senator Orrin Hatch declaring them "stuck" and suggesting a bill might not be ready for congressional consideration before April. (See Bridges Weekly, [5 March 2015](#))

Hatch, a Republican from Utah who chairs the Senate Finance Committee, has been negotiating draft TPA language with his Democratic counterpart on that panel, Oregon Senator Ron Wyden, along with Paul Ryan, the Wisconsin Republican who chairs the House Ways and Means Committee.

Wyden has reportedly been pushing for a mechanism in TPA that would allow lawmakers to revoke "fast-track" consideration if a trade deal is found not to meet the objectives outlined by Congress. The suggestion has been publicly rejected by Hatch, warning of the impact on the US' negotiating power with its partners.

"We've given them all kinds of changes," Hatch said on Tuesday, referring to his Democratic colleagues. "We've reached the point where I'm not going to diminish the workability of TPA."

However, the US senator also suggested that the TPA talks have lately been "making headway," telling reporters that he met with Obama this week on the subject.

Winning the backing of Democrats has been one of the biggest challenges for TPA supporters. While the proposed policy has significant Republican support, the pushback against Obama's overall agenda from more conservative wings of the party has made it essential to win some Democratic votes in Congress.

House Minority Leader Nancy Pelosi, the highest-ranking Democrat in her chamber, said on Tuesday that she hopes to find a path to "yes" on these trade deals, highlighting the importance of learning more about the TPP and other such agreements before making any decisions, according to comments reported by congressional newspaper The Hill.

Upcoming meetings?

With no set date for a ministerial in sight, speculation has built over other potential opportunities for TPP members to give a political push to the negotiations.

One major event on the calendar is the visit of Japanese Prime Minister Shinzo Abe to the US in late April, with meetings scheduled with Obama among others.

Japanese economy minister Akira Amari said this week that he is aiming to reach a bilateral deal with the US within the TPP context before Abe's visit to Washington, according to comments reported by the Reuters news agency.

Obama's own trip to Asia last year, which included a visit to Tokyo, had served as an opportunity for the US leader to hold a series of TPP-related meetings, despite the ultimate lack of a breakthrough on the US-Japan bilateral talks on agriculture and automobiles. (See Bridges Weekly, [1 May 2014](#))

Trade ministers from the Asia-Pacific Economic Cooperation (APEC) countries are also set to meet in the Philippines from 23-24 May. The 21-country APEC group includes all 12 TPP members, and past APEC meetings at both the ministerial and leaders' level have traditionally served as opportunities for TPP participants to gather on the sidelines.

ICTSD reporting; "House Dems ramping up engagement on trade," THE HILL, 17 March 2015; "UPDATE 2-U.S. Senate's Hatch says making progress on fast-track trade talks," REUTERS, 16 March 2015; "Senator Hatch Seeks Obama's Help in Negotiations Over Trade Bill," BLOOMBERG, 18 March 2015; "Canada faces tough choices in Pacific trade talks," AGWEEK, 14 March 2015.

INTELLECTUAL PROPERTY

UK Lawmakers Approve Plain Cigarette Packaging Legislation

The UK's House of Lords [approved](#) regulations mandating plain packaging for cigarettes on Tuesday, just days after the House of Commons backed the measure. The move makes the United Kingdom the latest country to introduce such a policy, following Ireland, Australia, and Uruguay.

The UK regulations involve standardising the packaging in which cigarettes are sold, such as by limiting the packages to a uniform brown exterior and white interior. The same applies to hand rolling tobacco, according to a [transcript](#) of the House of Lords debate, though cigars and pipe tobacco would not be included.

Furthermore, the policy allows only "specified text" – such as the brand – in a standard font, and limits the packages to set shapes. The regulation does not change any of the existing labelling policies, including those regarding health warnings.

The measure passed in London this week will enter into effect in May 2016.

Growing trend

The UK decision came fast on the heels of Ireland's own approval of similar legislation, which is set to be fully implemented by 2017.

One of the countries at the forefront of the international plain packaging debate has been Australia, which was among the first to approve such legislation back in late 2011. The policy took effect a year later in order to give tobacco companies time to make the necessary changes in their production methods. (See Bridges Weekly, [21 March 2012](#))

Uruguay had already enacted regulations in 2009 that require health warnings to cover 80 percent of each cigarette package, prompting tobacco giant Philip Morris to file a legal claim in 2010 under Uruguay's bilateral investment treaty with Switzerland. That [case](#) is being heard at the World Bank's International Centre for Settlement of Investment Disputes (ICSID), with the result still pending. (See Bridges Weekly, [10 March 2010](#))

Since its introduction, Canberra's plain packaging measure has also come under fire across a range of legal fronts, ranging from suits filed by tobacco companies under bilateral investment treaties to state-to-state disputes at the WTO.

Despite the above-mentioned legal challenges, various other countries are weighing whether to follow suit with their own plain packaging measures. Norway is said to be conducting its own consultations on potentially introducing such a policy, while France, New Zealand, and Turkey are also among those considering enacting their own rules.

Backers of the new measures introduced in the UK and Ireland also say that these are legally sound, and government officials have vowed to defend them in court if necessary.

The EU, for its part, [approved](#) last year a revision to its 2001 tobacco directive that aims to improve the operation of the 28-nation bloc's internal market for tobacco products while also meeting public health objectives. Officials explained at the time that new scientific evidence – such as the implication of health warnings, or the use of flavourings – as well as

the introduction of e-cigarettes and other new products made it essential to update the rules.

While the 2014 EU tobacco directive does allow for some space for branding, it does also give member states the option of going further and implementing plain packaging policies if they wish to do so.

EU member states have two years from the directive's entry into force to bring their national legislation in line with the directive's terms. However, given the potential lag time in selling off all existing stock that complies with the earlier 2001 directive, all products with more than three percent market share in the EU will be allowed a phase-out period of four years.

Public health

Anti-smoking and cancer groups have lauded the decisions made in London and Dublin, highlighting the precedent the new measures will set.

"As more countries implement plain packaging as well as tobacco exemptions in trade agreements, the world will be able to reverse the tobacco epidemic and reduce the estimated 1 billion tobacco-related deaths this century," [said](#) Action for Smoking and Health, a US-based anti-tobacco group, in a statement on Tuesday.

UK officials have cited the apparent success of the Australian example, including recent statistics from Cancer Council Victoria, a non-profit charity organisation, which found a dramatic drop in the prevalence of smoking in the country, as reason to adopt its own regulations.

Opponents, however, have noted conflicting data from other sources regarding the use of tobacco products, while also suggesting that tax hikes could be a factor in any smoking decreases in Australia. Some have also warned of the possibility of illicit tobacco trade in white cigarettes, as well as the ease of copying the plain packs, which could make it easier for illegal versions to enter the supply chain.

"Frankly, plain packs are little more than a smuggler's charter," said Lord Naseby during Tuesday's House of Lords debate, unsuccessfully tabling an amendment to block the regulation.

The politician, who withdrew his amendment after seeing it would not survive a vote, has also warned of the possibility that industries outside tobacco could be affected, while saying that the May 2016 start date does not give enough time to make supply production adjustments.

WTO result forthcoming

Over in Geneva, the Australian measure is facing legal challenges at the WTO from five of its trading partners – Cuba, Dominican Republic, Honduras, Indonesia, and Ukraine – who have charged that the measure is unnecessarily trade-restrictive. (See Bridges Weekly, [1 May 2014](#))

Australia's Plain Packaging Act, the complainants say, effectively undermines the protections provided to trademarks and geographical indications under WTO rules, making it difficult for their premium products to stand out in the marketplace and thus hindering fair competition.

The five countries have referred in their respective complaints to provisions in the WTO's rules on intellectual property and technical barriers to trade.

Australia, in turn, has said that the measure is necessary and justified under trade rules on public health grounds, given the need to tackle increases in cancer levels and other smoking-related problems. Canberra says that the Plain Packaging Act has already shown benefits in this area since its implementation.

A WTO dispute panel is reviewing the five complaints jointly and is expected to issue a ruling in the latter half of 2016. The outcome could then be subject to appeal by any of the parties involved, which would extend the timeline further.

In the interim, the topic has been repeatedly raised within other WTO committees, which sources say is unusual given that dispute settlement proceedings are still ongoing.

At a meeting last month of the WTO's TRIPS Council, which is tasked with administering the organisation's Agreement on Trade-Related Aspects of Intellectual Property (TRIPS), the Dominican Republic reiterated its longstanding concerns over the proliferation of plain packaging policies elsewhere, even before the release of a dispute settlement ruling.

The five WTO members that have challenged the Australian measure have asked that other members considering their own regulations wait until dispute proceedings are completed – a stance that has been opposed by Canberra, which has also said that it is inappropriate to comment on the ongoing case.

Other products to follow?

As the plain packaging debate continues over tobacco products, the possibility that this trend could spread to other industries – such as alcohol or unhealthy foods – has also been raised in public debate.

Indonesian officials, for instance, have already proposed legislation that would require the use of either plain packaging or health warnings to limit the use of alcohol.

Earl Howe, the UK's Parliamentary Under-Secretary of State for the Department of Health, said on Tuesday that his country's government has "no intention to extend standardised packaging to any product other than tobacco," citing tobacco's "uniquely harmful" nature as reason for treating it differently from other consumer products.

ICTSD reporting; "Plain tobacco packs get go-ahead in UK," THE AUSTRALIAN, 17 March 2015; "Plain packaging for cigarettes signed into law in Ireland," IRISH TIMES, 10 March 2015; "UK first EU country to adopt plain packaging for cigarettes," EURACTIV, 17 March 2015; "Junk Food and Booze Could Follow Tobacco in Plain Pack Push," BLOOMBERG BUSINESSWEEK, 23 January 2015.

FISHERIES

US Releases Plan to Tackle Illegal, Unreported, and Unregulated Fishing

A coalition of 14 US government agencies last Sunday [released](#) an action plan outlining domestic and international measures Washington will take over the next two years to tackle black market fishing activities.

Actions identified by the report include, among others, tackling illegal activity at landing point in ports, as well as including relevant provisions in international trade agreements and improving traceability across the supply chain.

Sunday's 44-page report focuses on the implementation of a list of 15 recommendations put forward by the coalition, known as the Presidential Task Force on Combating Illegal, Unreported, and Unregulated (IUU) Fishing and Seafood Fraud, last December.

US President Barack Obama set up the Task Force – which includes the US Navy and various government departments tasked with overseeing federal work on fish and wildlife, homeland security, and international trade – last June with a mandate to identify concrete policy options. (See BioRes, [19 June 2014](#))

Domestic markets, global challenge

IUU fishing and activities worldwide have increasingly been recognised by the international community as a major threat to already-fragile wild fish stocks, and can cause significant economic losses for legal operators, raise potential safety threats and environmental hazards, and fuel organised crime.

"Our nation's fisheries remain threatened by illegal, unreported, and unregulated fishing and seafood fraud, which negatively affects our markets," Bruce Andrews, US Deputy Secretary of Commerce, told journalists on Sunday.

"The Task Force's new strategic plan will aggressively implement recommendations to guarantee that US fishing fleets remain competitive in the global economy," he continued.

Estimates suggest that around 11-26 million tonnes of fish are illegally caught across the world's oceans each year, at a [cost of](#) between US\$10-23 billion. Fish are among the world's most traded food commodities. This high demand creates incentives for illegal activity, with IUU fish products frequently making their way into the global seafood market.

Given that the US imports more than 90 percent of its seafood, according to the US National Oceanic and Atmospheric Administration (NOAA), experts suggest that trade and market-based policy tools can be usefully deployed to tackle illegal activity and prevent black market fish from entering world markets.

"Illegal fishing and seafood fraud affect the American public and people around the world. The plan we are releasing today puts us on course to tackle these complex global challenges," said Cathy Novelli, US State Department Under-Secretary, in a press release on Sunday. "It also gives new urgency to our work towards the strongest possible international tools," she added.

Port state measures

Sunday's document outlines steps for US federal agencies to work with the country's Congress to pass implementing legislation for an international deal dubbed the Port State Measures Agreement (PSMA).

Members of the UN Food and Agriculture Organization (FAO) approved an Agreement on Port State Measures to Prevent, Deter, and Eliminate IUU Fishing in November 2009. The PSMA outlines steps for countries to take in their ports to ensure that foreign vessels do not land or provide transit routes for IUU fish. The agreement includes requirements for port entry and vessel inspections.

In order to enter into force, the PSMA requires 25 signatories to ratify the deal, with only 11 having done so to date. The US Senate ratified the agreement last year; however, approval of implementing legislation by both chambers of Congress is still required.

According to the Task Force's action plan, NOAA and the State Department will provide briefings for members of Congress in the coming months. The US will also identify at least 14 countries supportive of the PSMA and work with these to help ensure ratification by the end of this year. This could include efforts to support, and provide technical assistance to, developing countries seeking to ratify and implement the agreement.

Free trade agreements

Steps related to international free trade agreements are also listed in Sunday's document. One recommendation stipulates that US trade negotiators should include enforceable environmental measures such as those relevant to tackling IUU fishing in a regional trade agreement with 11 other Asia-Pacific nations known as the Trans-Pacific Partnership (TPP). The White House has said that these trade talks should be concluded this year.

"The Trans-Pacific Partnership is on track to include pioneering commitments to prohibit some of the most harmful fisheries subsidies, as well as combat IUU fishing," said Michael Froman, US Trade Representative, in a [press release](#) this week.

Eight of the world's top 20 global seafood producers are participants in the TPP and the 12 countries together account for 25 percent of global catch and fish exports.

The report also indicates that US trade negotiators should continue to develop proposals with the EU on enforceable environmental provisions, including addressing IUU fishing as part of efforts to hammer out a Transatlantic Trade and Investment Partnership (TTIP) between the two economic giants. The US and the EU are among the largest importers of fish products.

Fisheries subsidies

The Task Force's document also includes a separate section relating specifically to eliminating harmful fisheries subsidies that contribute to excess fishing capacity, overfishing, and IUU fishing by the end of the decade.

Implementing steps in this section also reiterate the importance of ensuring that the final TPP and TTIP agreements include commitments on fisheries subsidies as well as enhancing transparency and reporting requirements for such subsidies.

Over the next two years, US trade negotiators should also continue to pursue commitments on disciplining harmful fisheries subsidies at the WTO as well as on greater transparency in fisheries subsidy notifications, according to the document.

A mandate to discipline fisheries subsidies is part of the negotiations on rules under the WTO's 2001 Doha Development Agenda. In 2005 trade ministers further stipulated that the Doha Round talks should seek to include a prohibition on certain subsidies that contribute to overcapacity and over-fishing.

WTO members are now in the process of drafting a work programme aimed at concluding the Doha Round. However, it remains unclear as to whether and in what form talks on disciplining fisheries subsidies will be included in this effort, according to trade sources.

Customs, capacity building, traceability

Sunday's document also includes several other trade-related tools to tackle IUU fishing. They include leveraging existing and future Customs Mutual Assistance Agreements (CMAAs) to share information and support investigations on seafood fraud.

One section also outlines steps for US agencies to work with donors, multilateral institutions, and foreign governments to help build capacities for sustainable fisheries management in developing country fish exporters.

Some poor countries have raised concerns around the challenges of meeting sustainability standards and difficulties tackling IUU fishing. These include, for example, a lack of proper coast guards and of fishing vessel monitoring systems.

The Task Force will also develop, within the next six months, a list of the types of information and operational standards needed for an effective seafood traceability programme focusing on fish species at particular risk from IUU fishing. The Task Force will then establish by mid-2016 the first phase of a risk-based traceability programme to track seafood from the point of harvest up to entry into the US market.

The document specifies that the programme will be developed in accordance with WTO rules. The programme will initially only be applied to a list of products of particular concern. By December 2016, however, the Task Force will identify the next steps for expanding the programme to all seafood entering US commerce.

While the Task Force's document was welcomed by a number of stakeholders and conservation groups, some also expressed concern around the feasibility of implementing several of the proposed actions. Industry voices are among those who have acknowledged that IUU fishing requires action.

"There is a need for this and we need to bring attention to the problem," Gavin Gibbons, a spokesman for seafood industry producers the National Fisheries Institute, told The New York Times on Monday.

ICTSD reporting; "Action plan to combat IUU fishing and seafood fraud," FIS, 16 March 2015; "U.S. Announces Plan to Combat Illegal Fishing," THE NEW YORK TIMES, 16 March 2015.

AFRICA

Launch of African Tripartite FTA Set for June

The launch of a 26-country African trade deal will now take place in June during the third Tripartite Summit between the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC), and Southern African Development Community (SADC), sources have confirmed.

This Tripartite Free Trade Area (TFTA), once enacted, would bring together these three regional economic communities, COMESA, SADC and the EAC, which are jointly hosting the June event. The dates of the meet were not yet confirmed at press time.

The countries covered under the TFTA would range from Egypt to South Africa, a group that has a combined population of 625 million people and an aggregate GDP of US\$1 trillion. These figures represent half of the African Union's membership and 58 percent of the continent's economic activity, according to COMESA.

Negotiations to launch the TFTA began in 2011, when heads of state from the Tripartite countries adopted [a declaration](#) aimed at establishing an FTA that emphasised market integration, infrastructure, and industrial development as the three main pillars. [The negotiating principles](#) and related [roadmap](#) were also adopted during this summit.

New deadline

The launch of the TFTA was originally planned for December 2014 at the Tripartite Summit of Heads of State and Government in Cairo, Egypt.

However, it was then delayed and rescheduled for the first quarter of 2015, according to a draft report of the senior official's meeting that preceded the December African Union Conference. (See Bridges Africa, [10 December 2014](#))

This past January, Fatima Acyl, AU Commissioner for Trade and Industry indicated that the TFTA would be launched in May in Cairo, Egypt. (See Bridges Africa, [2 February 2015](#))

After the TFTA launch in June, negotiations to establish a continental FTA across Africa are expected to begin shortly thereafter.

More progress expected

Last month, Malawi hosted the 11th Tripartite Trade Negotiations Forum (TTNF), with discussions geared toward finalising work in various areas such as tariff offers, rules of origin (RoO) regimes, trade remedies, dispute settlement, and movement of business people.

"The meetings in Malawi did not achieve as much as we expected," said one source involved in these negotiations.

Apart from RoO, the other difficult negotiating areas include trade remedies and the dispute settlement mechanism, the source said.

Rules of origin

The COMESA-EAC-SADC troika faces significant challenges in harmonising differential RoO, which have so far impeded inter-regional trade and the creation of regional value chains. One of the key challenges involves finding an acceptable framework for RoO, as the EAC and COMESA regimes in this area are significantly different from the one used by SADC.

Experts such as Eckart Naumann from the Trade Law Centre in South Africa have pointed out that 56 percent of the RoO vary across the three regional economic communities.

The TTNF agreed during their previous round of discussions last October that "where rules of origin among the three RECs are common or identical, these will be adopted as Tripartite rules without engaging in negotiations on these rules."

At their February meeting, the TTNF then considered the need for a legal instrument for the operationalisation of the interim rule of origin for the Tripartite trade deal.

Currently the following option to operationalise rules of origin under the TFTA has been suggested: where rules are common, 35 percent ex-works costs (distribution and logistics) has been retained as an interim option to define the local input that is required for finished products to be considered TFTA goods. If enacted, such a move could mean that products on which this value-added criteria of 35 percent ex-works cost would apply could gain duty-free regional market access.

Work on rules of origin is likely to continue after the launch of the TFTA as part of the "post signature activities," one trade observer said.

Discussions related to rules on specific products will be more "gradual," although "it is not expected that such work will be completed prior to the launch."

Trade remedies, dispute settlement

The annex dealing with dispute settlement has been concluded by a technical working group and will be considered at upcoming TTNF meetings. Deliberations on dispute settlement and trade remedies have been deferred to the next TTNF.

The discussions on these topics have been particularly challenging given the lack of consensus on the approach and content of trade remedy disciplines in the planned Tripartite Free Trade Area, according to a negotiations progress report from the 10th TTNF held in Bujumbura, Burundi last October.

Another TTNF will take place in the coming months where "more concrete progress should be achieved," according to the source.

Tariff liberalisation

Fifteen countries had made offers by the time of the third Tripartite Sectoral Ministerial Committee (TSMC) on Trade, Finance, Economic Matters, Home and Internal Affairs, which also took place last October in the context of the 10th TTNF. The other Tripartite member states have since been in the process of exchanging tariff offers.

At the October meeting, those member states that have not exchanged tariff offers were urged to do so by 30 April 2015.

The Tripartite Task Force was also tasked with filling Annex 1 of the TFTA agreement with finalised tariff offers, while mobilising resources to assist those member states having trouble with completing their offers.

Tariff offers for all COMESA countries that are not in the EAC or SACU are “ready” except for Zimbabwe, the Democratic Republic of Congo, Eritrea, and Ethiopia, according to the negotiations progress report.

All EAC member states – Burundi, Kenya, Rwanda, Tanzania, and Uganda – have also completed their tariff offers.

Offers for Burundi, Kenya and Rwanda are based on the EAC acquis of 100 percent tariff liberalisation for existing FTA countries, subject to reciprocity. For example, the EAC has had exchanges with both SACU and Egypt of tariff offers and has since begun negotiations with both.

Tariff offers for non-COMESA SADC countries, including Swaziland, were not yet ready, the report said.

According to the report, the modalities for tariff liberalisation set a goal of 100 percent tariff liberalisation under the TFTA.

The principle of “building on the acquis” has been retained. As a result, countries that are members of existing regional economic community (REC) FTAs are not required to negotiate tariff liberalisation under the TFTA with other members of the same regional deals. However, they can consolidate their existing tariff liberalisation levels into the TFTA in line with the above-mentioned principle.

In addition, the modalities stipulate that for countries that have not yet fully liberalised their tariffs under their respective REC regimes, or between countries in existing REC FTAs, 60-85 percent of tariff lines should be liberalised upon the TFTA's entry into force. The text includes an additional period of five to eight years to liberalise the remaining tariff lines.

Movement of business people

The main stumbling block to progress on the movement of business persons has been divergent views over the interpretation of the ministerial direction that negotiations should take place in Phase I of the TFTA “on a separate track.”

Following guidance from the third meeting of the TSMC in October 2014, the Technical Tripartite Committee on Movement of Business Persons (TC-MBP) agreed to develop the terms of an agreement on the Movement of Business Persons. The COMESA-EAC- SADC Tripartite Technical Committee [settled](#) on a draft agreement on the movement of business persons within the region in November 2014.

While much progress has been achieved in the last two meetings of the TC-MBP, some important articles on the draft agreement are still outstanding and have to be resolved. These include guiding principles, temporary entry, stay and exit, and dispute settlement.

National consultations are ongoing on all these areas and a meeting of the TC-MPB could be held in July to resolve the outstanding issues.

Industrial development

The Tripartite Technical Committee on Industrial Development (TTCID) has adopted draft modalities for cooperation and a draft programme of work on industrial development.

This committee will now develop the appropriate legal instrument for cooperation in industrial development, as outlined in the Programme of Work and Road Map.

Linking TFTA, EU-EPAs

A briefing released this month by the European Parliament explains that the creation of the TFTA is “important” in the context of the Economic Partnership Agreements, as it would prevent a potential situation in which EU goods could enjoy better access to local markets than products originating from other African Regional Economic Communities (RECs).

The EU concluded its EPAs with three African regional economic communities last year, namely SADC, EAC, and the Economic Community of West African States (ECOWAS), after more than a decade of difficult negotiations.

All three African RECs are now expected to engage in the ratification process for these EPAs.

Next steps

Among other elements, the finalisation of negotiations on outstanding TFTA areas – especially in regards to rules of origin, trade remedies, and dispute settlement – will be introduced following the launch of a post-signature implementation plan.

After the launch, the deal will enter into force upon ratification of the text by two-thirds of the Tripartite FTA member states, according to [the revised 2010 draft agreement](#). The Tripartite FTA will then serve as a building block for the continent-wide free trade agreement, known as the Continental FTA.

During a meeting last month, Sindiso Ngwenya, Secretary General of the [Common Market for Eastern and Southern Africa \(COMESA\)](#) and Chair of the Tripartite Task Force, proposed that COMESA, SADC, and the EAC jointly launch negotiations with the ECOWAS for establishing an FTA. (See Bridges Africa, [6 February 2015](#))

ICTSD reporting.

DISPUTES

Indonesia Files WTO Challenge Against US Trade Remedies on Paper Products

Indonesia has formally challenged a series of US anti-dumping and countervailing measures on imports of coated paper used for high-quality print graphics, with the Asian archipelago filing a request for consultations at the WTO last Friday.

Under WTO rules, countries are allowed to apply retaliatory measures against imports that are sold within their borders at below normal value – a practice known as “dumping” in trade parlance – while countervailing duties are meant to target instances of allegedly unfair subsidies being provided by governments to domestic producers.

The measures currently challenged by Indonesia stem from a September 2009 investigation by the US Commerce Department. The probe was launched following a request by four petitioners and covered imports of coated paper products from Indonesia and China during 2007-2009.

The probe ultimately led to US authorities imposing anti-dumping duties of 20.13 percent and countervailing duties of 17.94 percent on these goods in November 2010.

Indonesia has now challenged these measures on both substantive and procedural grounds, citing provisions of the WTO’s Antidumping Agreement (AD) and Subsidies and Countervailing (SCM) Agreement in its consultations request.

Under the SCM Agreement, one of the factors involved in determining the presence of a subsidy is that the alleged subsidy must confer a benefit and be specific to certain enterprises within the granting authority.

Indonesia claims that the US Commerce Department, which is tasked with Washington’s trade remedy investigations, erred in its determinations of “benefit” and “specificity.”

For instance, the US agency allegedly failed to determine properly whether Jakarta provided standing timber for adequate remuneration. Indonesia also claims that the US Commerce Department failed to examine whether there was a “subsidy programme,” along with failing to identify the entity providing the alleged government support, and therefore was wrong to determine that it was specific to an enterprise.

In Indonesia’s view, the US authorities also wrongly applied adverse facts available without assessing information provided by Jakarta in examining the allegedly forgiven debt – one form of financial contribution, which is another element for determining a “subsidy.”

Indonesia has also challenged the determination of threat of injury to US domestic industry and the existence of a causal relationship between the imports and the injury in both Washington investigations.

Under WTO rules, the finding of injury to a domestic industry and the causal link are preconditions for imposing anti-dumping and countervailing duties.

China dispute in the background

The coated paper industry across various Asian countries has been the subject of several anti-dumping (AD) and countervailing duty (CVD) investigations by US authorities in recent years.

The first investigation was launched upon the request of one US company against imports from Indonesia, Korea, and China during the 2004-2006 period, with the investigation leading to a finding of no injury to domestic industry in late 2007. Notably, this marked the very first combined AD/CVD investigation against China; previously, non-market economy countries were not the subject of US countervailing investigations.

Beijing had challenged US countervailing duties against various Chinese products in 2012 ([DS437](#)). The WTO Appellate Body granted a mixed victory in China's favour last year. (See Bridges Weekly, [17 July 2014](#))

Unlike Indonesia, China had challenged only the imposition of the countervailing duty measures under 17 investigations conducted by the US Commerce Department between 2007-2012. These involved a range of products, including coated paper during 2009-2010, and therefore reflected different litigation strategies.

For instance, China referred to the coated paper investigations as evidence that the US Commerce Department deemed, as a general rule, that majority government-owned entities are public bodies within the meaning of Article 1.1(a)(1) of the SCM Agreement.

These investigations also served as part of China's argument that the US Commerce Department has actually treated state-owned enterprises (SOEs) as public bodies, which the US agency used as justification for applying an out-of-country benchmark in the context of the benefit analysis. The dispute panel and the Appellate Body supported the former argument, while rejecting the latter.

On the other hand, referring to the coated paper investigations, China had similarly claimed that the US agency failed to identify a "subsidy programme" and a "granting authority" in determining "specificity" in those inputs provided by the government. The Appellate Body reversed the panel's findings against Beijing's claims, but saw limited value in completing the related legal analysis.

Next steps

Under WTO rules, the parties must hold consultations for a minimum of 60 days in an effort to resolve the dispute. If these consultations fail to lead to a result, Indonesia may request the establishment of a panel to hear its claims.

ICTSD reporting.

PREFERENTIAL AGREEMENTS

Timing of EU-India Trade Talks Reboot Unclear after Summit Cancellation

A planned April summit between the EU and India has been cancelled, officials confirmed, leaving unclear when the next opportunity might be to reboot bilateral trade talks between the trading partners.

An EU parliamentary delegation is visiting India this week, having planned to lay the groundwork for the upcoming summit between Indian Prime Minister Narendra Modi and his EU counterparts. Officials on both sides have told news media that they are interested in reviewing past areas of trade disagreements to see if they can inject momentum into the long-running talks.

Some officials have indicated that the postponement could be to the discussions' benefit. Indian foreign secretary Kanwal Sibal told the LiveMint news agency that the cancellation of Modi's visit to Brussels could allow negotiators "time to work on narrowing differences."

Eight years of talks

Negotiations for a bilateral pact began in June 2007, but after several rounds of talks the momentum dropped off in mid-2013, with no rounds being held since.

Among the broad range of subjects slated for treatment by the India-EU FTA are market access in goods, services, and government procurement; their investment framework; and labour and environmental issues.

The talks have long struggled to push past differences on areas such as geographical indications, insurance, investment laws, intellectual property rights, services, and automobile and wine tariffs.

Trade between Asia's third biggest economy and the 28-member EU has boomed in recent years, adding to the urgency of concluding the talks. Between 2003 and 2013, bilateral trade nearly tripled from €28.6 billion to €72.7 billion, according to EU [statistics](#).

Leadership changes

Recent leadership changes on both sides have been credited by some observers as providing a potential window for reinvigorating the trade talks.

Former Luxembourg Prime Minister Jean-Claude Juncker took over the role of European Commission President in November, while Modi took office in India last May.

The topic of a bilateral FTA already resurfaced during talks between Modi and outgoing European Council President, Herman Van Rompuy at last November's G-20 summit in Brisbane, Australia last November, Indian Ambassador to the EU Manjeev Singh Puri told LiveMint.

Van Rompuy has since finished his term at the EU Council helm, and has been succeeded by former Polish Prime Minister Donald Tusk.

"I think Modi is a man who wants to get things done," said Geoffrey van Orden, an EU parliamentarian from the UK who is leading the delegation to India this week, in comments to Reuters ahead of the trip. The MEP has suggested that a "realistic and meaningful" trade deal between the two sides should ideally be finalised by next year.

"We are intensifying efforts to reach out to [Commerce] Minister [Nirmala] Sitharaman," a person familiar with the EU discussions told the Hindu Businessline, an Indian newspaper, adding that Brussels is "ready to review all outstanding issues," in order to reach a deal.

ICTSD reporting; "EU-India summit off as Italian marines case rankles," REUTERS, 16 March 2015; "EU ready to discuss outstanding trade issues with India," THE HINDU BUSINESSLINE, 9 March 2015; "EU intensifying efforts for negotiations on India FTA," INDIAN EXPRESS, 9 March 2015; "Cancellation of India-EU summit regrettable, says European panel," LIVEMINT, "EU expected to reach out to India to restart FTA talks," LIVEMINT, 9 March 2015.

EVENTS & RESOURCES

Events

Coming Soon

22 March, worldwide. WORLD WATER DAY 2015. This year's theme for World Water Day is "Water and Sustainable Development," with a focus on the role of water in progressing towards a better, more sustainable future. UN-Water will provide resources, including an annual report, as part of the broader awareness activities planned for World Water Day. For more information about this event, please visit this [website](#).

23-27 March, Washington, US. 16TH ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY. This annual conference, organised by the World Bank Development Economic Research Group (DECRG), will engage professionals from civil society, the development community, academia, governments, and the private sector to discuss land policy and implementation. This year's meeting will follow the theme "Linking Land Tenure and Use for Shared Prosperity" and will focus on the implications of land tenure on socioeconomic factors and social welfare. For more information on the event, please visit this [website](#).

24 March, Beijing, China. POST-BALI WORK PROGRAMME AND ROAD TO NAIROBI: COMMEMORATING THE 20TH ANNIVERSARY OF THE WTO. This workshop, organised by ICTSD's China office and co-sponsored by the UIBE China Institute for WTO Studies and the UK Embassy in Beijing, will focus on the ongoing negotiations at the WTO to elaborate a Doha Round work programme. Participants will also discuss the long-term future of the WTO and the global trading system through 2025, with experts providing their views on China's role in this context. Please note that attendance to this event is by invitation only. More information can be found at the ICTSD [website](#).

24 March, London, UK. THE GEOPOLITICS OF CHEAP OIL. This seminar, hosted by Chatham House, will focus on the geopolitical and economic implications of the ongoing plunge in oil prices on areas plagued by economic instability, such as Russia, the Middle East, and North Africa. The expert panel will also delve into the potential consequences of low oil prices on those countries neighbouring Europe. For more information about this event, please visit the [website](#).

24-27 March, Cebu, Philippines. THE SECOND ASIA REGIONAL CONFERENCE: "SCALING UP AND MAINSTREAMING COMMUNITY-DRIVEN DEVELOPMENT." The World Bank, working jointly with the Philippines Department of Social Welfare and Development, the Asian Development Bank, and the Australian Department of Foreign Affairs and Trade, will host the second Asia Regional Conference on Community-Driven Development (CDD). The conference aims to facilitate dialogue among policymakers, practitioners, government officials, and researchers about the challenges associated with sustaining and building upon CDD programmes. Possible issues up for discussion include the institutionalisation of CDD programmes as well as the potential of CDD for enhancing living standards. For more information, please visit the event [website](#).

25-27 March, Antananarivo, Madagascar. MEETING ON THE SUSTAINABLE DEVELOPMENT OF AIR TRANSPORT IN AFRICA. This meeting, organised by the UN International Civil Aviation Organisation (ICAO) in partnership with the Civil Aviation Authority of Madagascar and the Ministry of Tourism, aims to discuss and implement measures geared towards optimising the sustainability of air transport in Africa. Main topics of exploration will include the relationship between air transport and tourism, the

role of international negotiations in achieving balanced liberalisation, and the cost of ensuring regulatory convergence. The event is projected to result in the adoption of a *Declaration on the Sustainable Development of Air Transport in Africa*. For more information about this event, please visit this [website](#).

25-27 March. Dresden, Germany. DRESDEN NEXUS CONFERENCE 2015. Organised by the UN University Institute for Integrated Management of Material Fluxes and of Resources (UNU-FLORES), this event is a follow-up to a workshop held in November 2013 entitled "Advancing a Nexus Approach to the Sustainable Management of Water, Soil, and Waste." This year's conference will assemble under the theme "Global Change, Sustainable Development Goals, and the Nexus Approach" and will involve representatives from UN organisations, UN University (UNU) institutes, international organisations, governments, and NGOs. The Dresden Nexus Conference will concentrate on the advantages of a nexus approach to the management of water, soil, and waste while addressing key issues associated with the use of such an approach. For more information, please visit the event [website](#).

25-27 March, Nairobi, Kenya. POWERING EAST AFRICA. This regionally-focused meeting will provide officials from Kenya, Uganda, Tanzania, Rwanda, Ethiopia, and Zambia an opportunity to reach out to international financiers, energy developers, and investors with the goal of unlocking investment in power transmission. Breaking the lock on such investment is expected to increase energy access in East Africa, where four out of five people are living without access to electricity, as well as enhance growth and economic development in the region. For further information, please visit the event [website](#).

WTO Events

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

23 March: Committee on Trade and Development – Special Session

23 March: Committee on Budget, Finance and Administration

24 + 26 March: Trade Policy Review Body – Pakistan

25 March: Dispute Settlement Body

26-27 March: Committee on Sanitary and Phytosanitary Measures

26-27 March: Working Group on Trade, Debt and Finance

26-27 March: Council for Trade in Goods

Other Upcoming Events

30 March, Geneva, Switzerland. FROM CRISIS MANAGEMENT TO VISION AND LEADERSHIP? THE G-20 AND THE EVOLUTION OF THE GLOBAL TRADE AND INVESTMENT REGIME. This event, hosted by ICTSD in partnership with the Graduate Institute, will focus on the role of the G-20 within the global trade and investment regime, with a specific focus on how the group can contribute in the coming years. Among the discussion topics for the event are the G-20's leadership role and the potential tensions posed by the various mega-regional trade deals under negotiation. Attendance to this event is by invitation only. More information is available at the ICTSD [website](#).

1 April, Paris, France. GLOBAL FORUM ON DEVELOPMENT: POST-2015 FINANCING FOR SUSTAINABLE DEVELOPMENT. The Organisation for Economic Co-operation and Development (OECD) will host the 2015 Global Forum on Development at its headquarters in Paris. The forum will provide a platform to discuss how developing countries put the global policy agenda into practice, how financing behind sustainable development goals (SDGs) can be monitored, and how development finance policy relates to its practice on the ground. The meeting will bring together experts, practitioners, non-state actors and policy makers to rally ideas in preparation for the third International Conference on Financing for Development (FfD3) in Addis Ababa, Ethiopia in July 2015. For more information on the forum, please visit the event [website](#).

13-14 April, Geneva, Switzerland. GLOBAL COMMODITIES FORUM. The Global Commodities Forum, organised by the United Nations Conference on Trade and Development and various partners, will convene on the theme of "Trade in commodities: Challenges and opportunities." The meeting will allow major stakeholders to discuss potential solutions to challenges facing the commodity economy in the past year, with a specific focus on the fall in oil prices. Participants will deliberate over the implications of recent economic shifts on resource-rich developing countries while also looking forward to the potential development implications of the current state of commodities markets and trade policy. For more information about the event, please visit this [website](#).

30 June – 2 July, Geneva, Switzerland. FIFTH GLOBAL REVIEW OF AID FOR TRADE: REDUCING TRADE COSTS FOR INCLUSIVE, SUSTAINABLE GROWTH. This event, hosted at WTO headquarters, will focus on the various actions underway to reduce trade costs, at levels ranging from the national, bilateral, regional, and multilateral, as well as the private sector and non-governmental. Participants will be asked to consider which actors are involved in what; how the issue of trade costs is being addressed by national governments and regional organisations in their planning; and whether sufficient progress has been made, and if not, how to improve it. To learn more, visit the WTO [website](#).

24-28 August, The Hague, Netherlands. SUMMER PROGRAMME ON INTERNATIONAL AND EUROPEAN ENVIRONMENTAL LAW. Organised by the T.M.C. Asser Instituut in cooperation with the European Environmental Law (EEL) Network and The Hague Environmental Law Facility (HELF), the second Summer Programme on International and European Environmental Law consists of a five-day programme of interactive lectures and a study visit to the International Court of Justice. This year's programme aims to enhance practical knowledge about climate change in the context of the legal aspects regarding sustainable energy, the current state of sustainable finance, the role of trade agreements in promoting sustainability, and other related topics. For more information about the programme, please visit this [website](#).

Resources

ENGAGING THE PUBLIC IN A NEW PROVINCIAL CLIMATE CHANGE AND GREEN ECONOMY PLAN: REDUCING EMISSIONS, ENHANCING OUR RESILIENCE TO CLIMATE CHANGE AND BUILDING A GREEN ECONOMY. Published by the International Institute for Sustainable Development (IISD) (January 2015). This paper provides background information about the Canadian province of Manitoba's current and expected actions to address climate change and move towards a greener economy. Nearly three years ago the Manitoba provincial government adopted a plan known as *TomorrowNow*, which outlined its commitments to being a greener province. The plan incorporated the results of several IISD dialogue sessions on climate change and the economy with stakeholders on the subject. The full report can be accessed [here](#).

VALUE OF WTO TRADE AGREEMENTS IN A NEW KEYNESIAN MODEL. By Giovanni Ganelli and Juha Tervala for the International Monetary Fund (IMF) (February 2015). In this working paper the authors propose that under a New Keynesian model, unilateral trade liberalisation diminishes welfare due to terms-of-trade deterioration, creating incentive for governments to negotiate trade deals instead. The report finds that the value of an agreement that cuts tariffs by one percentage point is between 0.5 percent and 2 percent of consumption – far greater than in other trade models. The framework used incorporated factors such as imperfect competition and endogenous labour supply, according to the paper. The entire report can be accessed [here](#).

WHY TRADE COSTS MATTER: THE 5TH GLOBAL REVIEW OF AID FOR TRADE. By Michael Roberts and Marion Janson, published by the International Trade Centre (December 2014). This article in the International Trade Forum Magazine explains how high trade costs impair the economic development of many developing countries by hampering their ability to take full advantage of opportunities in other markets. The authors call for action to reduce the costs faced by developing countries in order to achieve the goals of the post-2015 development agenda, which are still under negotiation. The article comes months before the WTO's Fifth Global Review of Aid for Trade, which is scheduled to take place in Geneva from 20 June to 2 July 2015. The article can be accessed [here](#).

TOPIC GUIDE: URBAN POVERTY, URBAN POLLUTION AND ENVIRONMENTAL MANAGEMENT. By David Satterthwaite of the International Institute for Environment and Development (IIED), published by the UK Department for International Development (DFID) (March 2015). This Topic Guide showcases current knowledge about the environmental impacts of urban areas, specifically highlighting urban pollution and the practices designed to reduce it. The author focuses on the relationship between poverty and pollution in urban areas and the spill-over effects that urban pollution can have on neighbouring areas and inhabitants. The Guide looks at the connections between urban challenges and overarching global issues, especially climate change, and identifies their consequences for development. The full report can be downloaded [here](#).

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