

# BRIDGES WEEKLY

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## GLOBAL GOVERNANCE

### Australian Leadership Reshuffle Sparks Questions on Possible Policy Shifts

Malcolm Turnbull was sworn in as Australia's new Prime Minister on Tuesday, following a flurry of political activity late on Monday night that concluded with the ousting of incumbent Tony Abbott. The surprise switch just two years into Abbott's term has drawn questions over the potential policy shifts that could ensue, particularly on climate policy.

Liberal Party lawmakers voted Turnbull in by a tight margin of just ten votes, with 54 in support compared to 44 for Abbott.

This makes Turnbull the fourth person to hold the Australian prime ministership in just over five years, while putting an end to the months-long speculation as to the future of Abbott's tenure. Abbott had struggled to hold the confidence of his own party since being elected in 2013, and was severely weakened after a [failed](#) leadership coup last February.

"My pledge today is to make this change as easy as I can ... There will be no wrecking, no undermining, and no sniping," [said](#) Abbott outside the Canberra Parliament House in his last speech as prime minister.

#### Economic performance, climate divisions

Analysts say that rising concerns over economic growth, a high unemployment rate, and disagreements on climate policy have likely contributed to this government overhaul.

According to national data [released](#) last week, the Australian economy grew approximately two percent over the past year, well below the country's long-term average annual growth rate of 3-3.25 percent.

"Ultimately, the prime minister has not been capable of providing the economic leadership our nation needs. He has not been capable of providing the economic confidence that business needs," [said](#) Turnbull in his speech to parliament on Monday after announcing his bid for leadership and resigning as communications minister.

Turnbull has promised a change of pace and says he hopes to reinstall confidence in the Liberal Party before the next federal election is held in mid-2016, where he is expected to face off against Bill Shorten, the leader of the Labor Party.

The new government "will be focused on ensuring that in the years ahead, as the world becomes more and more competitive, and [as] greater opportunities arise, we are able to take advantage of that," [said](#) Turnbull in his first formal announcement after hearing the results of Monday's vote.

Julie Bishop retained her position as Australia's foreign minister and deputy leader of the Liberal Party and it is expected that Turnbull will announce his cabinet members by the end of this week.

### Locking down ChAFTA

Experts [speculate](#) that the growing domestic opposition to the China-Australia free trade agreement is one reason why some members of the Liberal Party questioned Abbott's leadership credibility, despite his earlier successes in concluding negotiations for trade deals with Japan and South Korea, both of which were later ratified.

During his tenure, Abbott's policies [largely](#) focused on expanding economic growth by increasing exports of Australia's three top commodities, including iron ore mineral, coal, and liquefied natural gas (LNG).

In 2014, iron ore exports comprised [56](#) percent of Australia's exports to China, one of Australia's key Asian trading partners.

The recent economic turbulence in China has resulted in decreased demand for Australian exports and is among the leading causes of the current economic downturn there, [according](#) to some experts.

In recognition of Australia's vulnerabilities and to increase competitiveness, Abbott attempted to diversify an export-focused economy by making progress on a China-Australia free trade agreement that has been a decade in the making.

The deal formally referred to as ChAFTA witnessed a landmark event in June when both countries formally [signed](#) the 17-chapter long [agreement](#). (See Bridges Weekly, [25 June 2015](#))

The FTA would substantially increase Australia's access to certain Chinese services sectors, while also making 85 percent of Australian goods exports duty-free upon entry into force, moving to 95 percent over time, among other provisions.

However, recent pushback from labour union leaders, as well as concerns raised by some Labor Party members over whether the deal could negatively impact domestic labourers, has put the agreement's future in jeopardy. (See Bridges Weekly, [9 September 2015](#))

Turnbull has repeatedly [voiced](#) support for this trade agreement in the past, and made specific reference to the deal's importance as a "foundation to prosperity" during his [speech](#) on Monday explaining why he was challenging Abbott to be premier.

The Liberal Party is now looking to Turnbull to build [consensus](#) between lawmakers ahead of a vote expected before year's end on the enabling legislation that would allow the agreement to enter into force. Prior to the vote, a joint parliamentary committee is set to release a report regarding the FTA in mid-October.

## Climate policy scuffle

The leadership reshuffling has also drawn the interest of climate watchers, given the long-standing differences between Turnbull and his predecessor on this subject.

Abbott passed sweeping climate policy reforms during his time in office, most particularly the repeal of the country's controversial carbon tax, which in turn resulted in a [cascade](#) of criticism from both the international community and industry experts [tired](#) of policy uncertainties. (See Bridges Weekly, [17 July 2014](#))

The carbon tax was in place for barely two years, having been enacted during the tenure of then-Prime Minister Julia Gillard of the Labor Party. Had it remained in place, the tax would have transitioned into an emissions trading scheme this year.

In its place, Abbott put a voluntary emissions reduction scheme, entitled the [Emissions Reduction Fund](#), through which the government purchases emissions reductions from pre-approved projects on the basis of price per tonne of carbon dioxide, following an auction process.

The crediting and purchasing elements of that system are now in operation, with the safeguard mechanism of the plan due to debut next year. The [latter](#) aims to ensure that emissions paid for under the Fund are not counteracted by an increase of emissions in other sectors.

The removal of the carbon tax, government officials say, is causing a reduction in Australia's climate-warming greenhouse gas emissions. However, [statistics](#) differ, with some energy analysts and Labor Party lawmakers saying that domestic emissions are actually on the rise and that quarterly government statistics do not properly reflect long-term trends.

Earlier this year, Australia submitted a pledge to reduce national emissions by 26-28 percent below 2005 levels by 2030 to the UN process geared towards negotiating a new, universal climate deal by the end of this year. This agreement would replace the current Kyoto Protocol upon its expiry from 2020 onward and be composed of individual domestic climate action plans.

However, many analysts [pointed](#) to a daunting gap between the emissions that would result from current Australian policies and the emissions reductions set forth in the target. Thus, many experts have called for Canberra to put forth new domestic policies that would allow them to reach their mitigation goal.

The government has remained elusive on these national policies, elevating levels of frustration among some other countries more vulnerable to climate change impacts. The Marshall Islands foreign minister, Tony de Brun, has been among those strongly [advocating](#) for Australia to raise its climate action ambition.

Brun and other members of the Pacific Island Development Forum met from 2-4 September and released a [united call](#) for increased action on climate change from the international community, including for a long-term temperature goal of 1.5 degrees Celsius over pre-industrial levels.

Shortly following this announcement, the group [released](#) a declaration referring to the 1.5 degree goal, but using slightly less ambitious language on the subject. This was [reportedly in response](#) to pushback from Australia and New Zealand.

The countries instead "declare[d] that an increase of 1.5 degrees Celsius would severely exacerbate the particular challenges facing the most vulnerable smaller island states of the Pacific and urge all effort be made to stay within the global temperature goal."

The prospect of a new Australian leader with a stronger commitment to tackling climate change has boosted spirits among those in the international community, with some reportedly hoping that Canberra could bring a new climate strategy to the United Nations meet in December.

### **Turnbull on climate**

While many remain cautiously optimistic as to the direction of future Australian climate and energy policy, Turnbull is expected to tread lightly on the issue at first.

"Any change of the Liberal leadership is good, not just for Australia's climate policy but for the world's collective attempts to tackle climate change," [said](#) Richard Denniss, chief economist at the Australia Institute, in comments to RTCC reflecting on the change in leadership.

Turnbull has, however, already voiced his support for Abbott's climate policies. Analysts nonetheless predict that the new premier will ultimately make changes in this area, given his past support of emissions trading schemes. These decisions, analysts speculate, could take the form of various amendments spread out over time so as to not lose broader party support.

"The climate policy is one that has been very well-designed," Turnbull [said](#) this week, referring to Abbott's earlier initiatives. "It was a very, very good piece of work," he continued.

Bishop, the deputy party leader and foreign minister, concurred, [telling reporters](#) on Monday evening that she expects the climate targets announced by Canberra in December to continue.

Some experts speculate that Turnbull will start by amending and implementing just energy efficiency and renewable energy policies, as the contentious matter of carbon pricing was the issue that got him ousted as party leader by Abbott in 2009, when the Liberals were in opposition.

It is expected that Turnbull will frame these policies as tools to boost economic growth and aid in the recovery of Australia's economy, as this would be more likely to garner the support of more Liberal party lawmakers.

Any mention of carbon pricing is not expected until after the election next year; nevertheless, some climate policy watchers say this will understandably require time.

"I'm a realist, and changing policy is not something the new leader is going to do overnight," said Nathan Dunn, director of a solar technology company Enphase Energy Inc, in remarks to Bloomberg. "But my opinion is that Turnbull is not a climate sceptic and has a deep understanding of climate change and the challenges that Australia faces," he continued.

ICTSD reporting; "Australia's incoming prime minister seen moving cautiously on climate policy", REUTERS, 14 September 2015; "Green dreams stymied as Turnbull backs Abbott climate policy," BLOOMBERG, 14 September 2015; "Pacific leaders voice frustration over Australia's position on climate change," THE GUARDIAN, 8 September 2015; "Australian PM Tony Abbott ousted by Malcolm Turnbull," RTCC, 14 September 2015.

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## TRADE AGREEMENTS

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# European Commission Releases Draft Proposal on TTIP Investment Court

The European Commission released on Wednesday a long-awaited draft proposal on a possible “investment court system,” one that it says could replace the controversial investor-state dispute settlement system in all current and future investment negotiations – starting with the planned Transatlantic Trade and Investment Partnership (TTIP).

The [39-page draft proposal](#) released on Wednesday is not yet a formal text proposal to the US for the TTIP talks, the Commission notes. Rather, it is a document that will now be discussed with the EU’s 28 member states in the Council, along with the bloc’s parliamentarians, as part of the work toward developing a final, formal version for negotiation.

Negotiations with the US on this bilateral trade and investment deal are now over two years in, with reports generally indicating the talks to be lagging, despite a pledge to make a “fresh start” in 2015 and a call by G-7 leaders for at least an outline of a deal by year’s end. (See Bridges Weekly, [23 July 2015](#))

The talks specifically on TTIP investor protections and investor-state dispute settlement have been on hold since early 2014, after the European Commission announced it would be suspending these in order to solicit public comment on the matter. (See Bridges Weekly, [23 January 2014](#))

In January of this year, the final results of the public consultation were released. EU Trade Commissioner Cecilia Malmström then presented in May a concept paper outlining a proposal for a permanent multilateral investment court and appellate mechanism, as well as other possible reforms, in light of the main areas isolated by the public consultation as being in most need of improvement. (See Bridges Weekly, [15 January 2015](#) and [7 May 2015](#), respectively)

“Today we’re delivering on our promise – to propose a new, modernised system of investment courts, subject to democratic principles and public scrutiny,” Malmström [said on Wednesday](#), noting that the old system has led to a “fundamental lack of trust.”

Given that EU investors are those that use the current ISDS system the most, she added, the 28-nation bloc “must take the global lead on the path to reform.”

The US has long held that ISDS should be included in any final TTIP deal, despite facing its own domestic opposition to the mechanism.

The suggested reforms would not alter what is in already completed trade deals, such as the EU-Canada Comprehensive Economic and Trade Agreement (CETA), Malmström told reporters on Wednesday.

“The Canadian agreement is closed, we are not reopening that,” the EU trade chief said.

That particular deal has attracted significant public scrutiny over the ISDS question. While the agreement has been signed by both parties, the ratification stage is not yet completed. (See Bridges Weekly, [4 December 2014](#))

## **Court system**

According to the Commission's draft proposal, this new public Investment Court System for TTIP would feature both a first-instance Tribunal as well as an Appeal Tribunal, with publicly appointed, qualified judges.

The former tribunal would have 15 judges, including five EU nationals, five US nationals, and five from other countries. The latter tribunal would have six members, with two EU nationals, two US nationals, and two from other countries. The Appeal Tribunal would follow similar principles to that of the WTO's Appellate Body, which is the highest court at the latter organisation.

The allocation of these judges to specific cases would be done on a randomised basis – a change from existing practice, where disputing parties are able to choose the arbitrators that hear their cases.

Furthermore, the draft proposal includes an article specifically on "ethics," which would require that judges on both tribunals not be affiliated with any government; that these persons have "independence... beyond doubt," and that prohibit them from serving in cases where there may be a direct or indirect conflict of interest. Judges would also be prohibited from serving as legal counsel in other investment disputes

Should a disputing party deem that there is a conflict of interest for a tribunal judge, they may challenge the appointment, with procedures in place for the judge to either resign from that position or for the tribunal's president to hear the complaint and issue a decision.

## **Right to regulate**

One of the issues at the heart of the debate over ISDS provisions in trade and investment deals is what effects these rules and other investor protections may have on a government's right to regulate in the domestic public interest, such as regarding issues of public health and safety or protection of the environment.

The draft proposal thus includes language specific to the "right to regulate" question. Specifically, Article 2 affirms that the provisions "shall not affect the right of Parties to regulate within their territories through measures necessary to achieve legitimate policy objectives, such as the protection of public health, safety, environment or public morals, social or consumer protection or promotion and protection of cultural diversity."

The document also notes that its provisions "shall not be interpreted as a commitment from a Party that it will not change the legal and regulatory framework, including in a manner that may negatively affect the operation of covered investments or the investor's expectations of profits."

The Commission document also includes a series of fundamental principles of treatment that foreign investors would be able to rely upon when choosing to invest in a partner country. To file a complaint with the Investment Court, an investor would have to claim that one of these guarantees has been violated by a host country.

These include guarantees against expropriation without compensation; the possibility of transferring investment-related funds; commitments to ensure fair and equitable treatment and physical security; commitments that governments respect obligations to investors that are written and legally binding; and guarantees of compensation for those losses that arise in specific circumstances, such as armed conflicts.

### **Domestic versus international courts**

Another concern that has been raised in the past by ISDS opponents is whether such international courts would supersede the authority of domestic ones.

The draft proposal attempts to respond to such concerns, essentially suggesting that investors may first present cases domestically. However, if they wish to have their case heard by the Investment Tribunal – for instance, in cases where the domestic system does not have the needed investor guarantees – any ongoing domestic proceedings must then be withdrawn.

The document also includes a series of provisions regarding the interpretation of domestic laws when addressing these international investment disputes. For one, the Investment Tribunal's interpretation of a party's domestic law must be in line with that of domestic courts. Furthermore, the tribunal's interpretation would not be at all binding on domestic courts.

### **Months ahead**

The news comes ahead of a meeting between Malmström and her US counterpart – Trade Representative Michael Froman – in Washington on 22 September regarding the progress of the overall TTIP negotiations, according to Politico.

Such a meeting would serve as a planned “political stocktaking” ahead of additional TTIP negotiating rounds this year, though the dates and venues for those have not been formally announced. Whether a formal version of the Commission's proposal would be ready in time for the next negotiating round was not yet clear at the time Bridges went to press on Thursday, given the internal EU discussions that must first take place.

Alongside the TTIP talks, the EU executive also plans to begin work with other “like-minded countries” on a permanent International Investment Court – one that would eventually replace all investment dispute resolution mechanisms in EU deals.

ICTSD reporting; “EU Proposes New Trans-Atlantic Court for Trade Disputes,” WALL STREET JOURNAL, 16 September 2015; “TPP talks motor on,” POLITICO, 14 September 2015.

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## DISPUTES

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# WTO Arbitration in Country-of-Origin Labelling Case Gets Underway

The long-running dispute regarding Washington's country-of-origin labelling (COOL) requirements for livestock and meat imports is going through its final phase this week, as arbitration hearings began at WTO headquarters in Geneva over the level of countermeasures that Canada and Mexico may be permitted in the case.

Originally launched by Ottawa and Mexico City in 2008, the dispute ([DS384](#), [DS386](#)) is currently in its seventh year at the WTO and has become one of its most high-profile cases.

During this week's hearings, which were open to public viewing, parties proved to be at odds both over the appropriate level of countermeasures, as well as how to determine the amount of economic damage that Canada and Mexico have suffered over the years because of the labelling policy.

### Country-of-origin labelling on meat, livestock

The dispute concerns measures introduced by Washington regarding labelling requirements applicable to imported livestock and meat. Retailers were required to inform consumers of the origin of the products covered by the regulation, including beef and pork, with upstream meat suppliers obligated to provide retailers with information on the meat's origin.

Unlike the definition generally applied by countries, including the US, for customs purposes, making use of the rule of "substantial transformation" as the determinant of a product's origin, the definition of origin in the disputed COOL regulations instead makes this determination based on information regarding where the animals were born, raised, and slaughtered.

### Non-compliance found in US' amended legislation

In the original proceedings, both the panel and the Appellate Body found that the US regulation was not in line with global trade rules. (See Bridges Weekly, [23 November 2011](#) and Bridges Weekly [4 July 2012](#))

Notably, both the panel and Appellate Body found the US policy to violate Article 2.1 of the Technical Barriers to Trade (TBT) Agreement, on the grounds that it accorded less favourable treatment to imported Canadian and Mexican cattle and hogs than to like domestic products.

After those rulings, the US amended its COOL measure, imposing new point of production requirements to "enhance" the label's accuracy, with an aim to bring it into compliance with WTO rules. However, Canada and Mexico still considered the policy to be in breach of global trade rules and in response launched compliance proceedings.

In these subsequent proceedings, both the compliance panel and the Appellate Body found that the COOL changes failed to address the earlier WTO inconsistencies. (See Bridges Weekly, [23 October 2014](#) and [21 May 2015](#)).



### **Requested countermeasures**

Following the Appellate Body's ruling last May in the compliance proceedings, the dispute has now reached the final stage, in which the complainants may request the Dispute Settlement Body (DSB) to authorise the suspension of concessions under the relevant trade agreements if the respondent has not brought its measure into compliance.

In their respective requests filed in June, Canada asked for over C\$3 billion (US\$2.4 billion) per year in countermeasures, while Mexico requested US\$713.4 million, commensurate with the nullification or impairment of benefits that they say has resulted annually from the COOL policy.

Following the US' objection to the proposed level of retaliation, the original dispute panellists are now in the process of carrying out arbitration to assess the matter. WTO rules on dispute settlement provide that the level of the suspension of concessions or other obligations authorised by the DSB must equal the level of the nullification or impairment.

The US argues that that the levels proposed by Canada and Mexico far exceed the level of nullification or impairment, claiming instead that the appropriate level for Canada should be US\$43.22 million, and should definitely not exceed US\$128.71 million annually. Meanwhile, Mexico should be entitled to US\$47.55 million per year, and at most US\$78.95 million per year, the US says.

The US said that in determining such level, arbitrators must compare the level of trade from the complainant occurring in the presence of the WTO-inconsistent measure, versus the expected trade levels should COOL be brought in line with trade rules. The latter situation does not refer to the pre-COOL "status quo," Washington argues.

Comparing export volume and price data before and after the introduction of the COOL measure, Canada indicated that its cattle and hog industries have suffered "dramatic losses." Mexico, for its part, raised similar concerns.

### **Domestic price suppression, benefit**

During this week's hearings, the parties were at odds over whether domestic price suppression could be considered part of the level of nullification or impairment of benefits accruing under the covered trade agreements and thus be reflected in the level of suspension of concessions.

The US argued that effects on domestic prices could not be included, as a correct interpretation of the words "benefits accruing" would only encompass benefits accruing under the relevant trade agreements. For this dispute, those benefits relate to market access for foreign goods imported to the host country, not to the domestic market price of livestock, said Washington.

Canada replied that WTO dispute settlement rules allows for suspension of concessions for losses of benefits accruing to members directly and indirectly, and that therefore the term "benefit" should be interpreted broadly.

For Canada, the losses from domestic price suppression are the direct result, or at the very least an indirect result, of the WTO-inconsistency of the COOL measure. Furthermore, these price losses share the same causal link to the amended COOL measure as the export losses and are equally verifiable.

Similarly, Mexico argued that the concept of benefit under the WTO agreements is very broad and – referring to the ruling of the compliance panel – said that the wording in the agreements does not support a narrow reading of the concept.

More specifically, Mexico held that the concept of benefit was not limited to the content of the obligation that had been violated. Both complainants held that direct and indirect benefits are protected by WTO rules.

Mexico also indicated that there is a causal connection between the COOL measure and price suppression in its domestic market for feeder cattle. Barriers to US-bound exports, along with lower US prices for Mexican cattle, have directly affected Mexican market prices.

The parties also sparred over both the burden of proof that the US would have to meet in refuting the requested levels of countermeasures from Canada and Mexico, as well as on which economic methodology to use during the arbitration process.

### **Next steps**

At the end of the hearing on Wednesday, the arbitrator indicated that its decision is scheduled for late November.

According to WTO rules, the parties must accept the arbitrator's decision as final and cannot seek a second arbitration.

The DSB shall then be informed of the arbitrator's decision and shall upon request, grant authorisation to suspend concessions or other obligations in line with that decision, unless the Dispute Settlement Body decides by consensus to reject this request.

ICTSD reporting.

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## AFRICA

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# US, South Africa Find Common Ground in Bid to Resolve Poultry Row

The US and South Africa have reportedly made progress on the technical health and sanitary discussions related to the imports of poultry, pork, and beef meat from the United States, following a strategic dialogue held this week.

This development comes after growing frustrations from Washington over the alleged lack of implementation of the Paris agreement reached in June, which was meant to pave the way for the re-entry of US chicken imports to the South African market.

Since 2000, imports of certain US chicken products into South Africa had been subject to anti-dumping duties of above 100 percent, which US poultry meat exporters deemed unfair. Under the Paris agreement, South Africa committed to end these duties on US chicken and resume imports, initially at levels of 65,000 tonnes a year. (See Bridges Africa, [10 June 2015](#))

A separate set of actions was then envisaged in order to resolve the remaining sanitary issues related to poultry, pork, and beef after South Africa raised concerns over an avian influenza outbreak – an infectious viral disease of birds which can sometimes spread to poultry – in several US states. This led the former to delay the effective implementation of the agreement.

### A policy of "regionalisation"

The South African government welcomed the agreement by US and South African veterinary experts on the meat import issues as a breakthrough, according to [the Citizen](#), an online news platform. On poultry, experts settled on a protocol and health certification allowing for the import of poultry from areas in the US that are not affected by the virus.

[A statement](#) issued on Tuesday by South Africa's Ministry of Trade and Industry confirmed that the two sides aim to finalise the terms and conditions for poultry export certificates by 15 October in order to resume shipments from the US by year's end.

In a [letter](#) addressed to South African President Jacob Zuma last week, US senators Johnny Isakson and Chris Coon requested that Pretoria follow the World Organization for Animal Health (OIE) guidelines and implement a "policy of regionalisation for pathogenic avian influenza," along with adopting language for export certificates. They specified that without these issues being addressed and in place, US companies would not be in a position to ship any product, regardless of the terms of the Paris agreement.

According to commentators, the common understanding found this week appears to address this issue of "regionalisation," as South Africa agreed to only ban poultry imports from specific areas of the US affected by the virus.

Isakson is a Republican from Georgia while Coons is a Democrat from Delaware, both major poultry-producing US states. The two senators are also the co-chairmen of the US Senate Chicken Caucus and are members of the Senate Foreign Relations Committee, and have been pressuring the Obama Administration over the past year to block the renewal of South Africa's participation in the African Growth and Opportunity Act (AGOA) unless market access for American poultry exports was increased.

The lifting of similar health-related restrictions on US beef and pork was also discussed during this week's meeting. Both parties reportedly discussed possible South African exports of animal products to the US and exchanged information on the technical requirements to access American markets, reports the Citizen.

One source consulted on this issue indicated that a common ground might have been reached on pork and beef restrictions, but cautioned however that there were still additional issues to be dealt with before a full-fledged solution can be confirmed.

### **South Africa under pressure**

"We look forward to successful implementation of the Paris agreement so the United States and South Africa can at last leave this trade dispute behind," read the letter co-signed by the US senators to South African President Zuma.

The letter describes two processes that need to be completed by South Africa in order to make the Paris agreement effective. These include the creation of a rebate facility to legally exempt the annual quota amount from anti-dumping duties and the development of rules for allocation and administration of the quota through a transparent legal process.

"We are also disappointed to learn that there has been no progress in addressing South Africa's complete ban on US poultry due to avian influenza," reads the letter.

The letter also makes specific reference to the review of South Africa's eligibility under the new version of AGOA. In the context of such review, if the US President determines that South Africa does not meet certain requirements, the latter's eligibility could either be withdrawn, suspended, or limited. (See Bridges Africa, [15 May 2015](#))

This summer, the US Congress passed legislation to extend duty-free access to the American market for eligible sub-Saharan African countries for another decade through AGOA.

"Congress has made clear that the United States should not allow other countries to enjoy trade benefits under AGOA while actively undermining our trading interests," said Coons.

At stake are South Africa exports to the US of motor vehicles and citrus valued at US\$1.3 billion and US\$41 million, respectively.

ICTSD reporting; "US and SA agree on poultry imports," THE CITIZEN, 16 September 2015; "Poultry Dispute Threatens South African Trade With U.S.," THE WALL STREET JOURNAL, 13 September 2015; "Coons demands South Africa finalize poultry treaty," DELAWAREONLINE, 14 September 2015; "US meat row puts South Africa car exports at stake," FINANCIAL TIMES, 10 September 2015.

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## RENEWABLE ENERGY

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# EU Solar Industry Group Petitions for Extension of China Duties

EU ProSun has asked the European Commission to hold an "expiry review" over whether to extend anti-dumping and countervailing duties currently in place on imports of Chinese-made solar products, in a move that could lead to a resurgence of tensions between Beijing and Brussels on renewable energy trade.

Should the EU executive approve the request, this would lead to a mandatory extension of the existing duties until the review is concluded. A decision on whether to launch the review is expected by early December, when the duties would otherwise be set to end.

Should an expiry review be held, this could take up to 15 months, effectively leading to an extension of duties through early 2017. These reviews must include evidence that dumping, unfair state aid, and injury to EU producers would continue if the duties were to be lifted.

Conducting an expiry review would also lead to an extension of the 2013 price undertaking deal reached between various Chinese solar producers, the China Chamber of Commerce for Import and Export of Machinery and Electronic Products, and the European Commission.

The price undertaking agreement came after a heated disagreement between Brussels and Beijing over claims that Chinese solar modules and their components were receiving unfair state aid and being sold in the EU at prices below their normal value.

The agreement effectively allows participating Chinese exporters to avoid hefty anti-dumping and countervailing duties from the EU if they agree to respect minimum import prices. These must remove the injurious effects of dumping, along with meeting other conditions. Non-participating exporters must still pay the duties that were determined by the Commission two years ago.

EU ProSun, which says it represents over a dozen manufacturers that together make up over a quarter of solar cell and module production in Europe, had also been behind the complaints that first prompted the Commission to begin its trade remedy investigations into Chinese solar exporters in 2012. (See Bridges Weekly, [12 September 2012](#) and [14 November 2012](#))

### Building tensions

The deal reached in 2013 between the European Commission and participating Chinese producers had been heralded as a major breakthrough, following a bruising public debate between the two sides over several months.

Allegations over unfair practices in the trade of solar products have become increasingly frequent in recent years among major players in the industry, leading some analysts to dub them the "solar trade wars." The disagreements between China and major trading partners such as the US and EU on the subject have been especially heated, with multiple investigations being filed on all sides regarding alleged dumping and unfair state aid.

The size of the EU solar market, as well as the level of imports from China, had raised the stakes of the Commission's anti-dumping and countervailing duty investigations in 2013. Exports of these solar panels, wafers, and cells from China to the EU had amounted to €21 billion in 2011.

In recent months, however, some cracks have begun to emerge in the accord, with the Commission removing some Chinese producers from the price undertaking agreement on the grounds that these were not complying with the deal's terms. (See Bridges Weekly, [16 July 2015](#) and [7 May 2015](#))

The Commission is also in the process of conducting a "partial interim review" into the benchmark used as a reference in the 2013 price undertaking agreement, along with a separate investigation into whether Chinese exporting producers are avoiding the existing duties by re-routing part of their production processes through Malaysia and Taiwan. (See Bridges Weekly, [7 May 2015](#))

Separate to the above-mentioned investigations, the European Commission also [confirmed](#) last month that it would be increasing anti-dumping duties on imported solar glass from China, with duties now set between 17.5 to 75.4 percent. Solar glass is used primarily, but not exclusively, in manufacturing solar panels, with the EU domestic market in this product amounting to under 200 million euros annually.

EU ProSun Glass – a separate group made up of producers representing over a quarter of the bloc's solar glass production – had been behind the original complaint that led to the Commission's anti-dumping and countervailing duty investigations in this area. Both types of duties had been confirmed by the EU executive in April 2014. (See Bridges Weekly, [17 April 2014](#))

ICTSD reporting; "PV trade dispute: EU ProSun files request for expiry review of undertaking," PV MAGAZINE, 8 September 2015; "EU increases anti-dumping duties on Chinese solar glass," REUTERS, 14 August 2015; "EC to cut two more Chinese producers from minimum price agreement," PV MAGAZINE, 3 September 2015; "EU Solar-Panel Makes Seek Renewal of Tariffs on China," BLOOMBERG, 4 September 2015.

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## AGRICULTURE

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# EU Ministers Approve €500 Million Farmer Aid Package

EU agriculture ministers have approved a €500 million aid package to be disbursed to the farm sector, following a series of protests staged by thousands of farmers across the bloc against falling dairy and livestock prices.

An extraordinary meeting of the Agriculture Council was convened last week in Brussels to review this package of aid measures, with a subsequent meeting held this past Tuesday to discuss the terms in further detail. The European Commission said the aid was intended to help farmers deal with cash flow difficulties, as well as to stabilise markets and address problems with the functioning of the supply chain.

The decision to distribute aid, [said](#) European Commission Vice President Jyrki Katainen, is meant as a "robust and decisive response" to what some farm groups say is a crisis in the industry. The dairy sector is facing a "state of emergency," the UK's National Farmers Union has said, after a 20 percent fall in the wholesale price of milk in the past year.

### What's in the package – and what's not

However, the Commission appears to have resisted calls to raise the intervention price for milk – which some fear could distort markets both in the EU and abroad.

Commission officials say that while the response aims to address an exceedingly difficult market situation, this type of aid is not the ideal solution to the problem.

"We owe it to farmers to make it clear that this is not the appropriate policy response to the current situation," Katainen told ministers last week, insisting that increasing the intervention price would not increase farmer incomes.

"In terms of the clear market orientation of the CAP, the Commission does not believe that increasing the price for public intervention is consistent with that approach. And market orientation is a necessary foundation of our policy, to secure the future of European farmers," the Commission Vice-President added.

Member states will be able to advance up to 70 percent of direct payments under the terms of the aid package. This would include, officials say, voluntary coupled support – which essentially links subsidies to the type or volume of farm production – as well as young farmers' payments. Eighty-five percent of area-based rural development payments may now also be advanced.

Under current rules within the EU's Common Agricultural Policy (CAP), member states would otherwise be limited to advancing a maximum of 50 percent of direct payments and 75 percent of rural development aid.

Other measures included in the aid package involve new private storage schemes for dairy protein products and pigmeat; additional funding to promote both of those products; more efforts to tackle non-tariff barriers in third countries; and setting up a high-level group to focus on issues such as credit for farmers and financial and risk hedging instruments, among others.

## Supply, demand questions

Global dairy prices have been plummeting for the past several months. On the one hand, supply has been plentiful as a result of good weather boosting production. Farmers say they are also struggling to adjust to the deregulation of the dairy market, following the removal earlier this year of EU milk quotas that had been in place for the last few decades.

"The crisis originated with the sky-high milk prices in 2013 and the good grain harvests which meant feed prices were low," said Alan Matthews, Professor Emeritus of European Agricultural Policy at Trinity College Dublin, in comments to Bridges.

At the same time, demand has fallen due to a number of global factors. For example, Russia – one of the EU's biggest markets for dairy exports – has set an embargo on European food products as retaliation for the bloc's sanctions over the crisis in Ukraine. Meanwhile, a global oversupply of milk, droughts in certain member states, and decreased demand from China have all contributed to create a milk glut, the Commission noted in its [market analysis](#), resulting in difficult conditions for many dairy farmers.

"Global demand crashed, meeting the surge in supply, so prices have collapsed," continued Matthews.

The crisis has prompted high-profile demonstrations in Brussels and Paris as the bloc's agriculture crisis continues to deepen. In the UK, farmers have boycotted supermarkets over low prices, while their Lithuanian equivalents have dumped 30 tonnes of milk to highlight their precarious situation.

## Reactions

Following the news, British farming leaders have complained that the measures are insufficient and expressed disappointment that the European Commission is not intervening in the market to raise dairy prices. The milk intervention price that would trigger the Commission to buy milk and milk powder stands at €1.698.

Czesław Adam Siekierski, who chairs the European Parliament's Agriculture Committee, said last week that while the plan is welcome in that it could alleviate some of the burden farmers are facing, it "might very well fail to deliver if it is not accompanied with additional measures, including e.g. increase of intervention prices for dairy products, which are not up-to-date."

EU farm group COPA-COGECA has also [called for](#) an increase in the EU milk intervention price, with Secretary-General Pekka Pesonen referring to such a move as "crucial." The group has also called for other measures such as export credit insurance for the bloc's beef, pork, and milk markets.

However, some experts questioned whether the move to support farmers could create perverse incentives in the future. Matthews, for example, [wrote](#) in a series of blog posts that there was a risk that dairy industry participants might refrain from preparing for adverse market conditions if they come to expect taxpayer assistance when prices fall.

"In other words, why bother to prepare for a rainy day when we know that we can always tap into the EU budget when times get tough?" Matthews asked rhetorically.

ICTSD reporting; "Dairy Farmers at the Barricades," BLOOMBERG, 10 September 2015; "EU says milk price still 'reasonable'," EU OBSERVER, 26 August 2015; "EU refuses to increase intervention prices," THE INDEPENDENT, 9 September 2015; "UK farmers join Brussels protest over milk and meat prices," THE GUARDIAN, 6 September 2015; "Global factors put pressure on UK dairy," FINANCIAL TIMES, 19 August 2015; "EU dairy farmers get rude awakening in post-quota market," REUTERS, 28 August 2015.



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## EVENTS & RESOURCES

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# Events

### Coming Soon

17-18 September, Geneva, Switzerland. REVISED WTO AGREEMENT ON GOVERNMENT PROCUREMENT (GPA): AN EMERGING PILLAR OF 21ST CENTURY TRADE AND DEVELOPMENT. This event, hosted by the World Trade Organization and featuring Director-General Roberto Azevêdo as the keynote speaker, will focus on the revised Government Procurement Agreement (GPA) that entered into force in 2014. The event is aimed at enhancing technical cooperation and is being organised for participants from GPA observers and parties, WTO members and observers, and other interested policymakers and analysts. To learn more, visit the event [website](#).

18 September, Geneva, Switzerland and online. COTTON TRADE: POLICIES, RULES, AND DEVELOPMENT CHALLENGES. Organised by the International Centre for Trade and Sustainable Development (ICTSD), this meeting will address the impact of policies enacted by key countries on the production, consumption, and trade in cotton. The event is designed for policymakers, trade negotiators, and other actors in this field, and comes shortly ahead of the WTO's Tenth Ministerial Conference this December in Nairobi, Kenya. The event will be webcast live and panellists will be answering questions both from the audience and via Twitter, using the hashtag #ICTSDAG. More information can be found at the event [website](#).

21 September, London, UK. ANTICIPATING AND MITIGATING MAJOR DISRUPTIVE RISKS TO GLOBAL FOOD TRADE. This Chatham House event is part of a larger research project that aims to map key "choke points" in global food trade and identify related vulnerabilities in supply chains and trade routes. This meeting will focus specifically on current and potential trends and weaknesses in global food trade, as well as how to anticipate and account for potential disruptions. More information about the invitation-only event is available at the Chatham House [website](#).

23-24 September, New York, US. THIRD ANNUAL INTERNATIONAL CONFERENCE ON SUSTAINABLE DEVELOPMENT. Held at Columbia University in New York City, this year's conference will be held under the theme "Implementing the Sustainable Development Goals (SDGs): Getting Started." The goal of the event, which is being held just ahead of the UN summit where these SDGs will be adopted as part of a larger post-2015 development agenda, is to identify and exchange possible solutions that can support these new goals. The event is expected to attract world leaders, students, and professionals. More information about the event, including a list of confirmed speakers and details on registration, can be found [here](#).

22-23 September, Nairobi, Kenya. ADVANCING EAST AFRICA'S DEVELOPMENT PRIORITIES THROUGH TRADE. This multi-stakeholder dialogue is being organised jointly by the International Centre for Trade and Sustainable Development (ICTSD), the University of Nairobi, and TradeMark East Africa (TMEA) with the goal of bringing together some of the region's most influential policymakers and private sector actors for a discussion on trade integration as a tool for fostering economic and sustainable development. To learn more or to register, 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.

22 + 24 September: Trade Policy Review Body – Angola

24 September: Committee on Agriculture

24 – 25 September: Committee on Regional Trade Agreements

## Other Upcoming Events

25 September, Bern, Switzerland. WORLD TRADE FORUM 2015: 20 YEARS OF THE WORLD TRADE ORGANIZATION. The World Trade Forum 2015 is organised through the Trade Policy Research Network (TPRN) by the WTI (University of Bern), the European University Institute (Florence), the Graduate Institute (Geneva) and the Centre for Economic Policy Research (London). This year's event will focus on various topics relating to the WTO's history, including dispute settlement, new regulatory solutions, and the relationship between the WTO and various other trade deals. To learn more or to register, visit the following [website](#).

28 September, Geneva, Switzerland. OPENING LECTURE OF THE ACADEMIC YEAR, FEATURING ROBERTO AZEVEDO. The Graduate Institute of International and Development Studies in Geneva will be convening this opening lecture to begin the academic year. This year's lecture will feature WTO Director-General Roberto Azevêdo. To learn more about the event, or to register, please visit the Graduate Institute's [website](#).

30 September – 2 October, Geneva, Switzerland. WTO PUBLIC FORUM: TRADE WORKS. This year's WTO Public Forum comes as the global trade body celebrates its 20th anniversary. The theme of "Trade Works" will focus on the contribution that global trade cooperation over the past two decades has made to the world economy. An agenda for the forum is now available online. More information on the event is available at the WTO [website](#).

1-2 October, Geneva, Switzerland. TRADE FOR SUSTAINABLE DEVELOPMENT FORUM 2015: BUILDING SUSTAINABLE SUPPLY CHAINS. This meeting is being hosted by the International Trade Centre (ITC) and comes one year after the launch of the Trade for Sustainable Development principles. The Forum will bring together key partners and practitioners in this field to discuss the progress to date and upcoming challenges. To learn more or to register, visit the ITC [website](#).

8 October, Geneva, Switzerland. CONSUMPTION-BASED CARBON ACCOUNTING AND POLICIES: OPPORTUNITIES, BARRIERS AND IMPLEMENTATION. This workshop will examine the role of consumption-based carbon accounting in the context of international climate negotiations, as well as possible policy instruments to address consumption-related emissions in key sectors, and discuss barriers to implementation for consumption-based climate policies. The event is organised by the Consortium of the Carbon-CAP project, an expert research project with funding from the European Commission. The consortium will present its work from its second year of research. More information is available at both the [Carbon-CAP website](#) as well as the International Centre for Trade and Sustainable Development's (ICTSD) [page for the event](#).

10-11 November, New York, US. 10TH ANNUAL COLUMBIA INTERNATIONAL INVESTMENT CONFERENCE: "INVESTMENT TREATY REFORM: RESHAPING ECONOMIC GOVERNANCE IN THE ERA OF SUSTAINABLE DEVELOPMENT." This event, held jointly by the UN Conference on Trade and Development (UNCTAD) and Columbia University, will highlight the role that international investment agreements can and ought to play in international economic governance, including what reforms may be needed, in light of this year's UN Sustainable Development Summit in September and UN Financing for Development Conference this past July. More information about the event, including a preliminary programme, can be found at the following [website](#).

14-17 December, Nairobi, Kenya. TRADE AND DEVELOPMENT SYMPOSIUM. This biennial event, organised jointly by the International Centre for Trade and Sustainable Development (ICTSD) and the government of Kenya, will be held in parallel with the WTO's Tenth Ministerial Conference. The four-day event will include various high-level plenaries, press events, and private roundtables, among other features. Further details can be found on the official event [website](#).

15-18 December, Nairobi, Kenya. WORLD TRADE ORGANIZATION – TENTH MINISTERIAL CONFERENCE. The World Trade Organization will be holding its Tenth Ministerial Conference (MC10) at year's end, with Kenya serving as this year's host. These ministerial gatherings are the highest-level meeting of the global trade body, with members able to take decisions on any matters relating to any of the multilateral trade agreements. These meetings are usually held biennially. More information will be made available through both the WTO [website](#), as well as the Kenyan government's dedicated MC10 [website](#).

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## Resources

MULTILATERAL AID 2015: BETTER PARTNERSHIPS FOR A POST-2015 WORLD. Published by the Organisation for Economic Co-operation and Development (OECD) (August 2015). This book aims to identify the key policy areas most requiring action in order to make sure that multilateral organisations function to their best potential in the upcoming “post-2015” era. The authors review trends and practices in the global multilateral landscape and then outline potential ways to support post-2015 partnerships. The publication can be downloaded [here](#).

MAKING REGIONAL TRADE WORK FOR AFRICA: TURNING WORDS INTO DEEDS. Published by the UN Conference on Trade and Development (UNCTAD) (July 2015). This policy brief reviews the potential that regional trade agreements could have in lowering trade costs and boosting trade within the African continent. The authors argue that the low rate of implementation of such trade deals poses a major challenge to reaching the full potential of regional trade for development, among various other issues. The policy brief can be found [here](#).

POLICY FRAMEWORK FOR INVESTMENT, 2015 EDITION. Published by the Organisation for Economic Co-operation and Development (OECD) (September 2015). This Policy Framework for Investment (PFI) aims to help mobilise private investment that supports strong economic growth and sustainable development, with a view to improving the economic and social well-being of people globally. This framework was initially developed in 2006 and has since been updated to account for user feedback at the country and regional level, along with the ongoing changes in the global economy. The framework is available for download [here](#).

CONFRONTING CLIMATE UNCERTAINTY IN WATER RESOURCES PLANNING AND PROJECT DESIGN: THE DECISION TREE FRAMEWORK. 25 August 2015. By Patrick Ray and Casey Brown for the World Bank (2015). The authors aim to provide project planners and programme managers with a clear, repeatable method that can illustrate how robust a project is in combatting climate change. This framework uses a “bottom-up” approach to risk assessment focused on identifying a project's climate vulnerability in light of non-climate factors, along with identifying those projects with strong performances across different types of climate conditions as well as those that are more fragile. The book is available for download in PDF form [here](#).

IISD/ENB+ VIDEO SERIES: PARIS KNOWLEDGE BRIDGE – UNPACKING INTERNATIONAL CLIMATE GOVERNANCE. Published by the International Institute for Sustainable Development (IISD) and Earth Negotiations Bulletin (ENB). 28 August 2015. These videos aim to provide an introduction to the history, issues, actors, and dynamics in international climate governance. These four videos feature interviews with 60 people playing a range of roles in the climate negotiating process. They can all be found at the following [website](#).

DESTRUCTION OF US CREDIBILITY AT THE WTO. By Timothy A. Wise and Biraj Patnaik for the Global Development and Environment Institute at Tufts University. In this article, the authors discuss the ongoing negotiations at the WTO ahead of its Tenth Ministerial Conference, which will be held in Nairobi, Kenya in mid-December. The authors focus specifically on the agriculture component of the negotiations, noting the impact of recent domestic policy decisions such as the 2014 approval of a new US Farm Bill, as well as the difficulties seen to date in reaching a “permanent solution” on public food stockholding at the WTO. The piece, which was published via LiveMint can be found [here](#).

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