

BRIDGES WEEKLY

Global trade news from a sustainable development perspective

VOLUME 19, ISSUE 35, 22 OCTOBER 2015

TRADE AGREEMENTS

Efforts to Build TPP Support
Ramp Up as Political Landscape
Shifts 1

Australian Parliament Set to
Ratify China Trade Pact 5

CURRENCY

US Treasury Department
Revises Stance on Chinese
Currency 8

INTELLECTUAL PROPERTY

WIPO Assemblies Reach
Eleventh-Hour Agreement on
Divisive Issues 11

WORLD TRADE ORGANIZATION

LDC Group Eyes Possible
Priority Areas Ahead of WTO
Nairobi Ministerial 14

EVENTS & RESOURCES

Events 18

Resources 21

TRADE AGREEMENTS

Efforts to Build TPP Support Ramp Up as Political Landscape Shifts

Officials from the Trans-Pacific Partnership (TPP) countries have been ramping up their efforts in recent weeks to build domestic support for the trade deal, ahead of the expected release of its final text and the subsequent launch of domestic ratification procedures. The upcoming approval process is expected to prove difficult as national-level entities scrutinise the agreement for potential gains and losses.

The official release of the deal's text is currently expected in early November, with the legal review of the pact now underway. In the interim, various TPP member governments have released fact sheets outlining the specific benefits for their respective economies under the agreement's chapters, giving some initial insights into what is in the final pact in areas ranging from agriculture to dispute settlement.

Along with drawing scrutiny – and in some cases criticism – the pact has also attracted interest from various other countries in the region who may later ask to join. Notably, news of a completed TPP has also drawn attention to other trade initiatives underway both in the region and globally, with the deal widely expected to be a game-changer in the global trade arena.

Government transitions

Passing the TPP domestically is expected to be an uphill battle for the group's 12 members, with Monday's election win in Canada for Justin Trudeau's Liberal Party highlighting the delicate nature of domestic politics in participating countries, especially those set to face transitions to new governments.

On Canada's part, the TPP had been negotiated under the tenure of outgoing Prime Minister Stephen Harper, whose Conservative Party lost the election in a surprise landslide result, despite polling data in the weeks prior to the vote suggesting a three-way tie between Trudeau, Harper, and Tom Mulcair of the National Democratic Party (NDP).

The Harper government has been in place since 2006 and had been a strong advocate for the TPP since joining the talks in 2012. (See Bridges Weekly, [20 June 2012](#))

While Trudeau has been reported to have reservations about the Pacific Rim trade deal, he has indicated that he would first need to see the details of the completed pact before taking any next steps – a comparatively warmer response than Mulcair, who had suggested that a government under his leadership would not have been bound by the pact. (See Bridges Weekly, [8 October 2015](#))

Upcoming elections in other TPP countries, particularly the US general election in November and Japan's House of Councillors' election next summer, are also being watched closely by trade observers for their potential impact on ratification.

Several US presidential candidates from both the Republican and Democratic Parties have to date expressed reservations about the final TPP outcome, including Democratic frontrunner Hillary Clinton, who had previously backed the agreement during her tenure as US Secretary of State.

Concurrently, key lawmakers in various TPP countries, particularly the US, have already raised questions over whether the deal's terms are worthy of approval. For example, Senator Orrin Hatch, a Utah Republican who chairs that chamber's Finance Committee and was one of the lawmakers who led the charge to renew Trade Promotion Authority (TPA) earlier this year, has already openly questioned whether TPP in its current form can be approved in Congress.

In [a speech](#) on the Senate floor earlier this month, Hatch particularly cited intellectual property rights protections, including on biologics, as well as agricultural market access, product- and sector-specific carve-outs, and "some potential overreaching on labour commitments" as possible areas where TPP falls short of congressional objectives.

"While we can't make final determinations on any of these issues without seeing the final text of the agreement, initial indications are that these items could be problematic when the agreement is submitted to Congress for approval," Hatch said.

Some legislators have gone so far as to suggest that the trade deal, if deemed inadequate, could be reopened for additional negotiations. However, US Trade Representative Michael Froman appeared to largely rule out that possibility, given that such trade agreements are "infinitely more complex when you've got 11 other trading partners at the table."

"This isn't one of those agreements where, you know, you can... reopen an issue or renegotiate a provision. This is one where... every issue is tied to every other issue and every country's outcome is balanced against every other country's outcome," the US trade chief said last week.

Entry into force

How ratification proceeds in the coming months will also determine when the trade deal enters into force, which could take years. According to [fact sheets](#) released by the government of New Zealand, TPP parties will have a two-year window to finish their domestic approval, legislative, and ratification processes.

Should all 12 countries have done so at that stage, the deal will enter into force 60 days following their notifications. However, should some TPP countries not finish their processes in that timeframe, an alternative approach would be to bring the deal into force 26 months after it is signed, as long as at least six countries have notified that they have completed their domestic legal procedures.

This latter approach is also conditional on those six countries making up at least 85 percent of the group's combined GDP, under 2013 figures.

If this scenario does not occur, a third approach is available, under which the deal would enter into force 60 days after at least six TPP countries have notified that they have completed their domestic legal procedures. The same 85 percent GDP requirement would apply.

Should either the second or third option be invoked, other TPP countries which do not notify at that time would still be able to do so at a later date. Lastly, a TPP party may exit the agreement if they so choose, though they must give notice six months in advance.

Trade officials have noted that implementation and enforcement will be key challenges, even after the ratification hurdles have been overcome. USTR Froman has said that some countries will need both capacity-building and technical assistance in order to do so, while noting that TPP governments are already making the necessary preparations for that type of cooperation.

New entrants?

The prospect of more countries joining the TPP once it is ratified by the initial 12 participants has also come into focus in recent weeks, with some leaders from the Asia-Pacific region already indicating their interest.

Speaking to reporters following a 16 October meeting with US President Barack Obama, South Korean President Park Geun-Hye [indicated](#) that her country is considering requesting membership in the Pacific Rim pact.

"Korea and the US already have an FTA with very high standards. And in this respect, I believe that we make natural partners in terms of the TPP," said the South Korean President. "Since TPP negotiations have now been concluded, we will be engaging in closer cooperation with regard to Korea's possible participation in TPP."

Other possible candidates for TPP entry could include the Philippines, Indonesia, and possibly Taiwan, who have all suggested that they may ask to join the deal at some stage.

The TPP is expected to be one of the items on the agenda when Indonesian President Joko Widodo visits the US next week, though whether Jakarta will express its interest more formally then is not yet clear.

While TPP members have said that the deal is open to new members, USTR Froman reiterated last week that any new TPP member will have to be approved by all existing participants, among other requirements that have been set out by the group. On the US side, he said, a vote from Congress will be needed for a new member's approval.

"Even since Atlanta we've been contacted by a number of countries, some of who have been public about it, others who haven't, who have expressed interest in seeing the facts, getting briefed up, and potentially starting consultations towards being considered ultimately for membership," he said in a [conference call](#) hosted by the Council on Foreign Relations (CFR).

The TPP has been billed by many proponents as a way to set the rules of the road for the region, particularly ahead of other trade initiatives that may have different objectives. China, notably, is not a TPP member and is instead involved in another regional trade initiative known as the Regional Comprehensive Economic Partnership (RCEP).

Regarding the prospects for China's possible entry, Froman said last week that while TPP is not directed against any one country in particular, it does aim "at setting high standards for the region," and interested entrants would have to show that they would be willing to meet those same standards.

The US trade chief flagged the ongoing negotiations between Washington and Beijing on a bilateral investment treaty (BIT) as one possible way for China to show its ability to meet these types of high standards, especially given the similarities between the BIT and TPP's investment chapter.

The BIT talks were a key focus during a recent meeting between Obama and Chinese President Xi Jinping, with both leaders agreeing to step up their work toward concluding such a deal. (See Bridges Weekly, [1 October 2015](#))

"[China] has, I think, a long way to go to be able to meet [TPP] standards, it's going to have to live in a TPP world, where its neighbours are offering basic labour and environmental standards, dispute settlement, stronger intellectual property rights protections, protections against trade secret theft, disciplines on state-owned enterprises, free and open internet," said Froman in the same CFR conference call.

ICTSD reporting; "Indonesian Leader Discusses Foreign-Investment Rules, TPP," WALL STREET JOURNAL, 21 October 2015; "Don't Hold Your Breath for Cheap Steaks: Here's the TPP Timeline," BLOOMBERG, 14 October 2015; "As Canadians head to polls, election impact on TPP unclear," POLITICO, 19 October 2015; "China-backed trade pact playing catch-up after U.S.-led TPP deal," REUTERS, 10 October 2015.

Australian Parliament Set to Ratify China Trade Pact

The Australian Parliament is now expected to sign off on a trade agreement with China by year's end, after Labor and Liberal Party leaders confirmed that they had reached a deal on domestic labour safeguards to be incorporated into Canberra's migration policies.

"I am pleased today to be able to report to the parliament that Labor has been able to achieve significant concessions from the Government in negotiations to improve the China-Australia Free Trade Agreement," said Labor Party leader Bill Shorten in announcing the compromise.

The news was also praised by Prime Minister Malcolm Turnbull of the Liberal Party, who said the result marked "a great day for Australia."

"We are an extraordinary nation. We have 23 million extraordinary Australians and we will benefit from China in a way that even the architects of the deal couldn't have imagined," the premier [said](#).

The agreement with China had been widely controversial in Australia, particularly with some of the country's major unions, sparking public protests and heated debates among legislators over whether the FTA would lead to job losses in Australia.

Government officials, for their part, had warned that a failure to pass the trade agreement in Parliament could lead to China walking away from the deal entirely. Delays in ratification, they added, could also be costly given the current schedule of tariff cuts in the deal. (See Bridges Weekly, [9 September 2015](#))

The negotiations for the trade deal, known otherwise as ChAFTA, were concluded last November after a decade of negotiations, with the deal then signed in June of this year. (See Bridges Weekly, [20 November 2014](#) and [25 June 2015](#), respectively)

Labour safeguards

Signs of a potential resolution on the issue of labour safeguards began to appear over the last fortnight, when Labor Party leadership presented a series of proposed amendments to domestic migration law for the government's consideration. (See Bridges Weekly, [15 October 2015](#))

Labor had originally asked for labour market testing on projects worth over A\$150 million; lifting the base pay for skilled temporary workers from overseas under the 457 visa programme from A\$53,000 to A\$57,000; and ensuring that foreign workers involved in licensed trade and occupations have the qualifications to meet Australian safety and local standards.

The final set of amendments agreed by both sides vary somewhat from those initially put forward by Labor. Despite the changes to the original proposals, Shorten said that "the important point is that the key safeguards that we have argued for have been achieved."

"Labor's focus throughout this process has been on achieving the right outcomes for all Australians. The safeguards we have achieved will be part of migration law. They are just

as legally binding as the act, and the amendments to the regulations will have the same legal effect as amendments to the act," said the Labor Party leader.

According to Australian Trade Minister Andrew Robb, the government has now agreed to amend existing regulations to clarify that "labour market testing" – in other words, ensuring Australian workers are given first consideration in hiring, with foreign workers only being hired in the absence of qualified workers locally – will be necessary for all work agreements.

To receive a [457 visa](#) for skilled temporary workers from overseas, employers will therefore have to show that they first made an effort to find qualified workers domestically.

Furthermore, 457 visa conditions will be revised to clarify that foreign workers entering Australia under that programme will need to acquire the necessary licenses or registrations required under either commonwealth, state, or territory law.

Other changes include increased efforts toward ensuring transparency, such as details in annual immigration reports on the number of work agreements signed, as well as the number and occupation of 457 visa holders involved.

Shorten, in his own statement, also noted that "market salary rates" for standard 457 visas will need to use enterprise agreement rates as a benchmark.

Robb, in a joint [media statement](#) with Immigration and Border Protection Minister Peter Dutton, highlighted the importance of seeing this trade deal passed with bipartisan support.

"This high quality agreement, with our biggest trading partner, presents enormous opportunities for Australia in the years and decades ahead in terms of support growth and job creation," the two ministers said.

As Australia's largest trading partner, with total two-way trade reaching A\$150.9 billion in 2013 (€95.9 billion at today's exchange rates), China had been seen as a key market for trade and investment liberalisation. Among various other provisions, the final pact includes a series of concessions from China's side on services and agricultural market access, and will involve two successive rounds of major tariff cuts – one before the end of this year and the other in January.

Other negotiations on the horizon

With ChAFTA moving forward and trade deals with Japan and South Korea now in force, Australia is now expected to ramp up its work on various other trade initiatives, including talks with India for a bilateral pact as well as ratifying the recently concluded Trans-Pacific Partnership (TPP) Agreement reached with 11 other countries. (For more on the TPP, see related story, this edition)

Canberra is also part of the 16-country Regional Comprehensive Economic Partnership (RCEP), a negotiation which involves both India and China.

A new trade negotiation may soon be on the horizon as well, after the European Commission announced in its new "Trade for All" strategy document released last week that it would be seeking a mandate from the European Council to start negotiations with Australia on a bilateral trade pact, while "taking into account EU agricultural sensitivities." (See Bridges Weekly, [15 October 2015](#))

The move was [welcomed](#) by Robb, who said that a trade deal with the 28-nation bloc “has the potential to unlock new opportunities and levels of market access across a range of areas such as agribusiness, services, and high-value manufacturing.”

The EU is Australia's second-largest trading partner, according to Robb, with bilateral trade surpassing A\$80 billion (€50.8 billion) last year.

In [an interview](#) with Bloomberg Television, the Australian trade chief highlighted both agriculture and investment as key areas for his country in the expected EU negotiations. Services is also set to play a big role in those talks, Robb said, highlighting high-end manufacturing and the global supply chain.

“Australia's very competitive across the board, we're a very highly specialised, highly skilled, knowledge-based economy, and that will be reflected in an EU agreement, but at the moment, the first priority for us is India,” he said.

Given the various trade pacts in which Australia is involved, including the recently-concluded TPP negotiations, Robb indicated that not having such an arrangement with the EU represented a missing piece in Canberra's overall trade framework. (See Bridges Weekly, [8 October 2015](#))

ICTSD reporting; “Australia Ready to Ratify China Free-Trade Agreement,” WALL STREET JOURNAL, 20 October 2015; “Australian opposition clear path to landmark China trade agreement,” REUTERS, 21 October 2015; “China FTA: Labor agrees to support free trade deal; says new agreement secures protections for workers,” ABC NEWS, 21 October 2015; “Labor and Coalition reach agreement on China-Australia free trade deal,” THE GUARDIAN, 21 October 2015.

CURRENCY

US Treasury Department Revises Stance on Chinese Currency

The latest edition of the US Treasury Department's semi-annual report on international exchange rate policies found that China's currency "remains below its appropriate medium-term valuation," marking a distinct shift by Washington from past characterisations of the Renminbi as being "significantly undervalued."

The 19 October [report](#) to the US Congress reviewed various US trading partners in Asia, Europe, and the Americas, focusing primarily on the first half of this year, while also including any relevant and available data through October.

"Based on the analysis in this report, Treasury has concluded that no major trading partner of the United States met the standard of manipulating the rate of exchange between its currency and the United States dollar for purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade," the report concluded.

The news on China, however, has drawn particular notice both in light of the Treasury Department's years-long stance regarding Beijing's currency policies, as well as the ongoing slowdown of the Chinese economy and the sharp devaluation of the Renminbi this past August.

The Treasury report makes reference to both developments, noting that the latter move by the People's Bank of China "surprised markets," with the US government agency also "underscoring the importance of clear communication of policy actions."

The report noted that the Chinese currency depreciated 2.3 percent against the US dollar through September, following the 11 August devaluation. China's central bank explained the move as being the result of how it sets the daily reference rate of its exchange rate system, essentially linking it more closely to market developments.

"Although the [International Monetary Fund, or IMF] cautiously welcomed the change as consistent with China's commitment to a more flexible, market-determined exchange rate, some analysts interpreted the move as an effort to weaken the RMB in order to support growth," the Treasury report said, referring to the currency by its abbreviation.

While acknowledging the IMF's stance, the Treasury report suggested that its own position would depend on Beijing's implementation of this new system for setting the currency's daily reference rate. Specifically, the US agency noted that this would depend on whether Beijing allows the currency to both "respond flexibly to appreciation as well as depreciation pressures."

The US report also notes that various factors – such as the expected slowing in Chinese economic growth and volatile capital flows – also mean that it is difficult for the agency to assess what the "near-term trajectory" of the Renminbi will be.

Along with China, the report also reviewed Japan, South Korea, Taiwan, the Euro area, Switzerland, the UK, Brazil, Canada, and Mexico.

Eyes on SDR review

In the wake of the new report, one question being raised is whether this may have any influence on Beijing's current bid to be included in the International Monetary Fund's "Special Drawing Rights," an international reserve asset, which is reportedly gaining support from various key countries.

An IMF review already found in May that the Chinese Renminbi is "no longer undervalued," in what marked a notable shift for the Washington-based international institution. (See Bridges Weekly, [28 May 2015](#))

To be included in the SDR, a currency must meet a specific export criterion, as well as being a freely usable currency, which the IMF [defines](#) as being "widely used to make payments for international transactions, and... is widely traded in the principal exchange markets."

Among the steps China has taken toward gaining inclusion in the SDR was its decision in August to begin reporting its currency reserves to the Fund.

Last month, following a meeting between US President Barack Obama and Chinese President Xi Jinping in Washington, the US [confirmed](#) that it "supports China's commitment to implement further financial and capital market reforms, and accordingly the United States reiterates its support for the inclusion of the [Renminbi] in the SDR basket provided the currency meets the IMF's existing criteria in its SDR review." (See Bridges Weekly, [1 October 2015](#))

The IMF's SDR review takes place every five years, with the next one currently slated for the end of 2015. In August, the Fund confirmed that the current SDR basket [would be extended](#) from 31 December 2015 to 30 September 2016 to help the system continue to operate smoothly – essentially meaning that even if the Chinese Renminbi is included, that this would not take effect until that time.

The IMF noted at the time that the extension could be useful should a new currency be added to the existing basket.

The SDR [basket](#) determines its value based on four major currencies, which are currently the US dollar, the euro, the Japanese yen, and the pound sterling. IMF member economies can exchange SDRs for one of these "freely usable" currencies.

Trade, TPP

The ongoing debate over the valuation of China's currency comes as lawmakers in the US and 11 other countries prepare to review the recently-concluded Trans-Pacific Partnership (TPP) Agreement.

While Beijing is not currently involved in TPP, the prospect of the Asian giant potentially seeking entry at a later date has been one of many factors prompting US lawmakers to call for the TPP deal to address the issue of currency manipulation by US trading partners.

Japan's membership in the 12-country TPP pact is another reason for US lawmakers' concerns, given that monetary easing has been one of the three "arrows" of Japanese Prime Minister Shinzo Abe's economic policy since taking office in 2012.

The TPP pact, while not including enforceable currency rules, will involve a parallel forum among member economies to improve their cooperation in this area. (See Bridges Weekly, [8 October 2015](#))

The US Treasury report calls for Japan to adopt policies “that can restore growth and allow Japan to durably escape from deflation.” Furthermore, the report says, “this will require application of all policy arrows in order to avoid an overreliance on monetary policy and external demand to drive growth.”

Among other recommendations, the Washington agency calls for Tokyo to prioritise structural reforms, including trade liberalisation under TPP, which it says are “essential to increase domestic demand and potential growth.”

ICTSD reporting; “China Begins Disclosing Reserves to IMF,” WALL STREET JOURNAL, 30 September 2015; “China Retains Reserve-Currency Support After IMF Staff Study,” BLOOMBERG BUSINESS, 7 August 2015.

INTELLECTUAL PROPERTY

WIPO Assemblies Reach Eleventh-Hour Agreement on Divisive Issues

The annual Assemblies of the World Intellectual Property Organization (WIPO) saw member states resolve or advance many crucial normative issues after over ten days of frenzied deliberations, which concluded only in the early morning hours of 15 October.

"The Assemblies produced a rich array of positive results as a consequence of the extraordinary engagement of the member states," said WIPO Director General Francis Gurry at the end of the meeting, which was held at the organisation's Geneva headquarters.

Along with various normative outcomes, the Assemblies also approved a projected expenditure by the UN intellectual property agency of 707 million Swiss francs for 2016-2017, marking a 4.9 percent increase over the previous two years.

IGC mandate renewal

The renewal of the mandate of the Intergovernmental Committee on Traditional Knowledge, Genetic Resources, and Folklore (IGC) was one of the major issues facing the Assemblies this year. The issue had taken on a particular urgency as the committee's mandate would have expired had a solution not been reached. (See Bridges Weekly, [8 October 2015](#))

The IGC was established in 2000, following concerns raised by biodiversity-rich countries and indigenous peoples regarding the misappropriation of their genetic resources and associated traditional knowledge and cultural expressions. The Committee has since been working toward developing an international instrument(s) to address one or all of these issues, with mixed results.

The mandate's renewal was met with some reluctance by some developed countries, who had called for new methodologies to structure the IGC's work, with a focus on seminars and further analysis. In contrast, the majority of developing countries wished to see a renewal of the mandate based on text-based negotiations to reach a clearly defined work programme that would lead to a binding international instrument(s).

"The proposal to undertake non-normative work and focus on discussions and seminars seeks to discount the resources and intellectual work invested by the members in the last few years," said Nigeria, the regional coordinator for the African Group.

Ultimately, the Assemblies successfully reached a consensus on renewing the mandate and the work plan of the IGC for 2016-17.

According to the agreed mandate, the IGC will continue to "expedite its work," including "text-based negotiations," with the objective of reaching an agreement on an international legal instrument(s) that will ensure the "balanced and effective protection" of genetic resources, traditional knowledge, and traditional cultural expressions.

The mandate also notes that studies, seminars, and workshops may complement the IGC's work. The General Assembly in 2017 will take stock of progress made and decide on

whether to convene a diplomatic conference – the highest level of negotiations at WIPO – or continue talks within the committee.

Lisbon funding

The Assemblies also saw the resolution of a key disagreement over the financing of both the Lisbon Agreement for the protection of appellations of origin as well as the new Geneva Act reached this year, which expanded the former's scope to include geographical indications (GIs). (See Bridges Weekly, [28 May 2015](#))

At the opening of the assemblies, the US delegation had expressed its concern about “the diversion of WIPO's resources by a small group [of Lisbon contracting parties] representing less than one-sixth of the total membership” and emphasised the need for the Lisbon Union to finance itself as required by the terms of the treaty.

The issue ultimately became part of the broader discussions about the adoption of the 2016-2017 programme and budget, given that the US had argued strongly against approving a budget that also covered Lisbon. The US is not a contracting party to Lisbon and had been among those vocally against the expansion of the agreement to include GIs, citing both the potential impacts this change could have on trade for non-parties, as well as regarding the voting process behind the changes.

Ultimately, member states agreed that the Lisbon Union Assembly would adopt measures by the 2016 WIPO Assemblies to “eliminate” the Lisbon Union's deficit, to double the registration fees for appellations of origin, and to raise the fee for modifications, extractions, and attestations. In addition, member states decided to approve a loan from the reserves of the “contribution-financed” unions to Lisbon should these measures be insufficient to cover the deficit.

Pamela Hamamoto, the US' Ambassador to the UN in Geneva, had noted in her [opening remarks](#) that “the Lisbon deficit that is projected for the biennium is quite small, and in fact we have identified funds already available at WIPO that could adequately cover this deficit, including the excess Madrid Union surplus that can be disbursed to all Madrid members, some of whom belong to the Lisbon Union.”

Furthermore, the US ambassador said, “we cannot support a framework under which the Lisbon System can carry a deficit and have that deficit covered by other Unions,” calling instead for an agreement on ensuring that the Lisbon System becomes self-sustaining and no longer requires support from other Unions in covering its deficit.

France, one of the Lisbon Union's long-time supporters, highlighted the decision's importance, noting that “the benefits will be seen in the years to come.”

Design treaty, other advances

Another key development during this year's Assemblies was the progress seen on WIPO's Design Law Treaty, which aims to simplify the registration of industrial designs.

Member states have agreed to convene a diplomatic conference on the treaty in the early stages of 2017, following the completion of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications' (SCT) discussions on “technical assistance” and a possible “disclosure of origin” requirement aimed at protecting traditional assets from misappropriation.

A “disclosure of origin” requirement for genetic resources and traditional knowledge in industrial design application was originally proposed by the African Group to prevent misappropriation of traditional industrial designs.

Separately, member states also directed the Standing Committee on Copyright and Related Rights (SCCR) to continue its work on the protection of broadcasting organisations, limitations and exceptions for libraries and archives, and limitations and exceptions for educational and research institutions and persons with other disabilities.

The Assemblies also adopted guiding principles on the opening of any future WIPO external offices and agreed to open a maximum of three new offices during both the 2016-17 and 2018-19 periods, while giving priority to the African continent as a host.

ICTSD reporting.

WORLD TRADE ORGANIZATION

LDC Group Eyes Possible Priority Areas Ahead of WTO Nairobi Ministerial

Bangladesh, on behalf of the Least Developed Countries (LDC) Group, presented a draft submission last week for internal deliberations which – if agreed – would outline the group's priorities in the negotiations with fellow WTO members ahead of the organisation's Tenth Ministerial Conference (MC10) this December in Nairobi, Kenya.

The draft submission – a copy of which has been seen by Bridges – offers insights about potential areas of interest to the LDC Group for a possible Nairobi “package,” as well as their proposals regarding the core negotiating areas of the Doha Development Agenda (DDA).

At press time, the draft was still under discussion by a small group of countries. A source close to the process indicated that the document is still being consolidated and that the LDC Group will come up with a detailed proposal shortly.

Four elements of interest to LDCs – namely, duty-free quota-free (DFQF) market access, more favourable rules of origin, the operationalisation of the services waiver, and cotton – led to the adoption of decisions during the WTO's last ministerial conference in Bali, Indonesia two years ago. Since then, the group's focus has mainly consisted in turning some of these outcomes into legally-binding decisions.

“It is important that Nairobi deliver concrete legally binding decisions in favour of LDCs as a priority,” reads the working document.

In recent weeks, discussions among WTO members on a possible Nairobi “package” have centred on the possible inclusion of deliverables relating to export competition in agriculture, some transparency-related outcomes, and development and LDC-related issues, though sources note that the talks are still ongoing and the exact contents of this package are not yet finalised.

DFQF market access

According to the draft document, WTO members agreed last month at a dedicated session of the organisation's Committee for Trade and Development that the secretariat would complete a study on the implementation of Hong Kong ministerial decision on DFQF market access by mid-November 2015.

This study will serve as a tool to provide “necessary inputs towards finding convergence” in implementing DFQF market access “in time” for the Nairobi conference, the draft submission says.

“Preference granting countries shall make DFQF market access binding through appropriate scheduling,” the document suggests.

The 2013 Bali decision on DFQF market access called on developed and developing country members in a position to do so “to improve” their existing DFQF coverage if they have not yet provided such market access for at least 97 percent of products originating from LDCs. Last year, some countries – China, India, and Chile – made announcements in that regard, with Chile submitting a formal notification.

Many LDCs benefit from non-reciprocal preferences, which are granted primarily by developed countries. Applying DFQF to all LDCs, however, could effectively result in some of these countries losing some of the competitive advantages that these preferences have provided.

With no substantial progress on DFQF in recent years, the debate has focused largely on potential gains under a 97 percent DFQF scheme versus full coverage and on related rules of origin.

According to some informed sources, the LDC Group is proposing to resolve the DFQF issue for all LDCs by conducting a tariff line analysis with regards to clothing. The objective is to determine which tariff lines should be included under DFQF while preserving preferences under the African Growth and Opportunity Act (AGOA) and the Cotonou Partnership Agreement. These allow the US and the EU, respectively, to provide trade preferences to specific LDCs.

Services waiver

The draft submission also praised the results of indications made at the high-level meeting held this past February regarding the planned preferential treatment to LDC services and service suppliers, in line with the 2013 Bali decision on the operationalisation of the services waiver, as well as the notifications submitted so far. (See Bridges Africa, [9 September 2015](#))

Ahead of the Nairobi ministerial, the document further encourages the actual notification of preferences to the Council for Trade in Services (CTS), including information about "preferential treatment made available, the sectors or sub-sectors concerned and the period of time during which the member is intending to maintain those preferences."

Some sources indicated that LDCs have also been exploring ways of extending the waiver beyond market access. Though there is a provision in the waiver decision to allow such an extension, notifications so far – with a few exceptions – have restricted themselves to Article 16 of the General Agreement on Trade in Services (GATS), which deals with market access. Non-market access measures are not automatically covered, but can be authorised by the WTO CTS.

The LDC Group's draft submission links the definition of "preferential treatment" in the context of the services waiver to "the removal of restrictions, and/or the provision of, special access or procedures, in favour of LDC suppliers over non-LDC suppliers, unless the preference is accorded to LDCs drawn from other pre-existing or future preferential arrangements."

In this vein, the document encourages preference-granting members which have already notified to improve their notifications.

According to some experts familiar with the draft submission, the inclusion of a paragraph related to the reduction of administrative procedures and fees for visas, work permits, resident permits, and licenses in favour of LDC service suppliers and independent professionals appears to be important, though will likely be very sensitive to address.

In cases where preferential treatment was given to LDCs based on existing commitments or from their applied regimes that contain restrictions, the document stipulates that WTO members "shall remove such restrictions for LDCs."

The document also calls for a modification of the duration of the services waiver so that notified preferences can apply for 15 years from the date of notification.

Rules of origin

The draft submission also calls upon preference-granting countries to streamline and simplify preferential rules of origin (RoO) "so that these are no more barriers to LDCs to fully avail their non-reciprocal market access opportunities."

The LDC Group submitted a communication on 24 September in which they called for transforming the Bali guidelines on preferential rules of origin into compulsory criteria. The communication also specifies various methodologies in order for WTO members to frame their legislation on preferential RoO accordingly. (See Bridges Africa, [9 October 2015](#))

Rules of origin specify how much processing must take place locally before goods can be considered to be the product of the exporting country. They are often considered to be overly restrictive and inflexible, making it difficult for LDCs to take full advantage of the preferences they are granted.

An informal open-ended consultation on preferential rules of origin for LDCs held on Tuesday reportedly examined a formal proposal on the subject from the LDC Group, in the context of the overall Nairobi ministerial preparations.

However, sources familiar with the meeting noted that reactions to the rules of origin proposal were mixed, with some delegations raising concerns that the terms were too ambitious given the few weeks remaining before the ministerial conference. Other questions that were raised included whether some of the proposal's elements would entail creating legally-binding obligations, along with whether the terms of the proposal were significantly different to what is covered in the 2013 Bali decision on the subject.

Cotton, agriculture

The draft submission also refers to the difficult issue of cotton, calling for a "satisfactory solution" on the subject as part of the Nairobi decisions. The document raises four points related to DFQF market access for cotton and cotton-by products specifically; the reduction and elimination of domestic support and cotton export subsidies; as well as technical and financial assistance.

Regarding food security, the draft submission calls for a ban on applying export restrictions by any non-LDC WTO member on foodstuffs imported by LDCs if the exporting member is a net exporter of the foodstuff concerned.

The text also provides for an exemption of the *de minimis* calculation for purchase of food at administered prices by LDCs under public stockholding schemes for food security purposes.

The submission highlights the underutilised production potential in agriculture among LDCs and stresses the need to promote development through improving agricultural productivity and production.

On domestic support, the submission calls for a substantial reduction of all forms of market distorting subsidies, with a view toward their eventual elimination. For this purpose, the LDC Group reiterates the need to preserve their flexibilities embedded under the 2008 agriculture draft modalities, known in trade jargon as Rev. 4.

"Innovative and practical approaches should be considered to avoid box-shifting practices by members that impact trade distorting domestic support reduction commitments," says the document.

On export competition, LDCs call for eliminating all forms of export subsidies and disciplines on all export measures, with a phase-out period of three years for developed countries and six years for developing countries from the date of the decision.

NAMA

With regard to non-agricultural market access (NAMA), the draft communication refers to an exemption from tariff cuts and increase of the level of tariff-binding commitments in the context of any agreement on NAMA during MC10. "LDCs shall also be accorded safeguard policy space for industrial development," the document says.

The document also specifies that LDCs should not take on reduction obligations arising from commitments made by non-LDCs in the event of a shared customs union between countries from both categories.

NTBs and SPS

With regard to non-tariff barriers (NTBs), LDCs support the proposal of the African, Caribbean and Pacific (ACP) Group for a Nairobi agreement to establish a Working Group on NTBs under the auspices of the Council for Trade in Goods. This new group would examine crosscutting NTBs in importing markets on developing country exports, with a particular focus on LDCs.

Regarding sanitary and phytosanitary (SPS) measures, which can be difficult for LDCs to meet in some export markets, least developed countries plan to request the establishment of a scheme under their aid for trade programmes for the full cost recovery of SPS inspection controls on imports originating from LDCs. Doing so, they say, would help minimise their trade costs and ensure a level playing field with their competitors.

Special and Differential Treatment

Despite having previously been considered as a possible deliverable for the ministerial conference in Bali two years ago, the Special and Differential Treatment (S&DT) proposals were dropped ahead of that ministerial meet, with sources faulting the complexities that emerged in revisiting the decade-old proposals.

According to the draft submission, the LDC Group, ACP Group, and the African Group have identified 25 S&D provisions and made specific textual proposals aimed at "strengthening these S&D provisions and making them 'more precise, effective and operational.'" The document also mentions a July submission by the G-90 on this issue.

Originally created as an overarching mechanism to give preferential treatment to developing and least developed countries, the S&DT measures aimed to help these countries more easily integrate into the multilateral trading system. To this end, paragraph 44 of the Doha Ministerial Declaration granted a mandate to review all S&DT provisions with a view to making them stronger, more precise, effective, and operational.

Fisheries

Regarding fisheries, the document calls for strengthening disciplines on sea fisheries subsidies. Given that fisheries represent a crucial sector for LDCs, the document reiterates that any discipline in fisheries subsidies shall not prevent LDCs from maintaining subsidies that do not contribute to overfishing or the depletion of fish stocks. The document also reiterates the preservation of S&DT provisions for LDCs in this sector.

ICTSD reporting.

EVENTS & RESOURCES

Events

Coming Soon

26 October, London, UK. CLIMATE CHANGE 2015: BUILDING AGREEMENT TOWARDS 2°C, PARIS AND BEYOND. This Chatham House event will focus on the preparations underway for the UN Framework Convention on Climate Change's (UNFCCC) 21st Conference of the Parties in Paris this December, looking specifically at the prospects for reaching a global climate deal. The conference will review the necessary steps for reaching such an agreement, as well as how non-state actors and other global mechanisms could also contribute to meeting ambitious long-term climate goals beyond Paris. To learn more, visit the Chatham House [website](#).

27-29 October, Berlin, Germany. IEA BIOENERGY CONFERENCE 2015. This year's International Energy Agency (IEA) Bioenergy Conference will focus on new research and market developments in bioenergy, such as the challenges across bioenergy value chains, environmental sustainability, socioeconomic issues, and trade. The event is being supported by the German Ministry of Food and Agriculture and will feature presentations, opportunities for business meetings, technical field trips, and more. Additional information about the conference can be found at the IEA [website](#).

26-30 October, Geneva, Switzerland. INTERGOVERNMENTAL FORUM ON MINING, MINERALS, METALS AND SUSTAINABLE DEVELOPMENT. The Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF) aims to allow for discussions between member governments, mining companies, and industry associations regarding how the mining sector can better contribute to sustainable development. Participants are expected to include government representatives, donor agencies, international organisations, the private sector, and civil society. More details about the event can be found at the following [website](#).

28 October, Geneva, Switzerland. PUBLIC HEALTH, INTELLECTUAL PROPERTY AND TRIPS AT 20: INNOVATION AND ACCESS TO MEDICINES; LEARNING FROM THE PAST, ILLUMINATING THE FUTURE. This technical symposium is being organised jointly by the World Trade Organization (WTO), the World Health Organization (WHO), and the World Intellectual Property Organization (WIPO). The aim of this meeting is to discuss access and innovation in medical technologies with a view to identifying opportunities and challenges to improve the integration of data to support policymakers' future work. More information about the event can be found [here](#).

29-30 October, Annemasse, Switzerland. INTERNATIONAL FORUM ON PUBLIC-PRIVATE PARTNERSHIPS FOR SUSTAINABLE DEVELOPMENT. Organised jointly by the Permanent Mission of France to the United Nations Office in Geneva, Annemasse Agglo, and the UN Institute for Training and Research (UNITAR), with the support of the Région Rhône Alpes and the Conseil Départemental de Haute Savoie, this event will focus on the potential that public-private partnerships have in advancing sustainable development objects at the local government level. The meeting will also include the launch of an International Platform on Public-Private Partnerships for Sustainable Development in order to provide actors in this field with an information and meeting space. To learn more, 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.

28 October: Dispute Settlement Body

Other Upcoming Events

2 November, Tokyo, Japan. AGRICULTURAL TRADE POLICY AND SUSTAINABLE DEVELOPMENT: EXPERIENCE FROM JAPAN AND OTHER COUNTRIES. Organised jointly by the International Centre for Trade and Sustainable Development (ICTSD) and the Japan Center for Economic Research (JCER), this event will involve a discussion on Japanese agricultural trade policy, specifically in relation to the achievement of global public policy objectives such as food security, rural development, and environmental sustainability. The meeting will also address how Japanese agricultural trade policy relates to regulatory frameworks at the international and regional level, such as the recently-concluded Trans-Pacific Partnership (TPP) negotiations and the WTO system. More details about the meeting can be found at the ICTSD [website](#).

2-23 November, online. INTRODUCTION TO INTERNATIONAL ENVIRONMENTAL LAW. This course, run by the UN Institute for Training and Research (UNITAR), aims to provide participants with the sources and fundamental principles behind international environmental law, as well as the process of developing and enacting such laws. Implementation and compliance procedures for multilateral environmental agreements (MEAs) will also be covered during the term. The course is designed for a range of actors in this field, including private sector and civil society representatives, government officials, and academics. More information, including on course fees and how to register, is available [here](#).

3 November, Geneva, Switzerland. TECHNICAL WORKSHOP ON ELEMENTS OF FISHERIES SUBSIDIES PROPOSALS. This workshop, hosted by the International Centre for Trade and Sustainable Development (ICTSD) and the Food and Agriculture Organization of the United Nations (FAO), aims to maintain the ongoing discussions on the issue of fisheries subsidies and their disciplines as well as to provide WTO delegates with impartial expert views on definitions and parameters, current practices, and existing international codes or agreements relevant to specific elements put forward in recent proposals. To learn more about the event, visit the ICTSD [website](#).

8-12 November, Daegu, South Korea. SOLAR WORLD CONGRESS 2015. Hosted by the Korean Solar Energy Society, this year's International Solar Energy Society (ISES) Solar World Congress will feature keynote addresses by international experts in this field, as well as technical presentations on new advances in renewable energy and various other events. The meeting will focus on themes such as renewable energy technologies, off-grid and rural energy access, and clean transportation technologies, among others. More information is available at the SWC event [website](#).

9 November, Geneva, Switzerland. AGRICULTURAL TRADE OUTCOMES AT THE NAIROBI MINISTERIAL AND BEYOND. This event, hosted jointly by the International Centre for Trade and Sustainable Development (ICTSD), the UN Food and Agriculture Organization (FAO), and the International Food Policy Research Institute (IFPRI), will discuss how the various evolving trends affecting food security and rural development could have in determining possible outcomes for the upcoming WTO ministerial conference in Nairobi, Kenya, and thereafter. Participants will discuss, among other topics, the influence that

domestic political constraints are having on international negotiations, in turn affecting both potential Nairobi outcomes and beyond. More details can be found at the ICTSD [website](#).

15-16 November, Antalya, Turkey. G20 LEADERS' SUMMIT. The annual summit of leader from the G20 coalition of major advanced and emerging economies will be hosted this year by Turkey. This year's event, officials say, will be focused on reaching practical outcomes across areas ranging from development, climate change, climate finance, trade, growth, and, jobs. More information about the leaders' meeting and other related events can be found at the official G20 [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](#).

Resources

ARCTIC BLACK CARBON FROM SHIPPING: A CLUB APPROACH TO CLIMATE-AND-TRADE GOVERNANCE. By Thomas L. Brewer for the International Centre for Trade and Sustainable Development (ICTSD) (October 2015). This new paper focuses on the problem of black carbon, otherwise known as soot, being emitted via maritime transport. Given that black carbon is not covered in the multilateral climate change negotiations under the UN Framework Convention on Climate Change (COP), the author reviews options for mitigating such emissions in the Arctic region, calling for a comprehensive Arctic Black Carbon (ABC) agreement. The author discusses the type of structure this ABC agreement could take and what it would require. To learn more, or to access the paper, visit the [ICTSD website](#).

THE INFLUENCE OF FOREIGN DIRECT INVESTMENT, INTRAFIRM TRADING, AND CURRENCY UNDERVALUATION ON US FIRM TRADE DISPUTES. By J. Bradford Jensen, Dennis P. Quinn, and Stephen Weymouth for the Peterson Institute for International Economics (PIIE) (October 2015). This working paper discusses the recent decline in US firm anti-dumping filings, analysing the possible factors behind this trend. The authors suggest that these types of trade disputes are less likely given the increasing "vertical" foreign direct investment of US firms. The issue of currency undervaluation is also examined in this context. The publication is available [here](#).

CHARTING THE EVOLVING LANDSCAPE OF SERVICES TRADE POLICIES: RECENT PATTERNS OF PROTECTION AND LIBERALIZATION. By Martin Roy for the World Trade Organization (October 2015). This new working paper reviews how services trade policies have evolved over the past 15 years, with the author suggesting that policy changes during this time period have tended to have greater effect while also being less likely to be easily reversed. The working paper reviews both liberalising and protectionist measures in recent years – particularly after the global financial crisis – in the context of services trade. The paper can be accessed [here](#).

TRANSATLANTIC TRADE AND INVESTMENT NEGOTIATIONS: REACHING A CONSENSUS ON INVESTOR-STATE DISPUTE SETTLEMENT. By Miriam Sapiro for the Brookings Institution (October 2015). This new paper focuses on the investor-state dispute settlement mechanism (ISDS) in trade and investment agreements, reviewing both the reasons behind its creation and how relevant such a system is today. While the author finds that the arguments in favour of keeping ISDS in future deals outweigh those in favour of removing it, she also calls for the negotiators of the Transatlantic Trade and Investment Partnership (TTIP) deal to consider possible ways to improve the system. The paper is available [here](#).

BRUSSELS BRIEFING ON THE ENVIRONMENT – ALL YOU NEED TO KNOW FOR OCTOBER 2015. Published by viEUws (October 2015). This video briefing by viEUws discusses a series of environment-related policy developments expected this month, including the UN climate negotiations being held in Bonn, Germany on 19-23 October; the European Commission's midterm review of the EU's biodiversity strategy; and the ongoing Volkswagen emissions cheating scandal. The video is available [here](#).

EXPLORE THE TRADE AND SUSTAINABLE DEVELOPMENT
WORLD FURTHER WITH ICTSD'S BRIDGES NETWORK

BIORES

Analysis and news on trade and environment for a global audience
<http://www.ictsd.org/bridges-news/biores>
English language

BRIDGES AFRICA

Trade and sustainable development news and analysis on Africa
<http://www.ictsd.org/bridges-news/bridges-africa>
English language

PUENTES

Latin America-focussed analysis and news on trade and sustainable development
<http://www.ictsd.org/bridges-news/puentes>
Spanish language

МОСТЫ

CIS-focussed analysis and news on trade and sustainable development
<http://www.ictsd.org/bridges-news/МОСТЫ>
Russian language

PONTES

Analysis and news on trade and sustainable development for the Portuguese-speaking world
<http://www.ictsd.org/bridges-news/pontes>
Portuguese language

桥

Analysis and news on trade and sustainable development for the Chinese-speaking world
<http://www.ictsd.org/bridges-news/桥>
Chinese language

PASSERELLES

Africa-focussed analysis and news on trade and sustainable development
<http://ictsd.org/news/passerelles>
French language

PUBLISHED BY



International Centre for Trade
and Sustainable Development
Chemin de Balexert 7-9
1219 Geneva, Switzerland
+41-22-917-8492
www.ictsd.org

Bridges Weekly Trade News is made possible
through generous contributions of donors and
partners including

DFID - UK Department for
International Development

SIDA - Swedish International
Development Agency

DGIS - Ministry of Foreign Affairs
Netherlands

Ministry of Foreign Affairs, Denmark

Ministry of Foreign Affairs, Finland

Ministry of Foreign Affairs, Norway

Department of Foreign Affairs and Trade,
Australia

Copyright ICTSD, 2015. Readers are encouraged
to quote and reproduce this material for
educational, non-profit purposes, provided the
source is acknowledged.



This work is licensed under the Creative
Commons Attribution-NonCommercial-No-
Derivative Works 4.0 International [License](https://creativecommons.org/licenses/by-nc-nd/4.0/).

Your support to BRIDGES and the BRIDGES series
of publications is most welcome; if interested,
please contact Andrew Crosby, Managing
Director at +41-22-917-8335.

Contributors to this issue are Sofia Alicia Baliño,
Varun Eknath, and Kiranne Guddoy. This edition
of Bridges Weekly Trade News Digest is edited by
Sofia Alicia Baliño.

The Publisher and Director is Ricardo Meléndez-
Ortiz. The Editor in Chief is Andrew Crosby.
Comments and suggestions are welcomed and
should be directed to the [editor](#) or the [director](#).

Price: €10.00
ISSN 1563-0

