

# BRIDGES WEEKLY

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## PREFERENTIAL AGREEMENTS

### TTIP Eighth Round Touts Progress Amid Growing Questions over Pace

Negotiators from the US and EU held their eighth negotiating round for the Transatlantic Trade and Investment Partnership (TTIP) last week, marking the first such meeting of the new year. The talks in Brussels were watched closely for possible signs of movement given recent pledges from the top trade officials from both sides to make a "fresh start" in the negotiations.

Last week also marked the first such round since both the US midterm elections in November and the entry of the new European Commission, and came ahead of a series of bilateral meetings between US leaders and some of their EU counterparts in cities ranging from Munich to Washington that also touched on the talks.

Following the round, which was held from 2-6 February, officials reported "intensive and comprehensive discussions" in nearly all aspects of the TTIP negotiations, with the exception of the discussions on investor-state dispute settlement (ISDS) and investor protections, which are still suspended.

"This week's round was constructive, but we do need to see more concrete progress along the lines that our ministers agreed if we are to turn this fresh start into a reality," US chief negotiator Dan Mullaney told reporters on Friday.

Two additional negotiating rounds are planned between now and the summer break, EU chief negotiator Ignacio Garcia Bercero said, as part of an "intense work schedule" aimed at propelling the talks forward. These will be paired with intersessional talks held in between the formal rounds, touching upon areas such as sectoral regulatory discussions.

The next round will be held in the Washington area in April, with a subsequent round slated for July.

#### Market access

The TTIP talks involve three main areas where the two sides are aiming to improve market access: tariffs, services, and government procurement.

No new offers were tabled on tariffs at this round, with negotiators instead holding "detailed discussions" on the initial offers that were tabled a year ago.

When those offers were first tabled in February 2014, the EU had reportedly criticised the US offer as being insufficiently ambitious to serve as the basis for negotiations, given that it covered a significantly smaller percentage of tariff lines.

Characterising last week's discussion on tariff offers as a good meeting, the US chief negotiator called for the two sides to increase their efforts on submitting revised versions.

"We need to move quickly to ambitious second tariff offers to achieve our ultimate goal and we need to make similar progress on services and investment if we are to transform the evident goodwill on both sides into comparably forward-leaning positions at the negotiating table," Mullaney said.

### **Regulatory cooperation**

Regarding cross-cutting – also referred to as "horizontal" – regulatory issues, the two sides now have on the table proposals on all areas that they wish to cover. This will allow them to work off of "consolidated texts" from the next round onward.

These areas include technical barriers to trade (TBT), sanitary and phytosanitary standards (SPS), and regulatory cooperation.

Furthermore, officials confirmed on Friday that the EU tabled its proposal on regulatory cooperation for last week's meeting, which the US had already done some months prior.

The EU has reportedly proposed the creation of a regulatory body that would feature representatives from both sides, which would be tasked with identifying regulatory cooperation priorities for certain areas. As TTIP itself would have plans for concrete outcomes in some areas and future work in others, the body would particularly focus on the latter.

Garcia Bercero stressed to reporters that this proposed body would not vet the regulations that each side is developing domestically, nor would it be a decision-making entity. How it would interact with legislators and civil society is another area still under discussion.

The US' chief negotiator has said that his side is still having talks with the EU to fully understand the details of the latter's proposal, while noting the importance of establishing some sort of "ongoing institutional framework" to address future issues.

"We're not going to solve all the issues – past, present, and future – in this negotiation and would need some ongoing institutional framework to address these issues as these arise," Mullaney said. Both negotiators stressed that any work in the regulatory area would not do anything that would undermine domestic measures aimed at public policy objectives such as consumer and environmental protections.

### **TTIP, TPP balance**

Over the past several weeks, leaders such as UK Prime Minister [David Cameron](#), German Chancellor [Angela Merkel](#), and US President Barack Obama have made public calls for reinvigorating the TTIP negotiations, citing the need to strengthen the EU-US relationship amid the rise of emerging economies and strained ties with Russia.

Yet with the talks now approaching the two-year mark, questions have grown over whether the negotiations to deepen the world's largest trading relationship may have lost too much momentum since their June 2013 launch, particularly as other trade liberalisation efforts – such as the US' negotiations with 11 other countries for a Trans-Pacific Partnership (TPP) Agreement – ramp up.

The effort to conclude such a TPP deal within the coming months has prompted questions over whether Washington may be prioritising those negotiations over its talks with Brussels – an assertion that US officials have publicly attempted to dispel. (See Bridges Weekly, [5 February 2015](#))

"TTIP is not the stepchild to TPP," [said](#) US Vice President Joe Biden in Munich this past weekend, adding that the US has not lost interest in Europe. "We have not decided that the future lies in the Pacific Basin. We are a Pacific power. We will assert that power, and we will remain a Pacific power. But we are also an Atlantic power."

Following his speech in Germany, the US Vice President subsequently [met](#) with new European Council President Donald Tusk in Brussels, with the former Polish premier [reiterating](#) the Council's call to complete a TTIP deal by the end of 2015.

"This is ambitious, I know, but the TTIP carries with it great potential in both economic and political terms," Tusk said following their bilateral meeting.

On the US side, however, officials have mainly referred to the goal of achieving substantial progress in 2015, stopping short from calling for a completed deal in that timeframe. Obama, following a [meeting](#) with Merkel in Washington on Monday, said that both leaders "agree that there needs to be meaningful progress this year."

### ISDS questions loom

One TTIP topic that has attracted significant public scrutiny is the possibility of including investor protections and an investor-state dispute settlement mechanism (ISDS). For the moment, that part of the talks will remain on hold and were thus not raised during last week's meetings in Brussels.

The European Commission is now holding additional consultations following the result of its public consultation on the subject, which found "huge scepticism" on ISDS, in order to determine ways forward. (See Bridges Weekly, [15 January 2015](#))

Speaking at an event in Vienna last month, Malmström [said](#) that EU officials are both trying to determine both how to approach ISDS in TTIP, as well as on the 1400 existing bilateral investment deals that the EU and its individual member states already have. "The vast majority of these agreements do not include the kind of guarantees that we all want to see. We need to begin reforming them."

The Commission has therefore made [a proposal](#) that would allow UN transparency rules on ISDS to apply to the various existing treaties that the 28-nation bloc, as well as its individual members, has in force. The proposed changes still require sign-off by the EU Council.

For their part, US officials have long said that ISDS should be included in a final TTIP deal. Senator Orrin Hatch, a Republican from the US state of Utah who chairs the Senate Finance Committee, has been among those advocating for such a mechanism.

"Because I believe that these principles are the foundation on which American businesses can build opportunities overseas, I will continue to insist that investor-state disciplines not be weakened in any of our trade agreements," Hatch said in a [30 January speech](#) to the American Enterprise Institute.

"That means both TTIP and TTIP must have strong investor-state dispute settlement mechanisms," the US senator said. "No trading partner should be given a pass to violate these fundamental legal principles for investors without enforcement. Nor should any US industry, including tobacco, be excluded from receiving these basic protections."

## Public opinion

Selling the merits of the deal to both the public and lawmakers has proven particularly challenging for trade officials, with concerns only expected to grow as the US and EU work to transition away from the primarily technical work that have characterised their discussions so far and into the tough political decision-making that will be required to reach a final agreement.

Questions have been raised, for example, on what the goal of “regulatory coherence” might mean for domestic agencies’ and governments’ ability to regulate in the public interest, or whether adopting an ISDS mechanism could leave public policies aimed at consumer or environmental protection open to lawsuits.

EU Commissioner for Health and Food Safety Vytenis Andriukaitis recently warned that much work still remains to win over the European public on the merits of the TTIP deal.

“We have to take people’s concerns seriously,” Andriukaitis told the German newspaper Tagesspiegel, warning that he currently did not see a “safe majority” for the pact yet.

However, an EUBarometer [survey](#) published in December found that 58 percent of Europeans are in favour of a bilateral EU-US deal. The survey, conducted by TNS at the Commission’s request, noted that a quarter of Europeans are against the pact, with 17 percent undecided. The three EU member states where those in opposition to TTIP outweighed those in favour were Austria, Germany, and Luxembourg, the report said.

ICTSD reporting; “No clear majority yet for US trade deal, says EU health chief,” EURACTIV, 20 January 2015.

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## DISPUTES

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# US Launches WTO Challenge Against Chinese Export Subsidies

The US has filed a formal WTO complaint against an “extensive” Chinese export subsidy programme for companies across seven industry sectors, including textiles, medical products, and agriculture. The new case is the latest in a long history of disputes between the economic giants at the global trade body.

The launch of dispute settlement proceedings was [announced](#) on Wednesday by US Trade Representative Michael Froman, who touted the move as proof that Washington is as committed to the “decisive, effective enforcement of our trade rights” as it is to negotiating new trade deals.

The Chinese programme at issue is known as the “Demonstration Bases-Common Service Platform,” which the US says essentially allows Beijing to designate select companies as being “demonstration bases” in exchange for those companies then exporting the goods they produce.

The benefit of this designation, Washington says, is that those producers can then receive subsidised services, which are provided either for free or at a discount. Cash grants and other incentives are also available to those companies that “meet export performance criteria,” the US claims.

The 179 demonstration bases that allegedly benefit from these “prohibited export subsidies” include companies in sectors such as textiles, apparel, and footwear; advance materials and metals; light industry; specialty chemicals; medical products; hardware and building materials; and agriculture.

Froman said that this support violates China's WTO commitment to remove certain export subsidies. The level of such support, his office explained in a [press statement](#), was difficult to determine due to Beijing's “lack of transparency,” though these levels seem to vary depending on what industry the base works in and where it is based geographically.

Washington claims that these exports make up a significant part of China's total outbound trade. For instance, 14 percent of China's textile exports in 2012 came from 16 of the 40 demonstration bases in the Asian country's textiles sector.

The full text of the US complaint, known as a request for consultations, was not publicly available as Bridges went to press on Thursday morning.

### Long sparring history

WTO disputes are far from new for Washington and Beijing, who have 24 past cases between them. Of these, the US has filed 15 cases against China, while the Asian economic powerhouse has lodged nine against its North American trading partner.

The deep trading relationship between the two countries was cited by the US Trade Representative as one more reason to take trade enforcement action when necessary.

The Demonstration Bases-Common Service Platform hurts American workers, Froman said, leaving it to Washington “to hold China, one of our most important trading partners,

to its word and do our utmost to guarantee that the rights of Americans are not subverted by unfair foreign giveaways."

At the time of this writing, Beijing officials had not yet issued a public response to the charges.

Under WTO rules, the US and China must now hold consultations for a minimum of 60 days in an effort to reach a mutually agreed solution. Should the two sides fail to resolve the matter within that time frame, Washington will then have the option of requesting that a dispute panel be formed to hear the case.

### **Washington trade atmosphere**

The US complaint drew support from several American lawmakers from states such as Washington, Louisiana, and California, who issued statements that generally highlighted the importance of trade enforcement, particularly with regards to China.

The dispute comes at a time when trade has gained renewed prominence on the Washington agenda, as US negotiators race to conclude negotiations for a Trans-Pacific Partnership (TPP) Agreement with 11 other countries. The deal does not currently include China, with some analysts suggesting that the effort appears geared at matching Beijing's growing influence in the region.

Legislation to renew Trade Promotion Authority, which allows the US executive branch to negotiate trade deals that are then submitted to Congress for straight up-or-down votes, is expected to be tabled in the US legislature in the coming weeks in order to pave the way for TPP completion and ratification, which has further fuelled the debate on the merits of trade deals.

Passing these new trade deals, US officials have said, is key to ensuring that Washington continues to play a role in establishing the "rules of the road" regarding trade in both the Atlantic and Pacific regions.

"Today, our businesses export more than ever, and exporters tend to pay their workers higher wages," US President Barack Obama said during his annual State of the Union address in January. "But as we speak, China wants to write the rules for the world's fastest-growing region." (See Bridges Weekly, [22 January 2015](#))

"Why should we let that happen? We should write those rules. We should level the playing field," he added.

ICTSD reporting.

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## SERVICES

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# WTO Members Indicate Extensive Preferences to Enact LDC Services Waiver

Several WTO members indicated concrete sectors and modes of supply where they intend to provide preferential treatment to least developed countries' (LDCs) services and services suppliers at a high-level meeting on 5 February.

Most of the preferences presented at last Thursday's WTO Council for Trade and Services (CTS) build on offers that have previously been made by members in the context of the Doha Round negotiations. In addition, some members have offered to add new commitments and/or establish equivalence with preferences that they have granted in their most liberal FTAs.

Those unilateral preferences for LDCs services exports will first need to go through the respective preference givers' domestic legal procedures and subsequently be notified at the WTO before they become binding.

Several LDC delegates qualified the outcome of the meeting – which was attended by trade ministers from Uganda and Bangladesh – as “impressive” and “unexpected.”

The quality of the engagement and depth of the signals presented to “operationalise” the waiver were acknowledged by several delegates at the end of the high-level gathering.

The meeting took place, as envisaged under the terms of the 2013 Bali Ministerial Decision, six months after the LDC Group submitted its collective request in July 2014 regarding the preferential treatment it wanted to see for LDC services exports. (See Bridges Weekly, [25 July 2014](#)) In order to release the potential economic benefit of the waiver, the Council on Trade in Services was instructed at the 2013 WTO Ministerial Conference to launch a process aimed at promoting “the expeditious and effective operationalisation” of the waiver.

The LDC services waiver decision stems from the outcome from a previous WTO Ministerial Conference held in Geneva, Switzerland in 2011. However, in the two years that followed, no preferences had been requested by LDCs or granted to them, prompting WTO members to reconsider ways to move this decision forward.

### Extensive preferences

Twenty-eight WTO members indicated sectors and modes where they were considering providing preferences as well as support for projects on technical cooperation. Seventeen other members signalled that preferences were currently under consideration.

Australia, Brazil, Chile, China, the EU, Hong Kong, India, Japan, Liechtenstein, Mexico, Norway, South Korea, Singapore, Taiwan, and Thailand were among the members that reportedly made pledges during the meeting.

Other countries said that on-going consultations were taking place and were expected to lead to preferences in the coming months.

“The meeting represented a constructive way forward and focused on concrete deliverables,” said another developed country delegate.

Some sources were more sceptical, saying that what remains to be seen is how these pledges are turned into practice. "We need to see all this in black and white," said an African delegate.

"The question is now to assess the commercial value of the pledges that were made for LDCs," said another LDC delegate.

The lack of certainty about the legal value of such unilateral preferences was stressed by one delegate who specified that it was not clear whether they were just statements of good faith to act or legally binding.

### **Wide coverage**

With regard to Mode 4 – the mode of supply of most interest for LDCs as it involves the movement of persons across borders – some of the preferences include new commitments to extend the period of stay for some LDC contractual services suppliers. These include, for example, independent professionals, graduate trainees, installers, and intra-corporate transferees, as well as new categories of services professionals.

Potential preferences signalled by members under Mode 1, which involves cross-border trade, and Mode 3, which deals with supply of services through commercial presence, also include a variety of new sectors and sub-sectors.

These include, for instance, business services such as engineering, translation and interpretation services, project management, and consulting; computer-related services; financial services; travel and tourism; maritime services such as freight transportation and cargo handling; and air transport services, including ground handling and computer reservation systems.

India indicated preferential treatment in technical assistance and market access with pledges in new sectors, such as engineering services and computer-related services. Additionally, New Delhi proposed waiving visa fees for LDC applicants applying for business or employment visas to ensure "real and commercially meaningful" market access for LDC services suppliers.

One developed country delegate indicated that China made interesting signals as well. According to Beijing's statement, a copy of which has been seen by Bridges, China says it is ready to provide preferential treatment in the areas of market access, domestic regulation, and capacity-building and assistance for the construction of infrastructure and service facilities.

Within the market access category, Beijing has indicated that will provide preferences in the area of Mode 4, such as by allowing "business visitors" from LDCs to enter and stay in China for six months. This would apply to all of the services sectors and sub-sectors featured in the Asian country's current WTO services schedule.

The EU's [pledges](#) are based on its Doha Round offer and cover the traditional areas of the WTO's General Agreement on Trade in Services (GATS), including making available to LDCs key elements of the improvements in Mode 4 access as well as market-opening measures included in its recent FTAs, such as in the Economic Partnership Agreement (EPA) with the Caribbean Community (CARICOM) members.

Trade observers indicate that there is not yet any indication about the exact coverage and extent of the proposed sectoral preferences for the LDCs by the EU, only its pledge that these will be "significant."



The United States emphasised that the services waiver should be part of a broader discussion about LDC services regulatory reform and increasing capacity to actually export services.

According to the US' statement, a copy of which has been seen by Bridges, "obtaining preferential access to a foreign market may be meaningless" unless LDCs also develop the capacity to serve their own markets.

The US statement refers to the waiver as just one tool "in a whole arsenal of actions" that may help address the difficulties LDC services markets have in both supply and demand.

The US also specified that their services market is very open, and that as a result identifying areas where Washington could offer preferences has proven challenging, given that LDC services and services suppliers already receive broad access to the US market.

### **Extension of TISA preferences to LDCs?**

The United States has stated its intent to give LDCs the same level of access, "to the extent feasible," to the US services market that Washington will provide under the Trade in Services Agreement (TiSA) – a plurilateral agreement on services trade currently under negotiation by a 23-member group that also includes the EU.

"This approach will still require broader consultation," specified the US statement.

The US added that new disciplines being discussed under TISA – such as greater transparency and good governance provisions in the area of domestic regulations and professional services, along with disciplines in the area of e-commerce – could constitute areas where LDCs may see important gains "should they so choose to adopt them."

### **Technical assistance**

Several members announced various [technical assistance](#) initiatives to improve LDC services export capacity. The initiatives include training programmes for LDC service suppliers and support to upgrade infrastructure.

A number of countries indicated that they already provide technical assistance through multilateral channels and reiterated the need to make optimal use of existing Aid for Trade channels and capacity building projects to be linked to the LDC services waiver implementation process.

Aid for Trade is a WTO led-initiative intended to address various supply-side and trade-related infrastructure constraints that developing countries and LDCs face, including across service sectors.

India has proposed earmarking a share of technical assistance exclusively for LDCs and designing a new scheme to address the supply-side constraints in the services sector of LDCs.

Australia has also signalled additional funding for technical assistance.

It was indicated that trade in services will be one of the main topics addressed during this year's WTO Global Aid for Trade Review, a biennial event which will be [held](#) in Geneva from 30 June-2 July.

### **New deadline on the horizon**

WTO Director-General Roberto Azevêdo will now discuss the outcome of the high-level meeting with the LDC Group on 18 February.

A CTS meeting will then be held on 19 March, where pledges are expected to be assessed. In the meantime, an assessment report will be prepared by the LDC Group in order to evaluate the commercial value of the preferences on the table and the ensuing need for capacity building in the LDCs concerned.

The timing of the operationalisation of the waiver has often been referred to as crucial in past discussions. As Amelia Anne Kyambadde, Uganda's Minister of Trade, Industry, and Cooperatives, explained on behalf of the LDC Group, the waiver has "a shelf life of only 15 years," referring to how long the waiver is set to last from the date of its adoption.

Of these 15 years, "three years have slipped away with no notifications of commitments from members in favour of services preferences to LDCs," the minister [said](#).

Preferences will be followed up by formal notifications to the CTS specifying the actual preferences. Members agreed that they should endeavour to do this by 31 July at the latest, though preferably at the earliest possible opportunity.

A number of countries have already expressed their willingness to notify their preferences to the CTS in the "near future."

ICTSD reporting.

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## DISPUTES

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# EU Commission Tables Proposal to Revise Seal Import Ban

The European Commission adopted a proposal last Friday to amend its ban on importing and marketing seal products, as part of its effort to bring the WTO-illegal aspects of the policy in line with global trade rules.

The nine-page [proposal](#) outlines a series of suggested changes to the EU Seal Regime, which is made up of a 2009 European Commission regulation and related implementing measures. The regime bans the sale of all seal products in all EU member states, subject to certain exceptions.

Friday's Commission proposal – which still must go through EU legislative procedures before it can enter into force – specifically addresses the two import ban exceptions that the Appellate Body had deemed discriminatory last year by modifying one and removing another.

In a landmark ruling issued in May 2014, the global trade arbiter had found the EU ban to be justified in principle on the right to protect public morals, specifically with regards to animal welfare. However, the Appellate Body had also determined that the design and/or use of certain exceptions to the ban constituted arbitrary or unjustifiable discrimination against Canada and Norway, who had jointly challenged the EU policy. (See Bridges Weekly, [28 May 2014](#))

The current ban features three exceptions. These include those products derived from hunts carried out by indigenous peoples (IC); products from hunts used for the sustainable management of marine resources (MRM), and products brought in by tourists that were not meant for commercial re-sale.

Of these three, the IC and MRM exceptions had been those cited by the Appellate Body as inconsistent with global trade rules, with the recommendation that the EU bring those aspects of the seal import ban into compliance.

Canada, Greenland, and Namibia – a third party in the WTO dispute – account for 60 percent of seals culled annually worldwide, according to EU [statistics](#). Russia and Norway also hunt seals for commercial purposes.

The EU's existing ban, which entered into force in 2010, was designed after various member states individually began weighing whether to enact restrictions on seal imports at a national level, and some had already introduced such bans. One-third of global seal trade either passes through or is sold on the European market, the bloc has said.

### Indigenous communities exception

WTO judges had deemed last May that while the overall principle behind providing Inuits and other indigenous communities with an exception to a ban was itself justified, Brussels had failed to demonstrate how treating products from IC hunts differently to those from "commercial" hunts could still answer the EU's public moral concerns regarding animal welfare.

The Appellate Body also said that the IC exception criteria requiring that such hunts be conducted for subsistence purposes or partial use was ambiguous and created the risk that seal products derived from hunts that should be deemed "commercial" might make their way onto the European market.

Under last week's Commission proposal, the IC exception would be modified so that products derived from these hunts can only be placed on the EU market if certain animal welfare criteria are met. The proposal acknowledges, however, that a "genuinely humane killing method cannot be effectively and consistently applied" in any seal hunts, indigenous or otherwise.

The proposal states that these hunts, in order to qualify for the IC exception, must be "conducted in a manner which reduces pain, distress, fear, or other forms of suffering of the animals hunted to the extent possible, while having regard to the traditional way of life and the subsistence needs of the Inuit and other indigenous communities."

In addition, the proposal says the IC exception should be limited to meet indigenous communities' subsistence needs, rather than primarily for commercial purposes. The Commission has thus asked that it be enabled to restrict the quantity of seal products placed onto the EU market in order to ensure that products derived from "commercial" IC hunts do not slip past.

Another prominent issue in the WTO case had been whether the EU had made "comparable efforts" to ensure that Canadian Inuits have the same option of using the IC exception as Greenlandic Inuits. While Greenland is not part of the EU, it is an autonomous territory of Denmark, which is part of the 28-nation bloc.

On this subject, EU officials have said that they are already working with Canadian experts in an effort to make it easier for Canadian Inuits to make use of the IC exception, specifically by establishing an attestation system.

"An expert group representing the two sides will work expeditiously towards the establishment of the administrative arrangements required for access to the European Union, in accordance with applicable laws and regulations, of seal products that result from hunts traditionally conducted by Canadian indigenous communities and which contribute to their subsistence," the EU and Canada said in a [joint statement](#) endorsing this plan in October.

Canada's National Inuit Organization, Inuit Tapiriit Kanatami (ITK), [welcomed](#) the initiative at the time, while stressing the importance of ensuring that the country's Inuit be directly involved in the process, both in its planning and its implementation.

### **Marine resource management exception**

The other exception faulted by WTO judges as being illegal was the sale of products derived from seals hunted for the sustainable management of marine resources, with the global trade body finding that there was not enough of a difference between those hunts and commercial hunts to justify special treatment.

The proposal released on Friday would thus remove the MRM exception in its entirety, though this would be "without prejudice to the right of member states to continue regulating hunts conducted for the purposes of management of marine resources."

### **Animal welfare groups laud proposal**

Friday's proposal has drawn praise from animal welfare groups such as Humane Society International (HSI) and the International Fund for Animal Welfare (IFAW), who deemed

the suggested changes as a viable compromise that ultimately strengthen the ban by removing existing loopholes.

"This is a good day for EU politics and a good day for seals," [said](#) Sonja Van Tichelen, IFAW's EU Regional Director. "The EU Commission has taken a regulation that reflects the concerns of millions of Europeans about animal welfare and cruelty and adjusted it to make sure that it is also fair for indigenous peoples in Europe and elsewhere."

HSI's EU executive director Joanna Swabe similarly praised the move, suggesting that the WTO challenges by Norway and Canada may have "backfired."

"This proposal not only improves the European Union ban on commercial seal products, but sends a strong message to Canada and Norway that the EU will not accept products that result from cruelty to animals," she said.

### **October deadline**

The EU, Canada, and Norway agreed last September that a "reasonable period of time" for Brussels to bring its WTO-illegal measures into compliance would be 16 months, effectively giving the EU a deadline of 18 October 2015.

The Commission proposal, along with a modification of the "implementing regulation" used to enact the current EU seal ban, would therefore need to be adopted and enter into force by that time.

This would require the sign-off of both the European Parliament and the European Council and could mean negotiations and possible changes to the Commission proposal in order to achieve a mutually acceptable outcome in that time period.

Should Canada and Norway claim that the final EU changes are insufficient to meet WTO rules, or if the agreed October deadline is not met, the two complainants would then have the option of launching additional dispute settlement proceedings.

ICTSD reporting.

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## GLOBAL ECONOMY

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# G-20 Finance Chiefs Pledge “Decisive Action” to Boost Global Growth

Finance ministers and central bank governors from the Group of 20 major economies [pledged](#) to “act decisively” on fiscal and monetary policy if necessary in order to address uneven global growth prospects, Greece’s ongoing debt problems, and other concerns.

The meeting, held in Istanbul from 9-10 February, was the first under the Turkish G-20 presidency, and was considered by analysts to be a key test of the group as it moves to implement the “national growth plans” announced by leaders in Australia in November.

### Uneven growth prospects

In a [blog post](#) published just before the summit, IMF Managing Director Christine Lagarde asked for bold action from the G-20, lest the global “economic supertanker continu[e] to be stuck in the shallow waters of sub-par growth and meagre job creation.”

Although the US economy has picked up in the last year, improvements on the global level have been less consistent, and some say that not all G-20 members have pulled their weight.

In the ministers’ communiqué issued at the end of the two-day meeting, G-20 leaders specifically flagged slow growth in the euro zone and Japan as troublesome, along with signs of a slowdown in some emerging economies.

Urging the EU in particular to create demand through expanded fiscal policy, US Treasury Secretary Jack Lew compared the global economy to a broken car. It will “not be a good ride for the global economy if the one strong wheel is the United States,” he told reporters.

Some EU officials, such as German Finance Minister Wolfgang Schäuble, countered that some of the bloc’s growth forecasts are improving, telling Reuters that the EU is “on a course which is not bad.”

### Brisbane implementation

Hoping to jumpstart the global economic recovery, G-20 leaders agreed last year in Brisbane to implement national growth plans, though these pledges are by nature non-binding. (See Bridges Weekly, [20 November 2014](#))

Collectively, these plans set down over 800 new measures focused on trade, employment, investment, competition, macroeconomic policy, and other reforms targeted to stimulate the global economy.

If successful, the plans could add over US\$2 trillion, or 2.1 percent, to G-20 members’ growth above current trajectories by 2018.

In Istanbul, discussions focused on ensuring accountability for these plans, and the 2.1 percent target. The plans were released publicly in November as part of an effort to ensure accountability, and Turkish Deputy Prime Minister Ali Babacan said ahead of this week’s meetings that he would enforce a policy of “keep your word, or explain.”

In the communiqué, finance officials offered similarly strong rhetoric, saying they would build a “robust framework” to ensure compliance. They also promised the presentation of the first accountability report in time for the November leaders’ summit.

Furthermore, officials said, G-20 members will “review our strategies to ensure they remain appropriate in light of changing circumstances.”

### **Trade, currency**

As a part of the structural reforms promised in Brisbane, trade also served as a topic of conversation both during the summit and the days leading up to it.

But while Lagarde pointed to trade deals such as the planned Transatlantic Trade and Investment Partnership (TTIP) and the Trans-Pacific Partnership (TPP) as positive opportunities to “spur economic growth,” and the communiqué called trade “critical” to greater growth, others suggested potentially troubling trends.

Monetary policy and its effects were among the issues raised at the meeting, officials say.

While the US Federal Reserve is working to normalise its monetary policy, the European Central Bank (ECB) and Japan’s Central Bank are both continuing with aggressive monetary stimulus efforts – a combination that some have warned could lead to excessive financial market volatility if not managed properly.

“The Americans very precisely warned everybody” about the use of currency manipulation as a way to boost national exports, an official from another G-20 member told the Reuters news agency.

The related subject of exchange rates’ impact on trade, while far from new, has drawn growing attention in recent weeks as US lawmakers spar over the merits of TPP itself and the plans to renew Trade Promotion Authority (TPA), also known as “fast track” trade powers.

On Tuesday, a bipartisan group of US lawmakers [proposed](#) legislation in both the Senate and the House of Representatives aimed at increasing oversight on trading partners who may be creating a competitive edge by gaming exchange rates.

The bill tabled in those chambers, which resembles similar legislation proposed unsuccessfully by lawmakers in recent years, also outlines potential consequences such as the imposition of countervailing duties should evidence of currency manipulation be found.

### **Positive developments**

Although the overall picture painted during the summit was relatively bleak, given the challenges ahead, the ministers did note some reasons for optimism.

For one, the sharp decrease in oil prices is expected to boost growth, especially for oil importers.

This change, the communiqué concluded, should allow importing countries to re-evaluate their existing fiscal policies in order to abandon “inefficient fuel subsidies in favor of investment” and better redistribution programs.

The communiqué also called the recently-announced ECB program of quantitative easing as a positive development that “will further support the recovery in the euro area.”

**Coming up**

The G-20 finance ministers are next scheduled to meet in April in Washington, on the sidelines of the International Monetary Fund and World Bank Annual Spring Meetings.

Subsequent meetings are planned for September in Ankara, Turkey, and October in Lima, Peru, before the 2015 meeting of heads of state in November in the Turkish city of Antalya.

ICTSD reporting; "Finance chiefs vow action to bolster growth at G20 meet, Greece weighs," REUTERS, 10 February 2015; "WRAPUP 2-G20 plan for investment targets runs into stiff opposition," REUTERS, 9 February 2015; "G20-U.S. warns against currency manipulation in trade deals –source," REUTERS, 9 February 2015.



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## PREFERENTIAL AGREEMENTS

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# US, Guatemala Square Off as FTA Labour Dispute Advances

The labour rights dispute between the US and Guatemala under the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) has revved up in recent weeks, with both sides now having sent in written submissions to the arbitral panel outlining their respective claims.

The dispute dates back to July 2010, when the US charged that Guatemala had failed to enforce effectively its own domestic laws, specifically regarding the protection of workers' rights such as freedom of association, right to collective bargaining, and right to work in acceptable conditions. (See Bridges Weekly, [4 August 2010](#))

Washington had argued that this alleged violation of a CAFTA-DR labour provision had forced US workers to compete against poor labour practices, putting them at a competitive disadvantage.

The 2010 complaint marked the first time that a labour rights complaint had been lodged under a free trade deal. Both the US and Guatemala are parties to CAFTA-DR, a free trade deal that also includes Costa Rica, the Dominican Republic, El Salvador, Honduras, and Nicaragua as its members.

Unlike current WTO agreements, the commitments these seven countries have made under CAFTA-DR extend to certain non-traditional trade fields such as labour rights enforcement, which are now becoming increasingly common in FTAs. This case is therefore being watched closely to see how such new issues are dealt with in a trade context.

### Over four years in

The case has advanced slowly since its initial launch. Unsuccessful efforts at consultation and mediation in 2010 and 2011, respectively, led the US to request the establishment of an arbitral panel, which was composed in late 2012.

However, both sides then agreed to suspend arbitration in 2013, reaching instead an 18-point "Enforcement Plan" under which the Guatemalan government promised to improve labour law enforcement within specific time frames.

The dispute re-surfaced a year later, when the US claimed in August 2014 that Guatemala had failed to implement the enforcement plan and asked to reactivate dispute settlement proceedings.

"Our goal in taking action... remains the same as it has always been: to ensure that Guatemala implements the labour protections to which its workers are entitled," US Trade Representative Michael Froman [said in September](#) when confirming that Washington was renewing dispute proceedings.

The US trade chief added that improving labour rights in Guatemala could serve as a "positive signal to the world," one that would draw investment to the Central American country and boost economic growth, while also potentially providing a deterrent for the growing problem of unaccompanied child migrants being sent from Guatemala to the US in search of economic opportunities.

## **Labour rights and trade**

Chapter 16 of CAFTA-DR outlines the parties' labour-related obligations, such as consistency with internationally recognised labour rights, effective enforcement of labour laws, and due process requirements.

"A party shall not fail to effectively enforce its labour law through a sustained or recurring course of action or inaction, in a manner affecting trade between the Parties," the FTA says.

According to the US, this particular provision requires each party to take actions necessary to compel compliance with its labour law to ensure substantial effect or result.

That party would therefore be liable for failure of effective enforcement, in this case of the Guatemalan Labour Code, should the facts demonstrate a sustained or recurring course of action that affects cross-border economic activity, such as by influencing competitiveness conditions within and among the CAFTA-DR parties.

Guatemala has rebutted that this CAFTA-DR provision is meant to capture a deliberate policy of action or inaction adopted by the relevant party, and therefore individual acts or actions that are not attributable to the party should be excluded.

Regarding the term "in a manner affecting trade," Guatemala says that there must be a causal link between the "course of action or inaction" and the alleged trade effect. In Guatemala's view, the word "trade" refers to FTA-related trade of all CAFTA-DR parties, not simply bilateral trade flows or commercial transactions within one country's territory.

## **US claims over 400 violation examples**

In its submission, the US says that it has evidence of at least 402 individual instances of Guatemalan labour law violations that together represent a "sustained or recurring course of inaction affecting trade between the parties" in breach of CAFTA-DR obligations.

For example, the US says that Guatemala has failed both to secure compliance with court orders requiring employers to reinstate and compensate workers wrongfully dismissed for union activities, as well as to pay fines for this retaliatory action.

Washington also claims that Guatemala City has failed to conduct investigations in accordance with the latter's Labour Code and has not imposed the requisite penalties when employer violations have been found. Furthermore, the US said, Guatemala has also failed to register unions or institute conciliation processes in a timely fashion.

These violations, the US says, hurt bilateral trade through altering competitiveness conditions in a way that unfairly benefits Guatemalan companies, including through inappropriately reduced labour costs.

Guatemala argues that the United States has submitted flawed evidence to make its case, with the Central American country claiming that approximately 85 percent of this evidence is in the form of either anonymous statements or redacted documents.

Regarding the US' factual arguments, Guatemala charges that the alleged labour law inconsistency comes from the fact that some of the court orders cited were under appeal, leaving no basis for imposing penalties. In other instances, the authorities did conduct investigations and/or impose penalties as provided by its domestic law, while in other cases the workers and the employers reached mutually-agreed solutions.

Guatemala also alleges that the US failed to establish the existence of various related omissions that are either continuous or occur repeatedly over a prolonged period of time, and that form part of a deliberate policy of the Guatemalan government.

Furthermore, Guatemala says that the US has failed to demonstrate that trade between parties is being affected, and whether any impact on trade is truly attributable to the alleged "sustained or recurring course of inaction."

"Only one of the 16 Guatemalan companies targeted in the United States' complaint has exported to the other CAFTA-DR Parties, and the exports of this company were negligible, amounting to less than US\$13,000 in 2014," Guatemala said in its submission.

### **Next steps**

The parties will next send in their rebuttal submissions, after which the panel will organise a hearing, followed by supplementary written submissions and answers to any questions on the basis of a mutually agreed timetable.

CAFTA-DR provides for a maximum of 120 days for the panel to issue an initial report after the last panellist has been selected, unless the parties decide otherwise.

ICTSD reporting.

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## AGRICULTURE

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# Brazil's Growing Farm Support Mostly Not Trade Distorting, New Data Suggests

Brasilia recently notified the WTO that its total domestic farm subsidies increased in the 2012-13 marketing year, while remaining slightly lower than their 2009-10 high of US\$10 billion. However, the bulk of the support continued to be classed as causing no more than minimal trade distortion under current global trade rules.

The [data](#), released on 29 January, indicates that total farm support totalled US\$9.7 billion for 2012-13. Trade-distorting support made up US\$2.4 billion of this total, a decline both in absolute and relative terms over recent years.

Figures show that overall trade-distorting support is substantially below the ceiling of US\$8.8 billion proposed for Brazil in the 2008 draft Doha Round text on agriculture, as indicated in a recent communication circulated by a group of farm exporting countries. (See Bridges Weekly, [5 February 2015](#))

Total trade-distorting subsidies fell within the country's "de minimis" allowance, which for most developing countries should represent less than ten percent of the country's value of production. According to the current WTO disciplines, these are allowed within this limit even though they distort trade.

As in previous years no support was provided under the "blue box," which is deemed slightly less trade distorting.

Non-product specific trade-distorting support totalled about US\$2.1 billion. The remaining US\$320 million was channelled toward product-specific support, with sugar cane receiving the bulk at US\$244 million.

The increasing support provided to the Brazilian sugar industry and bio-ethanol producers drew scrutiny at last November's Committee on Agriculture meeting, when the EU [raised questions](#) about the functioning of sugar support policies and whether these will be notified as an export subsidy. The notification clarifies this since Brasilia notified that about US\$239 million were provided as product-specific support for ethanol producers.

Figures also show that both the number of subsidised products and allocated sectoral financial resources fell over the last few years.

### Green box payments on the rise

About 72 percent of Brazil's farm subsidies, or US\$6.2 billion, were classified as "green box" payments in 2012-13. Under WTO rules, this category is considered to be minimally trade distorting and not subject to limits.

Similar to other major agriculture powers such as [China](#), [India](#), the [US](#), and the [EU](#), "green box" support ballooned over the last few years. While the increase in Brazil was less dramatic, support under the "green box" has more than tripled from about US\$1.9 billion in 2004-05 to US\$6.2 billion in 2012-13.

The rise was mainly driven by support provided for programmes such as extension and advisory services for farmers, support for projects of agricultural development, and other general services such as infrastructure services.

In 2012-13 the Brazilian government provided a total of US\$3.8 billion for general services, compared with US\$1.3 billion in 2004-05.

Domestic food aid represented a large share of Brazil's "green box" support, totalling US\$1.6 billion. Spending for domestic food aid has stabilised after growing rapidly in the late 2000s and then reaching a peak in 2010-11. Brazil also channelled US\$317 million for public food stockholding.

#### **Low-income, resource-poor producers**

Under WTO rules, as a developing country Brazil is allowed to provide input and investment subsidies for low-income, resource poor-producers without limits and is exempt from domestic support reduction commitments.

Spending in this category doubled from US\$871 million in 2008-09 to US\$1.7 billion in 2009-10 and 2010-11, but has since declined to about US\$1.1 billion. Most of the spending, at US\$893 million, was provided as investment credit, directed to improve rural structures, acquisition of machines, equipment, and vehicles.

The next meeting of the Committee on Agriculture is scheduled for early March, where WTO members will have the opportunity to raise questions on the latest notification.

ICTSD reporting.

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## EVENTS & RESOURCES

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# Events

### Coming Soon

6-27 February, online. THE ECONOMICS OF CLIMATE CHANGE MITIGATION OPTIONS IN THE FORESTRY SECTOR. The UN Food and Agriculture Organization (FAO) is hosting this international online discussion centred on the costs and benefits of proposed options for climate change mitigation in the forestry sector, including Reducing Emissions from Deforestation and Forest Degradation (REDD+), green building, and the potential of bioenergy. The conference will focus on two themes: "climate change mitigation through forest management interventions" and "climate change mitigation through improved wood utilisation." Key topics include the variations in mitigation potential at different carbon prices across regions and how mitigation efforts can contribute to the planned Sustainable Development Goals (SDGs) of different countries. For more information about this online conference, please visit the FAO [website](#).

8-13 February, Geneva, Switzerland. GENEVA CLIMATE CHANGE CONVENTION. Geneva will host the eighth part of the second session of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) organised by the United Nations Framework Convention on Climate Change (UNFCCC). The ADP is working to establish a protocol, legal instrument, or agreement under the [2011 Convention](#) applicable to all parties, which would take effect in 2020 with the goal of mitigating climate change through international efforts. For more information, please see the event [website](#).

11-13 February, Bangkok, Thailand. RESILIENT CITIES ASIA 2015. This forum is the first edition in the Resilient Cities Asia-Pacific congress series, which aims to provide an Asia-Pacific platform to facilitate dialogues about urban resilience and climate change adaptation. The ultimate goal of these discussions is to identify implementable solutions to strengthen urban areas against the environmental, social, and economic challenges these face in the 21<sup>st</sup> century. Those actors involved in the key functioning of a city, including mayors, commissioners, governors, engineers, and analysts, are among those expected to be in attendance. For more information about the event, please visit the [website](#).

12 February, Hyogo, Japan. SYMPOSIUM ON SUSTAINABLE DEVELOPMENT GOALS AND DISASTER RISK REDUCTION. The symposium, organised by the Project on Sustainable Transformation for 2015 and sponsored by Japan's Ministry of the Environment, is being held as part of the United Nations University-IAS Governance for Sustainable Development project's activities. The meeting will explore potential linkages between the planned Sustainable Development Goals (SDGs) and disaster risk reduction (DRR) with specific emphasis on the forthcoming post-2015 development agenda and the Hyogo Framework for Action. These linkages will be used in the development of policy recommendations for the upcoming UN World Conference on DRR in Sendai, Japan. For more information on the event, please visit this [website](#).

18 February, online. NEW WAYS DATA & COMMUNICATIONS CAN ADVANCE GREEN GROWTH. This one-hour webinar, hosted by Dual Citizen LLC, will be held from 4:00 PM – 5:00 PM CET. The seminar will explore the results from the new Global Green Economy Index (GGEI), a report evaluating the efforts of 60 countries in pursuing a greener economy. Using the GGEI as a guide, the webinar will then discuss innovative ways to utilise data and communications to promote green economic growth. Particular topics include how to use digital tools like social media to influence global opinion on green

economy issues and also how to use communications to facilitate and promote green investment. To learn more about the event, and to register, please visit this [website](#).

17-20 February, New York, US. POST-2015 INTERGOVERNMENTAL NEGOTIATIONS. The second session of intergovernmental negotiations on the post-2015 development agenda will take place at the UN Headquarters in New York City. This session is one of many involved in the process of defining an agenda that will be finalised and launched at a UN Summit in September 2015. Before its launch, member state officials must pin down a set list of Sustainable Development Goals (SDGs) as part of the broader post-2015 development framework. For more information about this event, please visit this [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.

16 February: Workshop on Aid for Trade

17 February: Committee on Trade and Development – Session on Aid for Trade

### **Other Upcoming Events**

24-27 February, Nairobi, Kenya. FORTY-FIRST SESSION OF THE INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE. The 41<sup>st</sup> session of the Intergovernmental Panel on Climate change (IPCC-41) will be held at the UN Environment Programme (UNEP) headquarters in Nairobi, Kenya. The panel will convene to discuss the future work of the IPCC including potential changes in the structure and mandate of IPCC Working Groups and Task Forces. Up for discussion as well will be the IPCC's budget, upcoming reports, and progress on communication and outreach activities. For more information about this event, please visit this [website](#).

23-24 March, National Harbor, Maryland, US. SELECTUSA 2015 INVESTMENT SUMMIT. The U.S. Department of Commerce's International Trade Administration will host this year's Summit at the National Harbor in Maryland, at a short distance from Washington. Featuring top government officials, this event will connect foreign and domestic investors with local, state, and regional economic development actors to promote investment and create jobs within the United States. Professionals looking to invest in the United States as well as representatives of economic development organisations are encouraged to attend this Summit. The deadline for registration for this event is 16 March, 2015. For more information, and to register for the event, please visit this [website](#).

20 April-12 June, online. INTRODUCTION TO A GREEN ECONOMY: CONCEPTS AND APPLICATIONS. This interactive, 8-week-long e-learning course will be held by the United Nations Institute for Training and Research (UNITAR) and its PAGE partners this coming spring. The course aims to educate professionals from government, business, and civil society sectors about the green economy concept and how to apply this concept within economic, policy-making, and personal contexts. Participants will learn about the global, national, and industry-specific challenges and opportunities associated with low-carbon, resource efficient, and socially inclusive development. Registration for the course is open until 31 March 2015. For more information, and to register for the course, please visit this [website](#).

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## Resources

**COUNTRY PROFILES.** Published by the United Nations Conference on Trade and Development (UNCTAD) (February 2015). The latest update to the UN agency's Country Profiles presents an overview about a country's economic and financial situation in order to facilitate cross-country comparison. The Profiles provide economic data on subjects such as trade, investment, information economy, and maritime transport, along with GDP and exchange rates. To access the Country Profiles, please click [here](#).

**SERVICE SECTOR REFORM IN CHINA.** By Ryan Rutkowski for the Peterson Institute for International Economics (January 2015). This policy brief suggests that in order for China to reach its long-term development and economic growth goals, the country's public officials must encourage greater private participation and investment in the services sector. The paper evaluates the steps that Chinese leaders have taken so far towards reform and assesses the difficulties that lie ahead in their implementation. The full brief may be accessed [here](#).

**"WE NEED ILUC FACTORS FOR BIOFUELS" ARGUES RAPPORTEUR NILS TORVALDS.** Published by viEUws (February 2015). This video features an interview with Nils Torvalds, the European Parliament's rapporteur on Indirect Land-Use Change (ILUC), on the subject of biofuels. The European Parliament is currently re-evaluating a proposal to reform EU biofuels policy. Torvalds is charged with turning 374 proposed amendments on ILUC into suitable compromises to be voted on by the Parliament's Environment Committee on 24 February. The interview highlights the need for negotiations on conventional biofuels caps, ILUC factors, and a target for advanced biofuels. To watch the video, please visit this [website](#).

**STATISTICAL YEARBOOK FOR LATIN AMERICA AND THE CARIBBEAN 2014.** Published by the Economic Commission for Latin America and the Caribbean (ECLAC) (2 February 2015). This annual publication, which is available in both English and Spanish, provides a statistical overview of the socio-demographic, economic, and environmental development processes in the Latin American and Caribbean regions. The Yearbook is organised into four different sections. The first deals with demographic data, the second with economic statistics related to trade and currency, the third with information on the environment, and the last with the origin of the statistics presented. The full publication can be accessed [here](#).



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