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WASHINGTON

"Fast Track" Trade Talks Stumble in Washington as TPP Meetings Approach

Negotiations to determine final language for a draft bill renewing Trade Promotion Authority (TPA) are "stuck," a top US Republican lawmaker said on Tuesday, raising the prospect that the bill might not be considered in the country's Congress before April.

US lawmakers on both sides of the aisle have been debating over how to design the new iteration of TPA – and whether such powers should be renewed at all – given the push among members of the Trans-Pacific Partnership (TPP) to conclude negotiations for a sweeping 12-country trade pact within the next few months.

The TPA legislation, known also as "fast track," allows the US executive branch to negotiate international trade deals and then submit the completed version for a straight up-or-down vote in the US Congress, without the possibility of tacking on amendments. Furthermore, TPA outlines negotiating objectives for US officials to follow in these trade talks.

A previous version of the legislation had expired in 2007, though three US trade pacts that were negotiated before then – those with Colombia, Panama, and South Korea, respectively – were approved under "fast track" in 2011. (See Bridges Weekly, [12 October 2011](#))

"Right now it's kind of stuck because I think some of the Democrats want things that we just can't give them because it basically diminishes the ability of [Trade Promotion Authority] to really work," Orrin Hatch, a Republican who chairs the Senate Finance Committee, told reporters on Tuesday.

Hatch has also flagged other congressional issues, such as the budget process, as potentially pushing back TPA consideration on the legislative calendar.

Meanwhile, his Democratic counterpart, ranking member Ron Wyden, has said that negotiations to find agreement on TPA are still underway.

The new TPA legislation is being drafted by Wyden, Hatch, and Representative Paul Ryan, who chairs the House Ways and Means Committee.

"We have given him transparency language and a number of other things. Some of the demands that are being made are demands that we can't meet," Hatch told the New York Times [in an interview](#) this week, referring to the negotiations with Wyden.

"What I'm not for is making Trade Promotion Authority something that anybody can stop. If you start playing around with that, no country in the world's going to want to deal with us," the Utah Republican said.

Concurrently, the debate over how to address alleged currency manipulation by US trading partners has also reached a fever pitch in Washington. While the lawmakers involved in drafting the TPA bill have said that currency provisions will be listed as negotiating objectives, others have called for more action.

A few weeks ago, a bipartisan group of lawmakers introduced legislation that would permit the imposition of countervailing duties against imports from countries that manipulate the value of their currency. Though past attempts at advancing similar legislation in Congress have failed, and the prospects for this latest version are unclear, the topic has gained additional resonance in light of the parallel TPA discussions.

Furthermore, influential lawmakers such as Elizabeth Warren, a Democratic senator from the US state of Massachusetts, have lately [questioned](#) the inclusion of an investor-state dispute settlement (ISDS) mechanism in the TPP, which observers say has raised the profile of the issue in Washington discussions.

USTR report defends trade agenda

The annual President's Trade Agenda [report](#) released on Wednesday afternoon by the Office of the US Trade Representative affirmed that "in 2015, [the US] will conclude negotiations with TPP countries."

The report also warned that the cost of "abandon[ing] the ambitious trade agenda proposed by the President" could have significant consequences for the US, in an apparent reference to the heated debate in both Washington political circles and the public sphere.

These consequences could include, for instance, lost opportunities in the form of export-led job creation, or in securing "enforceable commitments" on labour and environment standards in areas ranging from preventing wildlife trafficking and illegal logging to curbing illegal and over-fishing.

"Other countries are not standing by and waiting for us to act. They are busy negotiating their own deals, trying to gain preferential market access to countries, setting rules of the road that do not reflect our values," the report said, warning that these other nations may not place environment and labour issues as high priorities.

Ensuring that the US can continue leading on trade would involve passing renewed TPA with bipartisan support, the report said. This would also allow for updating Congress' role in the trade policy process.

However, while White House officials have said that they hope to see the TPA legislation advance promptly, they have not outlined a target date for doing so in either their public comments nor in the trade policy report.

Responding to a reporter's question at a Washington briefing last week on whether the end of March would be a "realistic goal" for putting TPA in place, White House Press Secretary Josh Earnest [deferred](#) on outlining an exact timeframe for the bill, while noting that the Obama Administration would like to see it done "as quickly as possible."

Hawaii TPP meeting

Meanwhile, TPP chief negotiators are preparing to meet in Hawaii from 9-15 March, with the gathering expected to set the stage for a potentially crucial trade ministers' meeting sometime in the weeks following.

The apparent TPA delay could have implications for the TPP timeline, some observers and officials say, given that some of the US' TPP partners may not be willing to make their most difficult trade concessions until having clear assurances that a final deal will be approved, without changes, in the US Congress.

"The Japanese also made it clear they do not want to make final offers until Congress passes Trade Promotion Authority (TPA), adding to the need for us to act quickly on this effort," [said](#) Representative Adrian Smith, a Republican from the US state of Nebraska who participated in a recent congressional delegation to Asia.

Smith was one of a group of US lawmakers, led by Ryan, who travelled to Asia last month to meet with top-level officials from TPP member countries, specifically Japan, Malaysia, and Singapore, with the visit to Tokyo including a meeting with Japanese Prime Minister Shinzo Abe.

Washington and Tokyo have been involved in intense bilateral negotiations on agriculture and automobile market access, and while reports have emerged that the two sides have made significant strides in recent months, some officials have said that having TPA in place will be key in allowing negotiators to bring those talks to a close.

ICTSD reporting; "U.S. talks on fast track trade bill 'stuck': senator," REUTERS, 3 March 2015; "Fast-track trade bill unlikely to come to Congress before April –top senator," REUTERS, 3 March 2015; "U.S. confirms TPP negotiators will meet in Hawaii next month," KYODO NEWS, 21 February 2015.

BIOTECHNOLOGY

EU Ministers Give Green Light to National GMO Crop Cultivation Bans

Rules geared towards allowing the EU's 28 member states to either restrict or ban the cultivation of genetically modified organisms (GMOs) in their territory cleared a final legislative hurdle on Monday after garnering the support of EU economic ministers.

The EU's Competitiveness Council, a ministerial configuration focused on policy areas such as the bloc's internal market, formally adopted the compromise [directive](#) that passed the European Parliament by 480 votes to 159 in January. The new rules will now come into force 20 days after their publication in the Official Journal of the EU.

Jānis Dūklavs, the Latvian minister for agriculture and president of the council, said that the move would give member states greater legislative freedom around GMO crops. The topic has proved highly polarising between member states over the past few years.

"This is in line with the subsidiarity principle and respects citizens' and farmers' preferences," Dūklavs explained, referring to a European principle of legislating as closely as possible to citizens, ensuring that there is an appropriate balance of competences between local, national, and regional authorities.

Two ways out

The directive, as agreed in a political deal between the European Council and Parliament last December, gives member states two options to exercise flexibility over the growth of GMO crops in their territory. (See Bridges Weekly, [11 December 2014](#))

In the first instance, during the authorisation procedure for a GMO to be placed on the EU's internal market, member states can ask to amend its geographical scope. This part of the legislation includes a process where member states should seek consent from the crop company responsible for the GM technology in question. If no consent is given, however, countries can move ahead unilaterally.

Secondly, once a GMO has been approved at the EU level, a member state can ban or restrict the cultivation of the crop on environmental, land use, socio-economic or agricultural policy grounds, beyond those considered by the European Food Safety Authority (EFSA).

In the EU's existing legal framework, GMOs for crop cultivation should undergo an individual risk assessment before they can be placed on the internal market. This includes an assessment from the EFSA on possible threats posed by a GMO to human life and health, as well as animal health and welfare.

To date, EFSA has approved two strains for cultivation at the EU level, compared with more than 90 GMO varieties given the green light in the US and 30 in Brazil.

Faced with strong public opposition to GMO crops, however, some member states over the past decade have invoked national safeguard bans – temporary measures requiring continuous renewal – to prohibit the cultivation of biotech products. The moratoriums, targeted in particular at a Monsanto maize variety known as Mon810, ran against EFSA clearance.

In a bid to bring some regulatory coherence to a fragmented EU regime around GMO crops, and break a deadlock in the EU-wide GMO approval process, the European Commission in July 2010 first proposed the national ban concept.

The new rules approved on Monday now make a distinction between the respective competency of the EU and the individual member states. Issues related to the placing on the market and the import of GMOs should remain regulated at the union level, while cultivation should be the domain of individual countries given that it is an issue with strong national, regional and local dimensions, the directive says.

The legislative document also suggests that the option to invoke national bans is likely to improve the EU-wide GMO approval process, since this has proved to be particularly difficult in the past given expressed national concerns.

WTO compliant?

The discrepancies in the EU GMO regime raised several concerns from abroad over the years. Brussels repeatedly came under pressure from other WTO members to legislate to lift the controversial member state bans.

In 2006, a WTO dispute panel found in a case brought by Argentina, Canada, and the US that the EU's application of its GMO approval process from 1999 to 2003 effectively violated international trade rules by causing "undue delays."

That panel also rejected the Commission's defence of the national bans as precautionary measures, and said that the EU had acted inconsistently with its obligations under Articles 5.1 and 2.2 of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). These stipulate that such applications should take into account risk assessment techniques developed by the relevant international organisations and be made on the basis of scientific principles, respectively.

The case did not go to the Appellate Body, with the panel reports adopted by the Dispute Settlement Body (DSB) in November 2006. Complainants Argentina and Canada eventually reached a "mutually agreed solution" to the case with the 28 member state bloc while the US requested authorisation to retaliate. Arbitration proceedings in the latter instance have, however, been suspended since 2008.

Meanwhile, the GMO topic could prove a stumbling block in a major bilateral deal currently under negotiation between the US and the EU known as the Transatlantic Trade and Investment Partnership (TTIP), given the emphasis on improving regulatory coherence and cooperation in those talks.

In January, Germany's Green party presented a study to the country's parliament arguing that agreements such as TTIP could lower EU standards around GMO-free agriculture, including measures designed to diminish cross-contamination between biotech and non-biotech seed.

Cross-contamination

The new directive includes rules geared towards preventing the cross-border contamination of non-GMO crops in member states that choose to deploy the national ban. Member states cultivating GMOs should take necessary measures to avoid cross-contamination and communicate these to the Commission.

A 2010 Commission recommendation is cited in the directive on the development of coexistence measures including in border areas. A 2008 Commission study on the socio-

economic implications of GMO cultivation is also referred to in the directive as containing useful information to guide member states' policymaking on the topic.

Some EU member states and environmental groups have raised concerns in the past around the potential for GMO cross-contamination to cause a wide range of socio-economic effects. According to some experts, these may include effects on food, feed, and commodity prices, ethical considerations, the risks of extinction of traditional varieties, and operating costs.

A report by environmental lobby group Friends of the Earth Europe suggests that co-existence farming in the EU can raise costs for both GMO and non-GMO producers, largely as a result of the need for segregation and traceability. For example, an organic soy food processor from France faced aggregate GMO-contamination prevention costs of nearly €270,000 per year, according the [study](#).

ICTSD reporting; "German Environment Ministry seeks unconditional GMO ban," EURACTIV, 14 January 2015.

INTELLECTUAL PROPERTY

Least Developed Countries Table WTO Proposal to Extend Pharma Patents Transition Period, Waiver

The WTO's poorest members tabled a proposal in late February for extending their transitional period for enforcing global trade rules protecting pharmaceutical patents and clinical data, along with a related waiver involving patent protection and exclusive marketing rights for pharmaceutical and agricultural chemical products.

The move is set to kick off discussions among the WTO membership toward the potential renewal of these pharmaceutical-specific exemptions, which are otherwise set to expire on 1 January 2016.

However, the proposal may also raise renewed questions about how this deadline relates to a separate 2013 decision extending until 2021 the transition period for least developed countries (LDCs) to apply the provisions of the WTO's Agreement on Trade-Related Aspects of Intellectual Property (TRIPS). This extended transition period does not apply to Articles 3, 4, and 5 of TRIPS, which refer to national treatment, most-favoured-nation (MFN) treatment, and multilateral agreements on the acquisition and maintenance of protection.

Bangladesh presented the proposal on behalf of the LDC Group at a 24 February meeting of the TRIPS Council. Sources familiar with the meeting noted that the discussion on the proposal was brief, given that it was raised under "other business" rather than as a formal agenda item.

The proposal is expected to be discussed in more detail at the next meeting of the TRIPS Council, currently scheduled for 9-10 June.

Pharmaceutical patents

Currently, WTO members that are considered to be LDCs under the [UN classification](#) are exempted from having to implement the provisions of the TRIPS Agreement relating to the protection of pharmaceutical patents and clinical data notably to enable their access to low-cost generic antiretroviral treatments given the high prevalence of HIV in some LDCs.

A 2002 decision by the WTO General Council – the organisation's highest decision-making body outside of the ministerial conference – had approved the existing extension to 1 January 2016, and was part of the process to implement the [2001 Doha Declaration on the TRIPS Agreement and Public Health](#).

The latter document specifically states in its final paragraph that LDC members of the WTO "will not be obliged, with respect to pharmaceutical products, to implement or apply Sections 5 and 7 of Part II of the TRIPS Agreement or to enforce rights provided for under these sections until 1 January 2016."

Those sections of the TRIPS Agreement deal with, respectively, [patents](#) and [protection of undisclosed information](#).

Furthermore, the 2001 ministerial declaration says, this decision does not prevent LDCs from seeking other transition period extensions as outlined under Article 66.1 of TRIPS.

The new proposal requests that the transition period for least developed countries (LDCs) remain in force for as long as those countries considered LDCs remain least developed countries.

Citing the health burdens that result from high rates of HIV and non-communicable diseases such as cancer, the proposal says that it is "imperative" for the WTO's poorest members to "retain maximum policy space to enable them to confront their health burdens with effective and affordable strategies."

For instance, the proposal quotes a 2011 technical brief by the Joint United Nations Programme on HIV/AIDS that suggested that "without extension of the transition period, access to antiretroviral therapy and other medicines in LDCs will face real changes," noting that this could also lead to a reversal in the progress that has been made so far in accessing such medicines in least developed countries.

Waiver extension requested

LDC members have also requested a waiver for implementing their obligations under Articles 70.8 and 70.9 of the TRIPS Agreement, which deal with the protection of existing subject matter for pharmaceutical and agricultural chemical products.

A previous [waiver](#) agreed in 2002 by the General Council for Article 70.9 must be reviewed annually until it terminates on 1 January 2016.

Article 70.8 of the TRIPS Agreement permits inventors to submit applications for patents even in cases where there is no patent protection, in a provision sometimes known as the "mailbox" given that it essentially stores such applications.

A WTO member shall "apply to these applications, as of the date of application of this [TRIPS] Agreement, the criteria for patentability as laid down in this Agreement as if those criteria were being applied on the date of filing in that member, or where the priority is available and claimed, the priority date of the application," according to paragraph (b) of that provision. The following paragraph then discusses how patent protection will be provided once the patent is granted.

Article 70.9 refers to those products covered under 70.8, and specifically involves the granting of exclusive marketing rights for five years in cases where a government has approved the marketing of a pharmaceutical or agricultural chemical product in that transition period, subject to certain conditions.

The LDC Group has asked for the waiver on both provisions to be extended for as long as a WTO member remains a least developed country.

Relationship with 2013 decision

One question that the proposal is likely to raise is how these deadlines – and the proposal to extend them – relate to a separate decision taken at the WTO nearly two years ago.

In June 2013, WTO members agreed to extend the transition period for LDCs to implement the overall TRIPS agreement until July 2021. The extension, according to the same decision, noted that it was "without prejudice to the Council Decision of 2002" on the extension of the LDC transition period for "certain obligations with respect to pharmaceutical products" that expires in 2016.

The LDC Group in that instance had also originally requested for the extension to last so long as a member was a least developed country, a move that had been met with resistance from some other WTO members. In the end, the extension was granted until 2021 following negotiations with the rest of the global trade body's membership. (See Bridges Weekly, [13 June 2013](#))

Some [observers](#) have stressed that one way forward for LDCs could consist in seeking a declaratory or interpretative statement from the TRIPS Council and General Council that the 2013 extension covers pharmaceutical patents, regulatory data, and exclusive marketing rights, including non-enforcement, and that further action regarding the 2016 medicines extension is therefore not necessary.

Some experts also argue that continuous extension of such waivers may perpetuate a disconnect between LDCs and the international IP system – and that as a result, LDCs' integration in the global knowledge-based economy would be deferred, leading to limited technology transfer and investments.

ICTSD reporting.

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BIOFUELS

EU Parliament Committee Backs New Limit on Food-based Biofuels

The European Parliament's Environment Committee last week backed a draft law geared towards capping the amount of first-generation biofuels – those derived from food crops – used for transport energy, in a move that could ignite tensions between member states over the divisive issue.

Current EU legislation requires that EU member states ensure that renewable energy accounts for at least 10 percent of energy consumption in transport in each member state by 2020. A separate piece of legislation known as the Fuel Quality Directive (FQD) requires a six percent reduction in the carbon footprint of transport fuels by the same year.

The EU environment committee said last week, by 39 votes to 26, that food-based biofuels should not exceed six percent of all transport energy in each member state. The panel added that subsidies to first-generation biofuels should be limited and their associated direct and indirect emissions should be more comprehensively accounted for.

EU lawmakers also said that advanced biofuels, those sourced from seaweed or certain types of waste, should account for at least 1.25 percent of energy consumption in transport by the end of the decade.

"This has been an enormously challenging file," said Nils Torvalds, the EU parliamentarian responsible for the biofuels dossier, in a [press release](#). "It's complicated technically and technologically," he added.

Torvalds will now start the process of triologue negotiations – talks between the Council, the Commission, and Parliament – geared towards reaching a compromise text. That deal will then pass through the EU Council for a second reading later this year.

A full EU parliament had previously voted for a six percent food-based biofuels limit in 2013 but rejected a bid to start negotiations with member states. (See Bridges Weekly, [19 September 2013](#))

Transport emissions are currently responsible for around a quarter of the EU's greenhouse gas (GHG) emissions, making it the second largest contributor to climate-warming pollutants after the energy sector. Emissions from transport have also proved more difficult to cut than other sectors, according to [EU statistics](#).

Biofuel background

Compared with last week's Parliament committee vote, EU energy ministers last June agreed to a slightly higher threshold of a seven percent cap on crop-based biofuels for transport. The exact limit will now need to be haggled over in the coming months according to the various preferences expressed within the EU's governing institutions.

Moreover, the Council deal in June represented a brokered agreement on a topic, with countries such as the Czech Republic, Estonia, France, Hungary, Poland, Romania, Slovakia, and Spain reportedly telling other EU negotiators that the seven percent limit was the "lowest acceptable level." (See Bridges Weekly, [19 June 2014](#))

Meanwhile, other nations such as the UK, the Netherlands, Belgium and Ireland, have said they support a lower limit on food-based fuel sources.

The Commission originally [proposed](#) amending the EU's current legislation on biofuels in 2012. At that time the EU executive recommended a five percent food-based biofuels cap after concerns were raised by some stakeholders that these types of biofuels raised pressure on food prices and caused negative climate impacts.

Since then, however, prices for food and agricultural products have fallen from a peak in 2011. (See Bridges Weekly, [23 January 2015](#))

While agricultural producers in many countries have benefitted from historically high prices in recent years, many poor consumers – including some farmers that do not produce a surplus – have also been hit hard by price spikes, especially in countries where social protection schemes are weak or non-existent, according to some experts.

Furthermore the EU Commission has suggested the expansion of farmland and resulting deforestation to grow biofuels, a phenomenon termed indirect land use change (ILUC), can increase GHG emissions and may cancel out part of the beneficial effects of using biofuels.

However, David Laborde, Senior Research Fellow at the International Food Policy Research Institute, told Bridges that there was no “a priori” reason to think that emissions from biofuel production are any more harmful than those generated by other types of agricultural production such as the cultivation of tobacco, cotton, or rubber.

“From a CO2 perspective, there are no differences,” he cautioned, adding that there are also “no differences between food and non-food uses of land”.

Experts have also argued that it may be counterproductive to try to reduce greenhouse gas emissions from biofuels without taking a more systemic approach to emissions reductions across the agriculture and energy sectors.

This could include, for example, reviewing trade-distorting subsidies and market access barriers that affect fossil-based transport fuels with which biofuels must compete.

Stakeholders react

Some environmental groups welcomed the Parliamentary Committee vote suggesting that it represented a step in the right direction for negotiations with member states.

“They stood strong on some important principles: accounting of all emissions, a cap on all land-based biofuels and the prescription that only more sustainable biofuels should be pursued in the future,” [said](#) Trees Robijns, a senior policy officer with BirdLife Europe.

In an [open letter](#) released ahead of last Tuesday's vote, some 200 civil society organisations from forest-rich nations such as Indonesia and Brazil had asked EU lawmakers to limit demand for biofuels, particularly those derived from palm oil.

“We... are seriously concerned about the impact that Europe's demand for biofuels is having on our forests and millions of our people, and about its significant contribution to rising greenhouse gas emissions,” the letter read.

The EU biofuels industry has increased its use of palm oil by 365 percent between 2006 and 2012 according to a 2013 [report](#) by the International Institute for Sustainable Development (IISD).

Last week's vote met a cold reception from some international industry stakeholders who suggested the proposed legislation was too blunt in its distinctions between biofuels.

"A six percent cap represents a black and white measure which doesn't distinguish between low-ILUC and high-ILUC conventional biofuels; it simply draws a line between conventional and advanced renewable fuels," Geraldine Kutas said in an email interview this week, on behalf of the Brazilian Sugar Cane Industry Association.

ICTSD reporting; "EU lawmakers back 6% cap on food-based biofuels," EURACTIV, 25 February 2015.

AFRICA

US, East African Community Ink Deal to Deepen Trade Ties

Trade ministers from five east African countries – Burundi, Kenya, Rwanda, Tanzania, and Uganda – signed an [agreement](#) last week with US Trade Representative Michael Froman aimed at enhancing trade capacity and deepening economic ties between the two sides.

The 26 February agreement between the US and the East African Community (EAC) builds on the "[Trade Africa](#)" initiative announced by US President Barack Obama during a visit to Africa over a year ago, which aims at expanding international and regional trade in Africa.

The EAC was selected for the initial phase of Trade Africa given its members' recent stable macroeconomic situation and business environment reforms.

"Today's agreement builds on this progress. It's an important steppingstone for deepening what has already proven itself to be a promising and impactful partnership," [said](#) Froman last week, highlighting the EAC's efforts in recent years to reduce trade costs and improving regional integration.

The US official also said that the Trade Africa initiative would expand to cover other African nations as part of a broader long-term effort to establish "a more mature and comprehensive 21st century US-Africa trade and investment relationship."

"We are looking forward to improved business ties between the two continents," said Richard Sezibera, the EAC Secretary General.

Some observers from the private sector have also [suggested](#) that this deal could serve as an important step toward a full free trade agreement across the African continent itself, according to the Wall Street Journal.

Streamlining custom procedures

The US-EAC agreement inked last week commits parties to cooperate in reforming the East African Community's customs processes in line with the WTO's Trade Facilitation Agreement (TFA), adopted in Bali in December 2013.

The TFA will enter into force once two-thirds of the WTO membership has ratified it domestically, a process that is currently ongoing, and aims to reduce red tape and unnecessary formalities at the border.

According to the text, EAC countries are expected to notify their category A commitments – those provisions that members will implement once the Agreement enters into force – to the WTO's Preparatory Committee on Trade Facilitation by 31 March.

Technical assistance and support for capacity building to implement to TFA will be provided by Washington as envisaged by the WTO agreement itself, says the EAC-US pact.

SPS, TBT support

The US-EAC deal also provides for technical assistance to the EAC in order to build capacity in the areas of sanitary and phytosanitary measures (SPS) and technical barriers

to trade (TBT), which are often cited by exporters as burdensome for trade, especially for agricultural products.

While agricultural products represent the bulk of exports from the EAC to the US, their export potential is currently limited given the number of barriers to trade, such as the level of SPS requirements, which EAC exporters often find challenging to meet.

The document indicates that the US and the EAC will work together to advance “trade-facilitating initiatives of mutual interest” related to SPS measures.

Training, capacity-building programmes, and information exchanges to increase EAC countries' implementation of the WTO's SPS Agreement are also referred to in the text.

The US-EAC accord also seeks to enhance the harmonisation of SPS measures within the Eastern African countries on the basis of international standards. The deal stipulates that a work plan to identify priority areas should be developed within six months after the deal's entry into force.

Furthermore, each EAC country is expected to establish an “effective process to ensure that it notifies all proposed SPS measures to the WTO” within 18 months after the text's entry into force.

“By tackling tasks in important areas, this agreement will help us lift the burdens that trade barriers impose, unlocking opportunity on both our continents,” said Froman.

Harrison Mwakyembe, Chairperson of the EAC Council of Ministers and Tanzania's Minister for East African Cooperation, concurred, suggesting that this cooperation – together with related action plans on SPS and TBT – will yield “important benefits.”

According to US statistics, total goods trade between the US and the EAC totalled US\$2.8 billion last year.

Enhanced capacity to meet global standards

The US-EAC text proposed strengthening capacity related to technical regulations, standards, testing, and certification – for example, by helping to train East African standards officials and developing electronic systems for engaging the public and interested stakeholders on new proposed technical regulations.

According to the US, such capacity-building actions should help boost the EAC countries' ability to meet international quality and safety standards by improving their use of the WTO Agreement on Technical Barriers to Trade, as well as by increasing their competitiveness.

Similar to the section involving SPS, the TBT section of the agreement requires each EAC country “to establish an effective process to ensure that it notifies all proposed technical regulations and conformity assessment procedures to the WTO” within 18 months after the date of entry into force of the agreement.

AGOA debate continues

Last week's announcement comes as the Obama Administration and US lawmakers continue their discussions over the renewal and modernisation of the African Growth and Opportunity Act (AGOA), which expires in September this year. (See Bridges Africa, [24 February 2015](#))

"We see this agreement and all our work with the EAC to date as an important stepping stone, not the final destination," said Froman last week, explaining that as the global economic landscape has been evolving, the US-Africa relationship must evolve too.

"An important part of upgrading our relationship is renewing and modernising AGOA as quickly as possible, which is exactly what we're working with Congress to do," the US trade chief continued.

In recent years, some US experts have argued that Washington should focus more on two-way trade agreements with Africa in order to preserve its competitive advantage over countries such as China, which has gained much more influence in Africa over the past years. (See Bridges Africa, [16 July 2014](#))

The EU has also concluded reciprocal trade deals with three regional economic communities in Africa: the Economic Community of West African States (ECOWAS), the South African Development Community (SADC), and the East African Community (EAC). South Africa, for its part, has had an FTA with the EU since 1999.

Debates in Washington have therefore focused on making AGOA more effective by "graduating" more advanced countries, such as South Africa, and enhancing the scheme's use. (See Bridges Africa, [31 July 2014](#))

Acknowledging the concerns over potential delays in passing new AGOA legislation, Froman repeated past calls for the scheme's "prompt renewal." Expedited action, the US official said, would be "critical" in order to avoid job and investment losses that could result from a last-minute renewal, particularly for businesses which need to plan their orders months in advance.

"To have maximum impact, AGOA – and the third-country fabric provisions – should be extended for as long as possible," he added.

The third-country fabric provisions refer to a special rule that allows US apparel imports from African LDCs to qualify for duty-free treatment even if the yarns and fabrics used in the production are imported from non-AGOA countries.

Froman reiterated that consultations with Congress are still underway in order to make the next iteration of AGOA more effective, such as by improving rules of origin and changing the review process.

ICTSD reporting; "EAC-US trade investment strengthened during ministerial meeting in Washington," STARAfrica, 28 February 2015; "U.S. Moves Toward Greater Trade With Africa," THE WALL STREET JOURNAL, 26 February 2015.

DISPUTES

EU Requests WTO Panel in Russia Duties Dispute

The EU has moved forward in its WTO dispute against Russia over alleged violations of Moscow's tariff commitments, filing a request on 26 February for the establishment of a panel to hear the case.

The case ([DS485](#)) is the fourth dispute that Brussels has lodged against Moscow in the two years since Russia joined the organisation, and deals specifically with the tariff treatment Russia accords to certain goods in both agricultural and manufacturing sectors.

The EU alleges that Russia has applied duty rates on products such as paper, palm oil, and refrigerators that exceed its bound rates, which are the maximum tariff ceilings that Moscow agreed to respect when joining the WTO in August 2012.

Those higher duties, Brussels claims, hurt European exports of those products, which are worth approximately €600 million a year.

The EU filed its original request for consultations – the first stage in WTO dispute settlement proceedings – last October. However, these consultations failed to settle the dispute. (See Bridges Weekly, [6 November 2014](#))

Russia is the EU's third largest trading partner, with European exports to its Eastern neighbour amounting to €120 billion annually.

Trade tensions between the two sides have been running high over the past several months for a variety of reasons, some due to the fall-out from the crisis in Ukraine, as well as repeated claims by Brussels and several other WTO members that Moscow is running afoul of its commitments at the global trade body.

Russia, in turn, has charged that the economic sanctions it has suffered in the wake of the situation in Ukraine may themselves be WTO violations, while not formally filing a case on the subject. (See Bridges Weekly, [15 May 2014](#))

EU allegations

In its panel request, the EU refers to 12 measures imposed by Russia over different tariff lines through the Common Customs Tariff of the Customs Union of the Republic of Belarus, Kazakhstan and Russian Federation, as amended by subsequent acts.

The EU says that Russia subjects a number of goods to import duties inconsistent with its schedule of concessions and commitments annexed to the WTO's General Agreement on Tariffs and Trade (GATT) 1994.

In these schedules, each WTO member sets out its tariff concession or bindings, committing not to raise the customs duty on a certain product above an agreed level.

The EU claims that Russia applies customs duties that are in excess of those outlined in its schedule for select goods. For instance, in the case of paper and paperboard products, Russia applies duty rates of 10 or 15 percent, depending on the tariff line, even though the bound rate is five percent.

Furthermore, regarding palm oil and its fractions, refrigerators and combined refrigerator-freezers, the EU refers to measures that result in duties being levied above those provided in the schedule when the customs value is below a certain level.

These measures involve a variation of the structure and design of duties from what is outlined in Russia's schedule. The EU says that Russia uses a combination of *ad valorem* rates and specific elements even where the schedule outlines a different set-up.

The EU also claims that Russia does not have mechanisms in place that would prevent the applied duties from exceeding the bound duties.

Brussels says that each of those measures amounts to a violation of Articles II: 1 (a) and II:1 (b) of the GATT 1994. These articles prohibit according less favourable treatment to imports than what a member's schedule dictates, particularly through applying ordinary customs duties at levels above those provided for in the schedule.

Next steps

The panel establishment request will be discussed at the DSB meeting on 10 March for the first time. Under WTO rules, the responding member can object to a first panel establishment request; however, should the issue be raised a second time by Brussels, a panel will automatically be established.

ICTSD reporting.

EVENTS & RESOURCES

Events

Coming Soon

6 March, London, UK. MISMATCHES IN INVESTMENT FOR OIL AND GAS. Chatham House will host representatives from the policy-making, finance, oil, and investment sectors to discuss challenges faced by the oil industry as a result of the decline in oil prices. These challenges include the risk of stranded assets as a possible outcome of some climate change policies, insufficient finance as a result of changes in the financial sector, and the financial as well as economic troubles facing emerging National Oil Companies (NOCs) and their prospective foreign partners. For more information about the seminar, please visit this [website](#).

6 March, New York, US. HIGH-LEVEL THEMATIC DEBATE ADVANCING GENDER EQUALITY AND EMPOWERMENT OF WOMEN AND GIRLS FOR A TRANSFORMATIVE POST-2015 DEVELOPMENT AGENDA. The UN General Assembly will host this event in an effort to further promote gender equality and the empowerment of women, with a particular focus on advancing their economic and political contributions to sustainable development. The discussion, which comes as UN members work to negotiate a post-2015 development agenda, will focus on women's access to decent work and education; options for control over economic and productive resources; and opportunities for participation in governance and policy-making. At the end of the conference, member states will receive a President's summary and will be invited to make specific expressions of commitments to advancing gender equality in their respective state. For more information about the meeting, please visit this [website](#).

11 March, Geneva, Switzerland. FROM VISION TO IMPLEMENTATION: HOW CAN WE MAKE THE SDGS A REALITY? Organised by the United Nations Development Programme (UNDP) and the Swiss Agency for Development and Cooperation (SDC), this seminar will focus on achieving the 17 proposed Sustainable Development Goals (SDGs) set forth in the UN Secretary-General's December 2014 report *The Road to Dignity by 2030: Ending Poverty, Transforming All Lives and Protecting the Planet*. A panel of speakers will discuss the role of the proposed SDGs, which are still under negotiation, in reshaping the development landscape and the kinds of changes that should be made to current methods of development to make these SDGs a reality. Further discussion will touch on the potential new players involved in achieving these goals and their collaboration with the traditional development sector. For more information about the event and registration, please visit this [website](#).

9-12 March, Cancún, Mexico. FOURTH SPECIAL SESSION OF THE COMMITTEE ON SCIENCE AND TECHNOLOGY (CST S-4) AND UNCCD 3RD SCIENTIFIC CONFERENCE. The United Nations Convention to Combat Desertification (UNCCD) will hold its 3rd Scientific Conference in a joint event with the Fourth Special Session of the Committee on Science and Technology (CST S-4). The scientific conference will focus on the theme "Combating desertification, land degradation and drought for poverty reduction and sustainable development: the contribution of science, technology, traditional knowledge and practices." The meeting seeks to address three major challenges: how to evaluate the adaptive capacities of regions affected by climate change; how to build off current knowledge to encourage implementation of better adapted practices and technologies; and finally which methods to use to monitor and assess the effectiveness of practices in use. CST S-4 will contribute to the conference by recommending sustainable options to

achieve land degradation neutrality. For more information about the 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.

6 March: Working Party on the Accession of Azerbaijan

9 + 11 March: Trade Policy Review Body – Japan

10 March: Dispute Settlement Body

Other Upcoming Events

14-18 March, Sendai City, Japan. THIRD UN WORLD CONFERENCE ON DISASTER RISK REDUCTION. Japan will host the Third UN World Conference on Disaster Risk Reduction (DRR) in accordance with a 2013 decision made by the UN General Assembly. The meeting aims to review the implementation of the Hyogo Framework for Action 2005-2015, a plan adopted a decade ago at the 2nd World Conference on Disaster Reduction. The United Nations Office for Disaster Risk Reduction (UNISDR) welcomes the contributions of governments, civil society, NGOs, private sector professionals, and other relevant stakeholders in establishing a post-2015 framework for disaster risk reduction. For more information, please visit the event [website](#).

23-27 March, New York, US. THIRD INTERGOVERNMENTAL NEGOTIATION ON THE POST-2015 DEVELOPMENT AGENDA. This meeting, hosted at the UN Headquarters in New York, is the third in a series of negotiations aimed at elaborating a post-2015 development agenda at a UN Summit to be held in September. The conference will focus on reviewing the current draft of Sustainable Development Goals (SDGs) and targets, both of which are key elements of the proposed global agenda. For more information about the event, please visit this [website](#).

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

8-9 April, New York, US. UN GENERAL ASSEMBLY HEARINGS ON FINANCING FOR DEVELOPMENT. The Office of the President of the UN General Assembly, with support from the Financing for Development Office (FFDO) and the UN Non-Governmental Liaison Service (UN-NGLS), will host hearings with civil society and business sector professionals in preparation for the Third International Conference on Financing for Development (FfD3). The UN-NGLS is seeking qualified representatives of civil society organisations to speak at these hearings or serve on the civil society Steering Committee. Deadlines for applying are 15 March and 10 March, respectively. For more information about the event and the application process, please visit this [website](#).

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

Resources

IIA ISSUES NOTE: TRENDS IN INTERNATIONAL INVESTMENT AGREEMENTS (IIAS) AND INVESTOR-STATE DISPUTE SETTLEMENT (ISDS). Published by the United Nations Conference on Trade and Development (UNCTAD) (February 2015). This UNCTAD report was released at the conclusion of an Expert Meeting on the Transformation of the International Investment Agreements (IIAs). This edition examines the latest trends in the use of IIAs and ISDS mechanisms as well as the challenges and opportunities associated with their growing usage. The report suggests that the current structure of IIAs and investor-state dispute settlement needs to be gradually reformed in order to better support sustainable development. The full report can be accessed [here](#).

OECD RESEARCH AND DEVELOPMENT EXPENDITURE IN INDUSTRY 2014. Published by the Organisation for Economic Co-operation and Development (OECD) (December 2014). The latest edition of this publication showcases statistical data on research and development expenditure broken down by industrial and service sectors. Figures are provided for 28 OECD countries and 4 non-member states, making the report a useful tool for further economic research and analysis. The entire report can be accessed [here](#).

CAN SHALE GAS HELP ACCELERATE THE TRANSITION TO SUSTAINABILITY? By John C. Dernbach and James R. May, published in *Environment: Science and Policy for Sustainable Development* (January 2015). The article aims to evaluate the recent and future use of unconventional shale gas, gas obtained from hydrofracturing or "fracking," in the United States from a sustainable development perspective. The authors suggest that by legally and politically backing a sustainable approach towards the use of shale gas, the United States can enhance economic and social development that is simultaneously climate-friendly. The full article can be accessed [here](#).

"CHINA SHOULD JOIN TISA NEGOTIATIONS" ASSERTS RAPPORTEUR VIVIANE REDING. Published by viEUws (February 2015). This interview, published by viEUws' EU Trade Insights, features EU parliamentarian Viviane Reding, who serves as the Parliament's rapporteur on the Trade in Services Agreement (TISA). Reding addresses issues such as the inclusion or exclusion of public services; China's possible accession to the 24-participant group; and the potential timeframe for concluding the negotiations. The interview can be watched in full [here](#).

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