

BRIDGES WEEKLY

Global trade news from a sustainable development perspective

VOLUME 20, ISSUE 41, 1 DECEMBER 2016

GLOBAL ECONOMY

Lawmakers in EU, Canada Begin Consideration of CETA Trade Deal.....1

CLIMATE AND ENERGY

EU Commission Releases Suite of Energy Proposals, Calls for Stronger Efficiency Target.....4

GLOBAL ECONOMY

US, China Officials Review Economic Cooperation, Next Steps for Steel.....7

EUROPEAN UNION

EU Reaches Deal Aimed at Sustainable Mineral, Metal Supply Chains.....10

DISPUTES

WTO Panel Finds "Prohibited Subsidies" in US-EU Boeing Case12

NORTH AMERICA

US Lumber Producers Push for New Trade Remedy Probes as Canada Talks Continue.....15

EVENTS & RESOURCES

Events17
Resources19

GLOBAL ECONOMY

Lawmakers in EU, Canada Begin Consideration of CETA Trade Deal

The next stage in the approval process for the EU-Canada trade pact is now getting underway, officials say, with parliamentary committees in Europe preparing to vote on the accord in the coming weeks. On the other side of the Atlantic, the deal has already been tabled in the Canadian parliament for legislative consideration.

The Comprehensive Economic and Trade Agreement (CETA) was signed by EU and Canada leaders in October, following weeks of negotiations to win over the backing of some individual member states and their regional legislative bodies. (See Bridges Weekly, [3 November 2016](#))

With the accord now having European Council approval and signature of both EU and Canada leaders, sign-off from parliamentarians will be the final step before the deal can be put provisionally in place. On the EU side, some aspects of the deal will require member state ratification, with full implementation only possible thereafter. Trade officials from both sides say that they aim to see provisional implementation take place in 2017.

However, nearly 90 European Parliament lawmakers had recently asked for the bloc's highest court – the European Court of Justice (ECJ) – to examine whether investor protection terms included in the final version of the accord are crafted in a way that still ensures the "right to regulate" in the public interest.

The EU-Canada agreement is among the first deals to incorporate the new "investment court" system that the 28-nation bloc is aiming to include across its future accords, as a possible precursor to a proposed "global investment court." (See Bridges Weekly, [3 March 2016](#) and [7 May 2015](#), respectively)

The push for an ECJ review was ultimately [blocked](#) by a 419-258 vote margin on 23 November, enabling CETA to begin going through the Parliament's committee stages. The EU legislative body had also asked its legal service to review whether CETA's investment terms were in line with the bloc's treaties, with the subsequent report finding that these were not incompatible.

Malmström makes CETA push

This week, EU Trade Commissioner Cecilia Malmström spoke at various European Parliament committees – specifically the panels on international trade, employment and social affairs, and agriculture – to make a push for the value of the EU-Canada pact.

[Speaking](#) to the International Trade Committee and the Employment and Social Affairs Committee on Tuesday, the EU trade chief reinforced that CETA can be a boon both for the bloc's economy as well as for its efforts at supporting sustainable development-focused rulemaking, while acknowledging that the current political climate for trade is increasingly fraught.

"Suffice it to say that there are many people who feel economically disadvantaged by the new global economy. And that this is an important factor in the rise of populist and nationalist movements, who see trade as a problem," she said.

Indeed, public tensions over trade have seen a notable escalation throughout the year, both within Europe, as seen partly during the contentious CETA signing process that saw several delays and round-the-clock negotiations, as well as during the US presidential election held earlier this month. (See Bridges Weekly, [10 November 2016](#))

The EU trade official also suggested that communication to the public on trade can be improved – while at the same time highlighting the value of focusing on facts.

Approving CETA, she added, will be an essential component in supporting a broader strategy to keep European exporters competitive, along with helping EU companies to source the necessary imports for domestic production – both of which would help create more jobs at home. It will also help enshrine and support shared values, including on the protection of labour rights, while supporting European goals on issues such as environmental protections.

"It's an excellent agreement that will do much to support and create high-quality jobs across Europe. I would urge you to look at it with an open mind and I hope that when you do that you will support it," she told parliamentarians.

The EU trade chief also argued for governments to take more steps domestically to help support those who suffer the negative ramifications of increased international competition, calling for additional action on infrastructure investment and education, among other steps.

This includes the ongoing review of the [European Globalisation Adjustment Fund](#), a scheme which currently helps co-finance job training and education, along with new business ventures for people who have lost their jobs through factors such as changed trade dynamics or the financial crisis.

[Touting](#) CETA's agricultural provisions, Malmström told the trade and agriculture committees in a separate meeting that the tariff cuts and negotiated quotas under CETA will provide a massive increase in terms of market access, allowing European farmers to export such goods more cheaply – while also protecting over 140 "geographical indications" on various products.

Geographical indications (GIs) are used to denote a product's place of origin, which are associated with reputational and quality characteristics. The protection of GIs has long been a [major issue](#) for the European Union, with annual GI exports hitting over €11 billion annually.

Canadian approval process underway

While the European Parliament committees will continue working on the CETA approval process this month and likely through early 2017, both CETA and the related implementing

legislation have already [been tabled](#) for consideration in the Canadian House of Commons, getting the legislative approval process underway in the North American economy.

Chrystia Freeland, who serves as Canada's international trade minister, has similarly argued that advancing the CETA pact could help stave off growing protectionist pressures.

"The protectionist backlash we're seeing in a lot of the world, including in Europe, is dangerous. In being able to get CETA signed ... Canada has done something very powerful and very strong in the world to push back against that," said Freeland last month, according to comments reported by CBC News.

ICTSD reporting; "CETA a bright light against a protectionist world, says Chrystia Freeland," CBC NEWS, 31 October 2016.

CLIMATE AND ENERGY

EU Commission Releases Suite of Energy Proposals, Calls for Stronger Efficiency Target

The European Commission released a suite of climate and energy-focused proposals on Wednesday 30 November, targeting these towards supporting a swifter move to a cleaner-energy economy.

The highly anticipated legislative package – dubbed “Clean Energy for All Europeans” – consists of proposals spanning topics ranging from energy efficiency to improving the regulatory framework for renewables. Other aspects include governance of the EU Energy Union and rules for the bloc’s electricity market.

Commission officials unveiling the package touted its value for increasing consumer choice within the 28-nation bloc, along with its potential for spurring greater investment in lower-carbon technologies and supporting the EU’s efforts in meeting its commitments under the UN’s Paris Agreement on climate change, which is now in force. (See Bridges Weekly, [20 November 2016](#))

The bloc has already set an overall target of slashing emissions by 40 percent from 1990 levels by the year 2030.

“These measures will equip all European citizens and businesses with the means to make the most of the clean energy transition,” said Maroš Šefčovič, the European Commission Vice-President for Energy Union, during a press conference on Wednesday.

Speaking at the proposals’ launch, EU Climate Action and Energy Commissioner Miguel Arias Cañete credited these plans as having the potential to incentivise the development and use of newer, climate-friendly technologies.

“Europe is on the brink of a clean energy revolution,” said the EU climate and energy chief. “Our proposals provide a strong market pull for new technologies, set the right conditions for investors, empower consumers, make energy markets work better and help us meet our climate targets.”

Energy efficiency target, renewables

Among the notable developments announced on Wednesday was the proposal by the EU’s executive arm to have a [binding 30 percent](#) energy efficiency target across the bloc under a new “Energy Efficiency Directive,” among various other efficiency-related measures.

Experts say that energy efficiency is a valuable component in meeting climate targets and lowering the need for energy imports.

Commission officials explained that the push for a binding target was meant to help ensure that the investment climate becomes more predictable. The bloc-wide target does not include national-level commitments, with the Commission to coordinate and discuss with member states their ongoing efforts to meeting these. According to a [technical memo](#) from the Commission, it could still set out additional measures and recommendations should individual member state efforts fall short.

"I'm particularly proud of the binding 30 percent energy efficiency target, as it will reduce our dependency on energy imports, create jobs, and cut more emissions," said Cañete.

The European Commission had previously backed a [30 percent energy efficiency](#) target for 2030. However, this was subsequently revised downwards after negotiations with the other EU legislative bodies to an indicative 27 percent goal across the bloc. (See Bridges Weekly, [23 January 2014](#), [31 July 2014](#) and [30 October 2014](#))

Along with putting forward the 30 percent energy efficiency target, the Commission is also advocating for more energy-efficient building design; more efficient appliances with clearer labelling; and facilitating more public and private support for so-called "smart buildings" that automatically adjust cooling, heating, lighting, and other systems.

The proposals released on Wednesday also aim to create a better investment climate for renewables. Steps towards that end would include recommending principles for individual EU nations to use when setting up "support schemes" and establishing an easier-to-use regulatory framework, such as by facilitating the process of granting permits for renewable energy projects.

The EU's current renewables goal sets their share at 27 percent of the energy mix by 2030.

Other planned changes would include facilitating efforts at the national level to transition towards renewable energy sources in heating and cooling. The Commission is also pushing for a requirement that suppliers of transport fuels draw more from "advanced biofuels" and other renewable sources, while limiting the level of the more controversial, food-based "first generation" biofuels that can be used to meet the bloc's overall renewable energy target.

Furthermore, the EU would use the 2020 national-level targets on renewables – which range between 10 to 49 percent under a bloc-wide target of [20 percent](#) – as the minimum national benchmarks for the years 2021-2030.

Energy Union governance

Included in the proposals package on Wednesday was a regulation that would help support "Energy Union Governance" – in other words, administering the planned Energy Union through steps taken at both the EU-wide and national levels.

This would involve having the bloc's member states set out individual 10-year plans on climate and energy geared towards serving the overall Energy Union's needs. The process envisions a series of steps in the coming years, starting with draft plans in 2018 for review and feedback, with updates on progress expected every two years from 2021 onward.

Brussels had released an earlier "blueprint" for this energy union in February 2015, concurrent with its intended climate commitments under the new Paris Agreement. (See Bridges Weekly, [26 February 2015](#))

Capacity mechanisms

Another section of the proposals deals with electricity market design, including making adaptations for increased renewables use, along with how to address the current use by some EU member states of so-called "capacity mechanisms." These mechanisms are used to help support electricity producers so they can provide reserve power when needed, thus limiting the risk of potential black-outs and ensuring a secure supply of energy.

Examples include tenders aimed at spurring investment in electricity generation capacity; payments to keep plants online so they can be called on in emergencies; or setting prices administratively so plants will provide capacity in situations where demand has spiked.

Commission officials reviewed such mechanisms ahead of Wednesday's announcement, citing questions over how these may affect the bloc's single market or negatively impact trade flows via limitations on cross-border trade. Their findings include recommendations aimed at making these mechanisms effectively obsolete through instituting market reforms; preventing their use by the most polluting plants; and calling for these to be open to providers from all EU member states.

"Capacity mechanisms need to match a problem in the market and be open to all technologies and to operators from other EU countries. They must not be backdoor subsidies for a specific technology, such as fossil fuels, or come at too high a price for electricity consumers," said EU Competition Commissioner Margrethe Vestager.

"We will not support fossil fuels either directly or indirectly," said Cañete during Wednesday's press conference, referring to the debate over "capacity mechanisms." Šefčovič similarly affirmed that the Commission was aiming to "substantially [restrict] the use of capacity mechanisms by member states, e.g. applying high environmental standards."

Reactions

The legislative package drew reactions from a series of environmental groups, many of whom welcomed the move while also calling for additional steps to be taken to ensure policy coherence and pursue greater energy efficiency gains.

For example, one question raised by some groups was how these planned changes would affect the bloc's flagship Emissions Trading System (ETS), now in its "third phase" covering the 2013-2020 period. Efforts are currently underway to revise the carbon trading scheme for its fourth phase, which starts in 2020.

These ETS reform proposals are aimed particularly at dealing with challenges such as a surplus of carbon permits, along with the related problem of these allowances being priced at levels that experts claim are far below what is needed to spur investment in lower-carbon technologies and move away from more polluting ones.

"While we are pleased that the Commission has introduced these proposals to update existing regulations for the next decade, we believe great attention should be paid to ensuring that the new proposals work well in coordination with each other and with the EU ETS," [said](#) the International Emissions Trading Association (IETA).

Other organisations such as [WWF Europe](#) have called for tougher energy efficiency targets – suggesting 40 percent might yield significant consumer health benefits. Others, such as the NGOs [Transport & Environment](#) and [Oxfam](#), have argued that the EU should take more action on reducing the use of food-based biofuels, citing environmental and other concerns.

Coming up

The proposals will need to go through the other steps of the EU legislative system for approval. The Commission has said that these proposals – along with earlier ones released over the past two years – should be "addressed as a priority" by the Council and Parliament.

How long this process will take – and what changes may be incurred in doing so – is not yet clear. For instance, the European Parliament has previously called for setting an energy efficiency target of 40 percent, compared to the 30 percent tabled on Wednesday.

ICTSD reporting; "EU to release latest raft of climate, energy legislation," CLIMATE HOME, 28 November 2016; "Exclusive: EU to attach CO2 limits to power reserve subsidies – source," REUTERS, 28 November 2016; "EU unveils power market reform to boost renewables," REUTERS, 30 November 2016; "EU unveils power market reform, energy efficiency target," REUTERS, 30 November 2016.

GLOBAL ECONOMY

US, China Officials Review Economic Cooperation, Next Steps for Steel

Trade officials from the US and China concluded an annual series of meetings last week aimed at addressing bilateral challenges and opportunities for collaboration – including the global steel crisis – along with preparing for the upcoming change in administration in Washington.

The US-China Joint Commission on Commerce and Trade (JCCT) met from 21-23 November in the American capital city, with a full agenda covering various elements of the economic, trade, and investment relationship between the two major economies. Officials from both countries have regularly met in this forum over the past three decades.

Notably, this event is also the last JCCT under US President Barack Obama, capping a period that saw several developments on bilateral cooperation – from trade to climate action – between the two economic powerhouses.

"This is a good time to take stock of the US-China relationship – what's been accomplished during the last eight years, what we hope to accomplish today, and what we should do together to ensure that our relationship continues to flourish in the coming years," said US Trade Representative Michael Froman in his opening remarks.

The US trade chief cited excess capacity in steel and aluminium, as well as innovation and agricultural biotechnology, as among the key bilateral issues for discussion this year.

Steel forum

One of the major topics on the global economic stage over the past year has been the overcapacity seen across the steel sector, along with sluggish demand and falling prices. China, the world's top producer of the metal, has particularly come into focus in this context, though the major players in this sector have since said that the problem spans across countries and will thus require a global solution.

Notably, at the September meeting of G-20 leaders in Hangzhou, China, countries agreed to set up a "Global Forum" that would help in addressing these issues. (See Bridges Weekly, [7 September 2016](#))

During last week's meetings, US and Chinese officials agreed to "jointly promote the expeditious establishment" of this forum, along with playing an active role once it has been set up.

Also on the docket will be an informal meeting between the US and China on the subject next year to share information and examine how the sector has evolved. The two sides will also "share the experiences and lessons learned with regard to structural adjustment under the circumstances of steel capacity," according to a USTR factsheet.

Meanwhile, the World Steel Association [predicts](#) that global steel demand will go up by 0.2 percent this year – an improvement over last year's three percent drop.

Demand next year should increase by 0.5 percent, the industry group says, while suggesting that this "slight growth momentum" will be limited in light of factors such as "rebalancing" in China as well as the sluggish economic recovery being seen in advanced economies.

Other commitments announced by the US and China last week are plans to share information on their aluminium and soda ash industries, also with a view to addressing excess capacity.

Multilateral cooperation

Froman also suggested that the Washington talks may have helped support the ongoing Environmental Goods Agreement (EGA) negotiations in Geneva, of which both the US and China are a part. The 17-member group is aiming to conclude a deal this coming weekend when ministers arrive in the Swiss city, which would cut tariffs on some 300 goods aimed at supporting environmental purposes, including clean energy.

"We have an opportunity to expand trade, strengthen the multilateral trading system, and address major environmental concerns in the negotiation of the Environmental Goods Agreement. I urge our Chinese colleagues to focus on their contribution during those negotiations to a successful close," said Froman last week.

The US trade chief also touted bilateral progress made in other areas in recent years, such as in supporting a deal on agricultural export competition at the WTO's Nairobi Ministerial Conference last December, along with being part of a multi-country effort to cut tariffs on various information and communication technology goods through the expansion of the Information Technology Agreement (ITA-II). (See Bridges Weekly, [3 November 2016](#))

Other issues

While Froman referred to agricultural biotechnology as one of the top issues heading into this year's JCCT, officials indicated afterwards that the agricultural components of the talks struggled to advance. The US has repeatedly [pushed](#) for China to speed up the review of various pending applications to grow biotech food crops, along with making updates to the overall approval process.

Administration officials suggested, however, that some advances could still be made in the near-term, without giving further specifics.

"I remain optimistic that, in the final weeks of this Administration, we can still make additional progress on priority issues including biotechnology approvals and market access for US beef," [said](#) US Agriculture Secretary Tom Vilsack.

US officials [listed](#) among the other outcomes a commitment to improve the implementation of previously agreed JCCT items, along with pledges from China to improve intellectual property rights (IPR) enforcement – such as by tackling "bad faith" trademarks – and better ensure that innovation-driven policies do not discriminate against foreign companies. Both Washington and Beijing have also agreed to train smaller businesses on both sides on the IPR subject through e-commerce platforms, with China to also pursue the enactment of further e-commerce laws domestically.

Changing leadership

On 20 January, a new Republican administration under President-elect Donald Trump will take office in Washington. The transition period usually spans over several months, as cabinet-level posts go through Senate confirmation processes, among the other myriad changes that take place. This period generally takes some months to complete.

What the incoming leadership will mean for the US-China relationship is not yet clear. While trade ties with China were a common topic on the campaign trail – with Trump suggesting he would move to have China named a “currency manipulator” once he is in office – this particular rhetoric regarding trade with the Asian economic giant is often a regular feature of US election politics, and does not necessarily preclude what the approach of a new administration would be in practice. (See Bridges Weekly, [30 June 2016](#))

“The US has had an election that will bring a new administration to Washington and that moment is fast approaching. There is a degree of uncertainty about what the future will hold, a certain amount of which is inevitable as you go through our transition,” said US Trade Representation Michael Froman during the event’s opening plenary.

Froman therefore urged officials on both sides to spend the remaining weeks of the Obama Administration to do their utmost to shore up the bilateral Sino-American relationship, in order to prepare for any approach that the new administration might take along with the larger challenges facing the global economy.

“Because this is my last JCCT meeting, I want to emphasise the need to keep the US-China relationship on an even keel, even as we sail into the strong headwinds of populism and protectionism that are blowing all around the world,” he added.

ICTSD reporting.

EUROPEAN UNION

EU Reaches Deal Aimed at Sustainable Mineral, Metal Supply Chains

Last week, the EU institutions [reached](#) an agreement on new legislation directed at ensuring that minerals and metals entering the 28-nation bloc are transparently and responsibly sourced and do not play a role in financing human rights abuses and conflict in high-risk areas.

The regulation establishes due diligence provisions for sustainable sourcing practices as of 1 January 2021, covering 95 percent of EU imports of tin, tungsten, tantalum, and gold, commonly used in electronics, jewellery, packaging, cars, and construction.

Proponents say that the agreement provides a clear example of how trade-related policymaking can help support sustainable development objectives.

"The very idea of conflict minerals undermines most of what we want trade to achieve. Trade should be a tool to spur development, to pull people out of poverty, and to foster prosperity and peace," European Trade Commissioner Cecilia Malmström said in a [blog post](#).

"We have laid the groundwork for an effective tool to break the link between conflicts, human rights abuses and our consumption of everyday goods," [added](#) Bernd Lange, who chairs the European Parliament's International Trade Committee.

Key elements

A [political understanding](#) on the key principles of the regulation was first reached on 15 June, from which certain technical elements were clarified in order to develop the final text announced last week. (See Bridges Weekly, [24 June 2016](#))

The legislation, based on the Organisation for Economic Co-operation and Development's (OECD) [guidelines](#) for responsibly sourcing conflict minerals, requires EU importers to carry out due diligence checks on their supply chains.

One of the major debates among the EU institutions had been over the binding nature of the agreement. Though the Commission had initially held that checks should be voluntary based on a certification scheme, [mandatory "due diligence" checks](#), as supported the [European Parliament](#), were eventually chosen. It will fall to authorities at the member state level to ensure company compliance, monitored by the Commission, and determine appropriate penalties. (See BioRes, [14 March 2014](#))

"If you can be at the beginning and have an effective impact on responsible sourcing at the start of the value chain, that will then have an enormous impact," [said](#) Lilianne Ploumen, Dutch Minister for Foreign Trade and Development Cooperation, during a June press conference at the European Parliament.

The Commission will select experts to create a handbook for operators, listing the country of origin, information on transit, and other due diligence issues which could motivate a background check.

Industry control schemes already in place will continue to be used to avoid double burdens, subject to regular checks to ensure that they comply with OECD guidelines.

Exemptions

Some [civil society groups](#) have welcomed the overall result as a positive step towards tackling conflicts and protecting human rights, and one that brings the 28-nation bloc closer to rules in place in other countries. This includes the United States' [Dodd-Frank Act](#), which requires company disclosure and other "due diligence" requirements when using tantalum, tin, tungsten, and gold as an essential part of their production process.

However, several exemptions were included in the EU regulation, some of which have been met with criticism by those organisations. Amnesty International, for example, [referred](#) to "a string of concessions and last-minute loopholes [that] could undermine the Regulation's impact, as they exempt a large number of companies from the law."

Downstream companies which import refined forms of the minerals and metals in goods or components, along with having over 500 employees and therefore falling under the EU [non-financial reporting law](#), will be encouraged to report on plans to monitor compliance with the regulation among their sources, bolstered by a transparency database.

The initial proposal on behalf of the European Parliament in May 2015 encouraged extending diligence obligations throughout the supply chain, and was supported by 130 civil society organisations [calling for](#) a final deal that would hold all firms responsible for performing such due diligence checks. (See BioRes, [3 June 2015](#))

Some advocacy groups maintain that mandatory checks imposed on upstream importers alone – as mandated by the final outcome – will not be enough to address the problem. "This new law can only be the very first step forward. Additional measures will be needed to ensure that all companies will and can adequately check their supply chains," said Nele Meyer of Amnesty International.

In order to avoid incurring a decrease in competitiveness, the smallest importers, including small and medium-sized enterprises, will not be obliged to comply with the scheme, "so as to avoid unreasonable bureaucratic burdens," according to a European Parliament [press release](#). In addition, products that are especially challenging to trace, including recycled metals and by-products, are also excluded from the regulation, as are final goods that have such minerals as part of their components.

The legislation has also faced some criticism for covering only four minerals, leaving out the imports of a host of other materials linked to conflict, including diamonds, emeralds, coal, copper, jade, or rubies.

Coming up

While the technical details have now been sorted, a few final steps still remain. The text must now receive the sign-off by "COREPER" – the main preparatory body of the European Council – on 7 December. It will also need approval in other settings, including the European Parliament's [trade committee](#).

The text will later be voted on for formal adoption in the Council and Parliament early next year. Two years from the date the legislation comes into force, and three years thereafter, the European Commission will report to the European Parliament and the Council on its effectiveness, taking into account the impact on the ground and the level of compliance on behalf of EU companies.

ICTSD reporting; "EU agrees to compulsory checks on conflict mineral imports," EURACTIV, 23 November 2016; "EU institutions reach agreement on conflict minerals Regulation," CHEMICAL WATCH, 23 November 2016.

DISPUTES

WTO Panel Finds "Prohibited Subsidies" in US-EU Boeing Case

A WTO dispute panel circulated its ruling in an EU-US row over aircraft subsidies ([DS487](#)) on Monday, finding that the US state of Washington provides an illegal, "prohibited" subsidy to American aerospace giant Boeing.

The challenge dates back to 2014, when the EU requested WTO consultations on series of Washington state tax incentives, which were provided to Boeing so long as it conducted the bulk of its airplane manufacturing in the state. The incentives were directed particularly to support the Boeing 777X, a type of commercial plane whose wings are made of carbon fibre-reinforced plastic in a bid to improve a plane's performance and fuel efficiency.

The panel found that while these incentives did fall within the WTO definition of a subsidy, they were not explicitly contingent on prioritising locally-produced products rather than their foreign equivalent.

However, the same panel did find fault with one of the incentives, specifically the "reduced business tax rate." In order for a manufacturer to remain eligible for this tax treatment, in practice, they must choose domestic over imported wings in production – effectively serving as a "prohibited subsidy" under WTO rules, which are considered the most harmful type of state aid given their ability to significantly distort trade.

The panel therefore recommended that the US remove that particular measure "without delay" and to do so within a 90-day window.

Long history

The WTO saga between the two major traders has been underway for more than 12 years, with the EU and US sparring over allegedly unfair state aid to European manufacturer Airbus ([DS316](#)) and the US' Boeing ([DS353](#)). The WTO's highest court ultimately found violations of international subsidy rules in both cases.

Afterwards, parties of both disputes however could not agree on whether necessary changes had been introduced to bring their respective policies in line with global trade rules. Panels were composed in 2012 to review the claimed compliance steps in each dispute.

Earlier this year, a compliance panel found that the EU and four of its member states had not taken enough steps to bring some WTO-inconsistent subsidies for Airbus in line with global trade rules – findings which were appealed shortly thereafter. (Bridges Weekly [29 September 2016](#))

The compliance review outcome in the case filed by the EU ([DS353](#)) is expected to be circulated to the parties by the end of this year.

The measures under review in this particular dispute are relatively new or revised. They were passed by Washington state lawmakers in 2013, and were deemed to fall outside the scope of the compliance proceedings already underway in the older Boeing case. Following the EU's request, a separate panel was established last year to hear the new complaints.

Location versus sourcing

After deeming that the seven tax incentives ultimately did constitute subsidies under WTO rules, the panel then examined whether this support was contingent on using domestically-produced products.

Under the WTO's Subsidies and Countervailing Measures (SCM) Agreement, members are banned from using either export subsidies or import substitution subsidies. The latter refers to "subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods."

In order to qualify for Washington state tax incentives, companies had to meet certain requirements involving where to base their manufacturing programmes. One of these requirements involved building all planes, along with fuselages and wings, within the north-western US state. However, the "business tax rate" that was deemed to be at fault involved meeting an additional requirement: a company would lose this special, reduced rate should Washington authorities deem that the assembly of the plane or its wings took place outside the state.

The panel said that these rules appeared to indicate that it was the location of the actual manufacturing activity – rather than the source of the inputs themselves – that determined whether or not Boeing received this state aid.

Nonetheless, during the panel proceedings the US clarified that using wings produced outside the state would likely disqualify Boeing from receiving the lower business tax rate, which the panel said was tantamount to making this support contingent on using local goods rather than imported ones.

Overall, reading these two requirements together, the reduced business tax rate was deemed to be a "prohibited subsidy," the panel said.

Officials, industry respond

The panel report was welcomed by European officials, with EU Trade Commissioner Cecilia Malmström [calling](#) upon the US to "respect the rules, uphold fair competition, and withdraw these subsidies without any delay."

Airbus, for its part, similarly welcomed the news, [suggesting](#) that the results of this ruling and of the other Boeing-focused case indicated that the US airplane manufacturer "caused at least US\$95 billion in commercial harm to Airbus, opening the door to trade sanctions against the US in an equivalent amount."

Meanwhile, Boeing characterised the outcome as a positive one for Washington, while suggesting that appeals could be forthcoming. J. Michael Luttig, Boeing's general counsel, [said](#) that if and when the appeals process is concluded, "we fully expect Boeing to preserve every aspect of the Washington state incentives, including the 777X revenue tax rate."

Evolving sector

Boeing and Airbus have long been the dominant players on the civil aircraft manufacturing scene, effectively setting up a duopoly in the production of large airplanes that has seen limited competition from outside players until recently.

However, the duelling trade disputes have cast a shadow over the industry, dragging on well over a decade and incurring major legal costs for both sides – while still not yielding a final resolution.

Given the prolonged nature of the disputes, Airbus CEO Tom Enders has publicly called for the US and EU to put aside the repeated legal battles and instead push to negotiate "globally applicable" rules on state aid for aircraft production – particularly in light of the recent evolutions in the sector that may require a re-think in government support for this type of industrial manufacturing.

"The duopoly is no longer the reference in the future. We need a global framework," he said, according to comments reported by the Financial Times.

Indeed, the multi-billion dollar industry has lately seen growing interest from both advanced and emerging economies, with China and Russia reportedly pairing up in manufacturing large civil aircraft similar to the types produced by Airbus and Boeing. Canada's own "Bombardier" has also been developing larger jets which analysts say could potentially shake up the commercial aircraft market.

Next steps

Under the SCM Agreement, parties have 30 days to decide whether to appeal, given that the case involves a prohibited subsidy. Should that occur, the Appellate Body would release its decision within 30 days, or at most within 60 days.

ICTSD reporting; "Carbon fibre planes: Lighter and stronger by design," BBC NEWS, 28 January 2014; "China Teams Up With Russia in Bid to Break Airbus-Boeing Duopoly," BLOOMBERG, 2 November 2016; "US ordered to halt illegal tax breaks for Boeing," FINANCIAL TIMES, 29 November 2016; "Airbus and Boeing's greatest threat just arrived," BUSINESS INSIDER, 18 June 2016.

NORTH AMERICA

US Lumber Producers Push for New Trade Remedy Probes as Canada Talks Continue

A coalition of US lumber producers has petitioned Washington officials to examine allegedly unfair subsidies being provided to Canadian softwood lumber producers, along with claims that the timber is being dumped on the US market.

The announcement, confirmed late last week, comes less than one month after a “standstill” on such investigations had lapsed. This US-based coalition says that trade remedies are needed to help address “the injury suffered by US industry and workers by reason of unfairly-traded Canadian softwood lumber imports.”

“In the immediate aftermath of the expiration of the 2006-2015 US-Canada Softwood Lumber Trade Agreement, Canadian imports surged from 29.5 percent of US total consumption in the third quarter of 2015 to 33.1 percent in the fourth quarter of the same year and to 34.1 percent so far in 2016,” the US industry group claims.

According to the US Lumber Coalition, their group of petitioners includes producers responsible for nearly 70 percent of US-made lumber, along with timberland owners and carpenter unions.

US lumber producers have long argued that Canadian stumpage fees are set at artificially low levels, to the point of actually serving as a subsidy for Canadian producers. Stumpage fees are paid to landowners to harvest timber. In Canada’s case, the land is government-owned, known otherwise as “crown land,” with the authorities setting the fee levels.

The vast majority of these lands are owned by individual Canadian provinces, with a small percentage owned either by the federal government or privately. By comparison, over half of US timberland is privately owned, with just over 40 percent owned by national or subnational government, according to a 2016 [report](#) by the Congressional Research Service. Prices in the latter are often the result of auctions.

US Commerce Department officials must now confirm within a 20-day window whether they will pursue such investigations in response to the petition. Canadian officials [say](#) they intend to hold consultations with those authorities during that timeframe.

Canadian officials, industry respond

Industry groups and government officials in Canada, for their part, have pledged to defend their interests, citing the results of past international trade disputes as examples in their favour – while cautioning that such disputes are far more costly than a negotiated outcome and could also harm livelihoods in rural communities.

“Our softwood lumber producers and workers have never been found in the wrong; international bodies have always sided with our industry in the past,” said Alex Lawrence, a spokesperson for Canadian Trade Minister Chrystia Freeland, just days before the petition was announced.

“Forestry is a vital economic driver supporting over 140 rural communities. While our preference remains free trade, a managed-trade agreement is preferable to litigation, which is not only costly for lumber producers and the federal and provincial governments, but also

creates increased market uncertainty, harming producers on both sides of the border, and increases the costs of lumber to US consumers," [said](#) British Columbia's Forests, Lands, and Natural Resource Operations Minister Steve Thomson on 25 November.

Within Canada, the province that exports the most softwood lumber to its southern neighbour is British Columbia, which credits the industry as a major source of local jobs.

"With the US economy growing, and housing and construction starts on the rise, the US lumber industry alone cannot meet the demand of its domestic consumers," [said](#) Susan Yurkovich, President of the British Columbia Lumber Trade Council. "Unfortunately this new action by the US lumber lobby will only serve to limit access to Canadian lumber products, driving up prices for US consumers."

Past dispute, SLA lapse

The 2006 [Softwood Lumber Agreement](#) (SLA) between the two North American economies effectively put an end to several decades' worth of trade disputes, including cases that were brought to the World Trade Organization and under the North American Free Trade Agreement (NAFTA).

The initial seven-year SLA was extended until October 2015, when it expired. However, the accord also included a one-year "standstill" on launching any new anti-dumping or countervailing duty investigations should the SLA lapse. (See Bridges Weekly, [15 October 2015](#))

Before the SLA was reached, US authorities had collected US\$5.3 billion in anti-dumping and countervailing duties on imported Canadian lumber. They later returned over US\$4 billion as part of the 2006 accord, with the money that was kept in the United States [used partly](#) to help support sustainable forest management practices, along with helping communities whose livelihoods come primarily from the timber industry, among other initiatives.

Talks between US and Canadian trade officials for a new accord have been underway for several months, with officials reporting in June that "significant differences" remained, while confirming a series of shared goals for a future deal. (See Bridges Weekly, [23 June 2016](#))

In October, officials confirmed that they had not yet reached an agreed outcome, despite the expiry of the standstill, while pledging to continue talks.

"In those negotiations, we will work to meet the mandate agreed to by President [Barack] Obama and Prime Minister [Justin] Trudeau when they met in Ottawa in June – a new agreement that is designed to maintain Canadian exports at or below an agreed upon US market share to be negotiated, with the stability, consistency, and flexibility necessary to achieve the confidence of both industries," [said](#) Canadian Trade Minister Chrystia Freeland and US Trade Representative Michael Froman at the time.

ICTSD reporting; "U.S. Lumber Coalition files petition, restarting Canada-U.S. softwood lumber hostilities," CBC NEWS, 25 November 2016.

EVENTS & RESOURCES

Events

Coming Soon

5 December, Geneva, Switzerland. THE UK'S AFRICA FREE TRADE INITIATIVE: A STEPPING STONE FOR SUSTAINABLE DEVELOPMENT IN AFRICA? This event is being organised by the International Centre for Trade and Sustainable Development (ICTSD), the Saana Institute, and the Permanent Mission of Zambia to the WTO. The panel will review the progress seen to date under the Africa Free Trade Initiative (AFTi), a scheme designed by the UK government to boost international trade and economic integration in Africa. Based on the findings, the panel will discuss ways for developed nations to enact trade policies that help Africa achieve and ensure long-term, sustainable development. To learn more, click [here](#).

5-6 December, London, United Kingdom. A SUSTAINABLE FOOD FUTURE 2016. This annual conference is being organised by Chatham House and will feature speakers from government, civil society, media, research, and industry backgrounds. The conference aims to discuss the challenges and opportunities that the global food system faces within the broader context of climate change, urbanisation, and sustainable development. International agreements on related issues and how to achieve them will also be addressed. Detailed information and link to register are available [here](#).

5-7 December, Abuja, Nigeria. AFRICAN ECONOMIC CONFERENCE 2016. The theme of this year's African Economic Conference will be "Feeding Africa: Towards Agro-Allied Industrialization for Inclusive Growth." The meeting is being organised jointly by the African Development Bank Group (AfDB), the UN Development Programme (UNDP), and the United Nations Economic Commission for Africa (UNECA). Coming in the wake of the 2015 adoption of the Sustainable Development Goals (SDGs) and other key international events, this meeting will focus on how agricultural policy in the continent must evolve to achieve improved growth and help address poverty and hunger. More information is available [here](#).

7 December, Brussels, Belgium. E15 INITIATIVE SESSION AT THE ACP TRADE MINISTERS MEETING. This event is being hosted by the International Centre for Trade and Sustainable Development (ICTSD), the World Economic Forum, and the ACP (African, Caribbean, and Pacific) Secretariat. The session will provide an overview of the E15 Report launched at Davos, Switzerland, with a specific focus on the options that are most relevant both to ACP countries and the broader multilateral system. The meeting will also include a discussion with ministers. To learn more, visit the ICTSD [website](#).

7 December, Geneva, Switzerland. GRADUATE INSTITUTE EVENT: THE FUTURE OF DEVELOPMENT FINANCE. This event is being organised by the Centre for Finance and Development of the Graduate Institute and the World Bank Group Geneva, as part of the *Financing for Development in Action Series*. As the debut event for the series, this event will feature high-level speakers from the World Bank Group, the UN Conference on Trade and Development (UNCTAD), and Swiss Sustainable Finance, and together they will discuss the "Billion to Trillions" vision which focuses on facilitating development finance. More information and registration is available [here](#).

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.

2 December: Working Party on the Accession of the Union of the Comoros

5-9 December: Geneva Week (Non-resident Members and Observers)

6 December: Informal Committee on Rules of Origin

7-8 December: General Council

Other Upcoming Events

12 December, Tokyo, Japan. DISTINGUISHED SPEAKER SEMINAR: SME COMPETITIVENESS - MEETING THE STANDARD OF TRADE IN ASIA. This event is being organised by the Asian Development Bank Institute (ADBI) and will feature as its guest speaker Arancha González, Executive Director of the International Trade Centre (ITC). She will present ITC's most recent SME Competitiveness Outlook, and discuss how trade regulations and standards affect competitiveness, as well as how to help small and medium-sized enterprises (SMEs) become more competitive while also addressing environmental and other public policy challenges. Detailed information is available [here](#).

13 December, Beijing, China. 15TH ANNUAL CONFERENCE ON WTO AND CHINA. The conference is being co-hosted by University of International Business and Economics (UIBE), the China Society for World Trade Organization Studies (CWTO), and the International Centre for Trade and Sustainable Development (ICTSD). Participants will discuss topics such as the impact of China's WTO accession over the past 15 years, along with Beijing's G-20 presidency in 2016, and other related issues. More information is available at the [ICTSD website](#).

15 December, Washington, US. FREE TRADE, INNOVATION, TECHNOLOGY, AND JOBS: A CONVERSATION WITH COMMERCE SECRETARY PENNY PRITZKER. This event is organised by the Centre for Strategic and International Studies (CSIS) in partnership with Citibank and will feature as its guest speaker Penny Pritzker, US Secretary of Commerce. She will discuss the free trade landscape of the United States within the broader context of innovation and its impact on job market, drawing on her work experience in both private and public sectors. Registration is available [here](#).

Resources

COMPARING SAFEGUARD MEASURES IN RECENT REGIONAL AND BILATERAL TRADE AGREEMENTS. By Willemien Viljoen for the International Centre for Trade and Sustainable Development (ICTSD) (November 2016). This paper analyses how recent bilateral and regional trade negotiations affect developing countries' ability to use agricultural safeguard measures in response to price and demand volatility. Twenty-six agreements with direct or indirect reference to the WTO Agreement on Safeguards are analysed. The publication is available for download [here](#).

TRADE FACILITATION AND GLOBAL VALUE CHAINS: OPPORTUNITIES FOR SUSTAINABLE DEVELOPMENT. By Ben Shepherd for the International Centre for Trade and Sustainable Development (ICTSD) (November 2016). This paper analyses how trade facilitation policies can help least developed countries (LDCs) increase their participation in global value chains (GVCs), and what policy makers can do to maximise the potential of such value chains. The paper is part of a larger ICTSD research series on the subject. The paper can be found [here](#).

AFRICAN CONTINENTAL FREE TRADE AREA: SOME ISSUES IN LIBERALIZING TRADE IN SERVICES. By Emily Mburu-Ndoria for the United Nations Conference on Trade and Development (UNCTAD) (November 2016). The paper examines the service sector's potential in boosting economic growth and development in Africa and provides policy suggestions on how to better negotiate service trade agreements. The author focuses specifically on the possible options for services provisions under the planned Continental Free Trade Area (CFTA). The publication is available for download [here](#).

MAKING US TRADE AND INVESTMENT POLICIES WORK FOR GLOBAL DEVELOPMENT. By Robert Z. Lawrence and Terra Lawson-Remer for the Peterson Institute for International Economics (PIIE) (November 2016). This policy brief discusses past successes and inefficiencies of selected US trade and investment policies, and provides suggestions on transforming them to better support global development, especially for less developed countries. The publication is available for download [here](#).

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

BIORES

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

BRIDGES AFRICA

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

PUENTES

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

МОСТЫ

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

PONTES

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

桥

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

PASSERELLES

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

PUBLISHED BY



**International Centre for Trade
and Sustainable Development**

Chemin de Ballexert 7-9
1219 Geneva, Switzerland
+41-22-917-8492
www.ictsd.org

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

**DFID - UK Department for
International Development**

**SIDA - Swedish International
Development Agency**

**DGIS - Ministry of Foreign Affairs
Netherlands**

Ministry of Foreign Affairs, Denmark

Ministry of Foreign Affairs, Finland

Ministry of Foreign Affairs, Norway

**Department of Foreign Affairs and Trade,
Australia**

Copyright ICTSD, 2016. Readers are encouraged
to quote and reproduce this material for
educational, non-profit purposes, provided the
source is acknowledged.



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

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

Contributors to this issue are Sofia Alicia Baliño,
Emily Bloom, Yaxuan Chen, and Qingyang (Emily)
Li. This edition of Bridges Weekly Trade News
Digest is edited by Sofia Alicia Baliño.

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

Price: €10.00

ISSN 1563-0

