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EUROPEAN UNION

As 2017 Approaches, EU Prepares for Busy Year on Trade and Investment Agenda

The coming year is expected to be a pivotal one for the 28-nation EU bloc, as it embarks on the next chapter of the "Brexit" process and sees elections in various large member states, while also working to advance its foreign trade and investment agenda on multiple fronts.

Meanwhile, the bloc is also expected to face continued populist pressures, while grappling with the growing strength of some "Eurosceptic" political parties and major leadership transitions taking place in other parts of the globe throughout 2017.

One of the key priorities in the coming months will be the preparations for the next stage in the EU-UK relationship, in light of the June 2016 referendum result in the United Kingdom which was in favour of a so-called "Brexit." (See Bridges Weekly, [30 June 2016](#))

Leaders from all EU member states – minus the UK – are due to meet in Brussels, Belgium, on Thursday 15 December with the expectation that they will release a statement outlining their approach to the UK exit negotiations when these kick off in early 2017.

"The objective is to set out how the Brexit process will be handled by the EU 27 once the UK has notified," says the European Council's [website](#) in describing the meeting.

UK Prime Minister Theresa May announced in early October that she intends to trigger Article 50 of the Lisbon Treaty to begin exit talks with the European Council by the end of March, a pledge she has since reaffirmed despite ongoing legal challenges within Britain on the subject. (See Bridges Weekly, [6 October 2016](#))

Under [Article 50](#), any member state wishing to leave the EU has two years from when that article is triggered to negotiate their withdrawal, though that timeframe can be extended if all parties agree.

Michel Barnier, who has been appointed the Chief Negotiator on the EU side for the exit talks, [told reporters](#) this month that the upcoming talks would be “legally complex [and] politically sensitive,” while suggesting that the actual negotiating time period will be a mere 18 months in light of the initial preparatory steps as well as the need for ratification.

The UK's Supreme Court heard the government's appeals last week on whether parliamentary approval would be needed prior to launching “Brexit” talks with the other EU member states. A lower court ruling had deemed that the government did need lawmakers' sign-off to do so.

The discussions going forward will have to face a host of difficult topics, such as the level of access that the UK would have to the single market, which EU officials say is contingent on accepting all “four freedoms” involving the movement of goods, services, people, and capital. Among other issues, the UK will also need to sort out with fellow WTO members what “Brexit” will mean for its current membership terms, specifically its “schedules,” with International Trade Secretary Liam Fox reportedly beginning informal preparatory discussions on the subject.

France, Germany gear up for elections

Meanwhile, preparations are underway in France and Germany for presidential elections whose outcomes could be game-changers for the bloc.

German Chancellor Angela Merkel is running for a fourth term in her role. Announcing her plans in late November, she predicted a tough-fought campaign against opponents whose policies could have implications for “our values and way of life in Germany.”

The French election process is also well underway, with some primary runoffs already being held earlier this autumn and more slated for early next year. Among the candidates expected to face off against one another in the general election are centre-right François Fillon of the Republicans, far-right Marine Le Pen of the National Front, and Manuel Valls of the centre-left Socialist Party.

Elections could also be called in Italy, after Prime Minister Matteo Renzi stepped down following a constitutional referendum held earlier this month. His successor is Paolo Gentiloni, of Renzi's same party, and while parliamentary elections are due in 2018 speculation is rife that these could be brought forward to 2017. General elections are also set for the Netherlands in March.

As the various campaigns get underway, candidates are expected to address deep-seated national tensions over migration, trade, and the overall merits, pitfalls, and future of the EU integration project.

Indeed, the “EU 27 leaders” who are meeting this week in Brussels are currently involved in a process of “reflection” for the bloc's future that began in the wake of the UK referendum result. This process is due to end in time for the March celebration of the 60th anniversary of the Rome Treaties. Those were the accords that effectively launched the European Economic Community, the EU's predecessor. (See Bridges Weekly, [15 September 2016](#))

Trade, investment negotiations

The shifts in Europe's political landscape come as the bloc navigates the next steps for its foreign trade and investment agenda, which has multiple initiatives underway and several more on the horizon.

The European Parliament is expected to vote on whether to ratify the EU-Canada Comprehensive Economic and Trade Agreement (CETA) in early 2017, which has already

seen heated debate within the bloc during the signing process that was completed this autumn. (See Bridges Weekly, [3 November 2016](#))

Another EU accord is also facing difficulties moving forward, as Dutch Prime Minister Mark Rutte has indicated that he will not sign the political and economic EU-Ukraine Association Agreement unless certain conditions are met, such as ensuring that the accord does not pave the way for Kiev to eventually join the European Union. Dutch voters rejected the Ukraine association deal in a non-binding referendum that was held earlier this year. (See Bridges Weekly, [14 April 2016](#))

EU leaders are expected to discuss the next steps for the situation on Thursday, according to a [draft annotated agenda](#) for this week's European Council meeting.

Meanwhile, EU negotiators are working with Japan in an effort to clinch a political accord by year's end, though these talks could go into the new year. Japan is the world's third largest economy, with talks between the two sides having already undergone 17 rounds in a bid to address topics ranging from agricultural trade to automobile regulations. (See Bridges Weekly, [8 December 2016](#))

On the investment front, another process that is gearing up involves exploratory discussions for a multilateral investment court. The European Commission announced its interest in developing such a system last year. (See Bridges Weekly, [7 May 2015](#))

Just this week, the European Commission and the Canadian government held a first set of talks with other government officials on the subject in Geneva, sources confirmed. The topic of investment protections in trade and investment accords has drawn significant public scrutiny in Europe, both in the case of CETA and others.

Also on the docket include the expected launch of negotiations with Australia, along with efforts to upgrade an existing trade deal with Mexico, among others.

Going into the new year, an overarching challenge for the bloc will be in making sure that it continues to show a united front on the international stage in global trade and investment rulemaking, particularly in light of political developments being seen elsewhere.

EU Trade Commissioner Cecilia Malmström said earlier this month that the European Union could potentially fill the "void" should US policy take a more inward focus, given the impending change in leadership in the North American economy. (See Bridges Weekly, [8 December 2016](#))

ICTSD reporting; "EU Calls for Brexit Talks 'Swiftly' After Article 50, Draft Says," BLOOMBERG, 12 December 2016; "House of Lords: EU-UK trade deal will take more than 2 years," POLITICO, 13 December 2016; "Brexit: 'Clear plan' for interim deal needed, say peers," BBC, 13 December 2016; "Exclusive: Dutch to demand limits on Ukraine deal at EU summit," REUTERS, 12 December 2016; "Data fight emerges as last big hurdle to EU-Japan trade deal," POLITICO, 9 December 2016; "Liam Fox opens talks with WTO over terms of membership," FINANCIAL TIMES, 5 December 2016; "Angela Merkel to Stand for Re-Election as German Chancellor," WALL STREET JOURNAL, 20 November 2016.

CLIMATE CHANGE

Canada Makes Strides Towards National Carbon Price by 2018

Eight of Canada's ten provinces have signed onto meeting a minimum national carbon price of C\$10 (US\$7.60) per metric tonne in 2018, helping pave the way for developing new cap-and-trade schemes and carbon taxes across the North American country.

Canadian Prime Minister Justin Trudeau had previously outlined his plan in October to have the entire nation covered by some form of carbon price by 2018, which would increase [progressively](#) every year. By 2022, the price of carbon per metric tonne would be C\$50 (US\$38).

While the minimum price would apply at the national level, provinces would have flexibility in setting up the carbon pricing scheme that they deem most appropriate for them, such as a carbon tax, which involves paying a fee corresponding to the level of emissions produced, or a "cap-and-trade" system, known otherwise as emissions trading.

The move is the latest in a series of efforts seen across different parts of the world towards adopting carbon pricing schemes.

Pan-Canadian framework

The news of the eight provinces being on board was confirmed following a meeting of Canada's First Ministers with Trudeau on 9 December, with officials citing carbon pricing as an essential step towards the North American economy meeting its greenhouse gas reduction (GHG) goals under the UN's Paris Agreement on climate change.

Under the Paris Agreement, Canada has committed to cutting greenhouse gas emissions by 30 percent below 2005 levels by 2030 under its "[nationally determined contribution](#)." All parties to the UN accord have committed to submitting these individual plans, which are expected to be augmented over time.

Canada is responsible for nearly two percent of global greenhouse gas emissions, with transportation and electricity among its top sources of emissions. While Canada famously pulled out of the Kyoto Protocol under the leadership of former Prime Minister Stephen Harper, the new government under Trudeau has worked to perform an about-face on climate and environmental policy.

Canada has already signed and ratified the Paris Agreement, which has been in force since early November.

Along with citing their international commitments, First Ministers also characterised their new "Pan-Canadian Framework on Clean Growth and Climate Change" as a way to respond to the national interest, given the myriad challenges posed by a warming planet.

"We are already facing the social and economic costs of climate change which poses significant risk to our environment, as well as to our health, security, and future prosperity," said Canada's First Ministers in a [communiqué](#) released after their meeting.

They also termed carbon pricing as "an efficient way to reduce GHG emissions, drive innovation, and encourage people and businesses to pollute less."

While some provinces, such as British Columbia and Québec, already have some form of carbon price in place through a tax or a “cap-and-trade” scheme, other provinces will be adopting this practice for the first time.

Those provinces with cap-and-trade schemes would also need to set 2030 emissions reduction goals that match or surpass Canada’s national target, among other requirements. They would also need to [ensure](#) that their annual caps for the initial years – through 2022 – match with estimated emissions cuts that would be seen under the national carbon price.

Those jurisdictions that do not meet the national price will see the Canadian federal government set up a scheme for them.

The provinces which have signed onto the new framework are Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, and Québec. The two provinces which have not taken on commitments under this new framework are Manitoba and Saskatchewan.

An [annex](#) in the “Pan-Canadian Framework on Clean Growth and Climate Change” outlines the specific steps each province will take in the area of carbon pricing, along with other measures relating to improving energy efficiency and supporting the use, deployment, and investment in renewable energy sources. These will later be reviewed in 2022 to evaluate next steps.

Canada’s three territories – the Northwest Territories, Nunavut, and Yukon – will all work with the Canadian government to examine the prospects for carbon pricing in their respective jurisdictions, with the Pan-Canadian framework referring to the “particular circumstances” facing each territory

Canadian environmental groups such as the Pembina Institute welcomed the move, with the group’s executive director Ed Whittingham [calling](#) it “a critical turning point in Canada’s response to climate change.”

“The climate measures tabled today make an important contribution towards Canada’s 2030 target. However, first ministers will need to continue to work together to ensure long-term climate success,” said Whittingham in a press statement.

International developments

The news from Canada comes as carbon pricing developments and debates continue around the globe, ranging from efforts to update the EU’s existing system to the expected launch of a national carbon market in China at some point next year. Mexico is also planning to set up its own national system in 2018.

Some [experts](#) who have mapped the various carbon pricing efforts underway in different parts of the world have noted the potential for establishing future linkages between them, referred to in climate circles as “carbon market clubs.” Examples of such links are already in place, with sub-national schemes in Québec and California set to join with Ontario’s cap-and-trade programme next year.

Media reports have also indicated a potential interest in developing linkages between the EU scheme and the future Chinese one. Negotiations have already been concluded between the EU and Switzerland to link their respective carbon markets. (See Bridges Weekly, [28 January 2016](#))

Across the Atlantic, the European Parliament’s environment committee voted on Thursday 15 December in favour of a set of reforms to the 28-nation bloc’s flagship Emissions Trading System (EU ETS) for the post-2020 period.

The EU's scheme is the oldest in the world, as well as the largest currently in place. However, it has struggled with a glut of excess permits, together with low carbon permit prices, prompting a series of efforts to revamp the system in order to raise permit prices and spur investment in less carbon-intensive technologies. (See Bridges Weekly, [23 June 2016](#))

"We are pleased that a number of improvements are under consideration that could bolster the ETS's role as the centerpiece of European climate policy, and we look forward to seeing a compromise package that helps the EU achieve its Paris goals cost effectively," [said](#) Dirk Forrister, chief executive officer of the International Emissions Trading Association (IETA), a non-profit business group which backs setting up an international "framework" for emissions trading.

Meanwhile, though Australian legislators repealed their carbon tax over two years ago, debates continue at the national and sub-national level over whether to pursue some sort of carbon pricing system in the future. (See Bridges Weekly, [17 July 2014](#))

Australian Prime Minister Malcolm Turnbull confirmed last week that Canberra will not be pursuing a new carbon pricing policy at the national level, despite earlier speculation that there may have been interest in exploring a possible "emissions intensity scheme" in the context of a government-led climate review.

"We are not going to take any steps that will increase the already too high cost of energy for Australian families and businesses. We will not be imposing a carbon tax and we will not be imposing an emissions trading scheme, however it is called," he [said](#) in Sydney last week.

However, some state leaders such as South Australian Premier Jay Weatherill have suggested that the country's states and territories could aim to establish carbon "emissions intensity schemes" themselves, even if the federal government is not backing such a move at the national level.

"It would clean up our energy system, it would make it more secure because it would encourage more baseload gas generation which is half as carbon polluting as coal fired generation. It would put downward pressure on prices because you would introduce more competition in the South Australian energy market," said Weatherill, whose state faced a major blackout just months ago.

ICTSD reporting; "Trudeau Unveils Carbon Price as Canada Acts on Paris Pledge," BLOOMBERG, 3 October 2016; "Canada's Oil Provinces Object to Trudeau's Carbon-Pricing Plan," WALL STREET JOURNAL, "Trudeau unveils Canada's carbon price plan in 2018," PHYS.ORG, 3 October 2016; "Canada to Set Carbon Price, Marking Split with Trump," REUTERS, 10 December 2016; "Turnbull rules out introducing carbon tax," SKYNEWS, 7 December 2016; "Climate policy review: SA Premier Jay Weatherill calls for state-based emissions trading scheme," ABC NEWS, 8 December 2016; "Mexico, Ontario, Quebec pledge carbon market cooperation," CLIMATE HOME, 1 September 2016.

TRADE REMEDIES

EU Launches New Trade Remedy Investigations into Chinese Steel

The European Commission has launched a new investigation into whether Chinese manufacturers are selling steel at prices below their normal value on the European market, a practice known as "dumping."

On Friday, the EU's executive arm initiated an anti-dumping investigation on imports of certain corrosion resistant steel originating in China following a complaint issued by the European Steel Association (Eurofer) on behalf of eight EU producers.

In addition, the Commission will undertake a review of anti-dumping measures set to expire on Chinese seamless steel pipes and tubes to determine whether they should continue.

To date, the EU has 18 anti-dumping and anti-subsidy measures in place on Chinese products in order to address alleged "dumping," with 20 more investigations related to steel still in progress, including three with provisional duties already established. (See Bridges Weekly, [17 March 2016](#)).

China is by far the largest producer of steel globally, producing over 803 million tonnes in 2015. Japan marked a distant second at 105.2 million tonnes, according to figures from the [World Steel Association](#), which assesses EU steel production at the member state level.

When ranked collectively, the EU as a bloc surpasses Japan to be the world's second largest producer of steel globally, with an output of more than 177 million tonnes of steel a year, comprising 11 percent of global output according to the [European Commission](#). The EU's domestic steel sector is [the source](#) of 328,000 direct jobs across the bloc, furnishing 1.3 percent of its GDP.

The EU and China have previously pledged to increase their efforts at cooperating to address the steel crisis. A steel platform was established at the annual EU-China Summit held in July, tasked with addressing verification and monitoring of steel being shipped abroad, among other steps. (See Bridges Weekly, [14 July 2016](#))

China market economy debate continues

In separate though related news, the investigation news came just before China's 15th anniversary of WTO membership, which passed on 11 December. This date also marked the expiry of certain provisions of the Asian economy's "accession protocol" which refer to the use of certain "price comparison methodologies" when other WTO members conduct trade remedy investigations involving Chinese producers and/or exporters.

How to read that provision – which allowed for using surrogate prices in anti-dumping probes, subject to certain conditions – has long been a debate in trade circles, particularly in relation to the rest of China's accession terms.

One day after China's 15th anniversary, Beijing submitted requests for WTO consultations with the US and EU on the subject (DS515 and DS516), marking the first step in dispute settlement proceedings. While the documents were not yet publicly available at press time, a statement by a spokesperson from China's Ministry of Commerce said that the "surrogate

country" practice used by other WTO members in anti-dumping investigations must "immediately stop" in light of the expiry date referred to in the accession protocol.

"The spokesman indicated that China has seriously communicated with relevant members of WTO on multilateral occasions, and urges them to favourably fulfil their obligations to end the practice of anti-dumping 'surrogate country' according to the schedule. Unfortunately, however, the US and the EU have not performed their obligations so far," the ministry's statement [says](#).

A separate [article](#) by Chinese Minister of Commerce Gao Hucheng in the People's Daily explained that "China's legitimate interests should be duly protected," referring specifically to those WTO members which have not ended their use of the surrogate country practice.

"But a few have refused to do so. They even tried to obscure the term 'market economy' with their domestic logic, or cite overcapacity in some industries as an excuse for delay," the Chinese minister said. Specifically regarding overcapacity, he noted that the problem is global in nature and requires an international response – while it should not deter countries from meeting their international obligations.

The issue of whether to grant China market economy status has been hotly debated by EU lawmakers over the years. While the EU is among those which maintain that China is not yet a "market economy," last month the European Commission put forth a proposal on updating its anti-dumping and anti-subsidy procedures, which would remove the current distinction between market and non-market economies in light of the December deadline.

The proposal introduced a new approach that would drop the use of "non-market economy" or "market economy" lists, employing instead a non-standard approach based on whether there are significant distortions in domestic prices or costs, such as when there is state intervention in a sector. The proposal must still be approved by the bloc's other legislative bodies, the Parliament and Council. (See Bridges Weekly, [10 November 2016](#))

In related news, the European Council's permanent representatives [broke](#) a three-year deadlock on modernising the bloc's trade defence instruments, and will allow for occasionally not using the "lesser duty rule" in certain instances involving distortions that involve raw materials. The European Commission had proposed upgrading this trade defence toolkit over three years ago.

ICTSD reporting; "EU upsets China with new steel price investigation," REUTERS, 9 December 2016; "China challenges EU and US over market economy status," FINANCIAL TIMES, 12 December 2016.

INVESTMENT

NAFTA Tribunal Issues Ruling in Windstream-Canada Case

An investor-state arbitration tribunal published its [final ruling](#) last week in the row between a US-based wind energy company, Windstream, and the Canadian government. The award brought an end to a dispute that was filed four years ago under the investment chapter of the North American Free Trade Agreement (NAFTA).

Windstream complained about a moratorium on offshore wind energy generation projects imposed in 2011 by the Canadian province of Ontario and its effects on the company's offshore wind farm project in Lake Ontario. According to Windstream, the measures were discriminatory and arbitrary, while causing an indirect expropriation of the investment.

Hearings were held in Toronto in February this year and the NAFTA tribunal reached a final decision in late September. The award was made publicly available in early December. (See Bridges Weekly, [18 February 2016](#))

The tribunal rejected most of the company's claims but found that the Canadian government had acted "unfairly" and "inequitably" – referring specifically to the government not taking the necessary steps to clarify promptly the "regulatory uncertainty" that resulted from the moratorium – and thus was in breach of its NAFTA obligations.

It awarded Windstream damages of about C\$25.2 million (US\$19.1 million) and C\$2.9 million (US\$2.2 million) in legal costs.

Factual background

In 2003, the Government of Ontario started an initiative to promote renewable energy development, aiming to prevent electricity shortages in the province. One year later, it adopted the Electricity Restructuring Act, establishing the Ontario Power Authority (OPA), which was put in charge of electricity procurement programmes.

In 2009, the OPA launched a feed-in tariff (FIT) Program in the province, which set up a procurement scheme that featured standardised rules and long-term fixed-priced contracts for projects generating electricity exclusively from renewable energy sources.

Windstream and the OPA entered into a 20-year FIT contract in 2010 for a proposed windfarm project with approximately 100 wind turbines capable of generating 300 MW of electricity in Lake Ontario near Wolfe Island. The agreement required the project to come into commercial operation by May 2015.

Ontario later decided to defer offshore wind development, claiming that there was a lack of scientific research and that an "adequately informed policy framework" was not yet in place. Meanwhile, Windstream also served a notice to the OPA which said that due to the "lack of regulatory assistance" from Ontario, it would not be able to reach commercial operation under the previously agreed deadline. This is known in contractual terms as a *force majeure* notice, referring to unavoidable or extraordinary circumstances beyond the parties' control.

During the notice period, which excuses the energy company from meeting its deadline, Windstream cannot withdraw its C\$6 million security deposit for the project. The OPA and

Windstream unsuccessfully attempted to renegotiate the terms of the contract. The energy company later initiated legal proceedings under NAFTA in 2012.

Allegations raised

Windstream claimed that Ontario had unlawfully expropriated the company's investment, arguing that the moratorium and the provincial government's move not to exempt the energy company from it essentially rendered that investment "substantially worthless."

The tribunal dismissed the claim, stating that despite the *force majeure* status, the FIT contract is still formally in force and the C\$6 million security payment remains in place. In addition, the company did not invest in the project an amount of money which exceeded the level of the security deposit. Overall, the tribunal deemed that Windstream was not deprived of the value of its investment.

The tribunal also rejected the company's claims of a breach of NAFTA's most-favoured nation (MFN) and national treatment provisions. These rules prohibit Canada from discriminating against investors or investments of another party relative to a domestic party or NAFTA party equivalent, insofar as they are in "like circumstances."

The tribunal pointed out that the relevant investors and investments – TransCanada, based domestically, and South Korean company Samsung – are not in "like circumstances" with Windstream. The former two, said the tribunal, did not participate in the FIT programme and did not apply for Crown land for offshore wind development. The tribunal also noted that as a result of the moratorium, Windstream was the only holder of a FIT contract, while all offshore wind projects were cancelled. The tribunal therefore disagreed that Windstream was discriminated against after evaluating how other prospective developers were treated.

Nonetheless, the tribunal faulted the government's inaction after enacting the moratorium.

"The failure of the Government of Ontario to take the necessary measures, including when necessary by way of directing the OPA, within a reasonable period of time after the imposition of the moratorium to bring clarity to the regulatory uncertainty surrounding the status and the development of the Project created by the moratorium," said the tribunal. This "was unfair and inequitable," in breach of its NAFTA obligations.

Officials respond

Windstream director David Mars welcomed the ruling, calling it "an appropriate first step at remedying the challenges [the company has] faced" in a [press release](#) in October, shortly after the outcome was first circulated privately. The company said that it is prepared to meet its contractual obligations and wants to go forward with the project.

The Ontario government, for its part, welcomed the dismissal of the majority of claims brought by Windstream and continues to stand by its moratorium. A spokesperson for the Ontario Ministry of Energy [told](#) Bloomberg BNA that the province will continue to take "a cautious approach to offshore wind," but intends to finalise the required scientific research.

Past FIT energy disputes

Ontario's feed-in tariff programme has also been the subject of trade cases elsewhere, including at the World Trade Organization, though for different reasons. In 2010, Japan ([DS412](#)) and the EU ([DS426](#)) challenged the programme's domestic content requirements, which obliged companies applying for a FIT contract to use a defined percentage of equipment from within Ontario.

The WTO Appellate Body ruled in May 2013 that requirements to use local products discriminate against foreign competitors and are in violation of WTO rules. The following

year, Canada announced it had complied with the ruling, withdrawing the domestic content requirements from large renewable electricity procurements and significantly lowering them for small and micro-FIT procurement of wind and solar electricity. (See Bridges Weekly, [8 May 2013](#))

The FIT programme was also featured in another NAFTA investment arbitration case, filed by Mesa Power Group LLC, in 2011. The US-based corporation claimed that it was put at a disadvantage while trying to apply for a beneficial FIT contract.

This past March, the tribunal ruled that the FIT programme constitutes procurement by a party or a state enterprise within the meaning of a NAFTA provision – therefore being exempted from non-discrimination obligations. The tribunal ultimately dismissed the company's claims. (See Bridges Weekly, [4 May 2016](#))

ICTSD reporting; "NAFTA Panel Awards Energy Company \$21 Million for Blocked Project," BLOOMBERG BNA, 14 October 2016; "Huge free trade penalty against Canada," RADIO CANADA INTERNATIONAL, 14 October 2016.

ASIA-PACIFIC

Asia-Pacific: Japan Ratifies TPP, RCEP Gears Up for 2017

Japan's upper house of parliament ratified the Trans-Pacific Partnership (TPP) Agreement on Friday 9 December, marking the final stage for the Asian economy's approval of the accord.

Japan is the second-largest economy by GDP in the Pacific Rim trade deal, surpassed only by the United States. Under the current TPP terms, both economies would need to ratify the trade agreement for it to enter into force.

The news of Japan's ratification comes just weeks after US President-elect Donald Trump reaffirmed his campaign pledge to begin removing the US from the 12-country accord once he takes office in January. (See Bridges Weekly, [24 November 2016](#))

However, various officials from other TPP countries have indicated that they intend to proceed with their ratification processes, with some such as Australian Trade Minister Steven Ciobo suggesting that the situation in the US could evolve once the dust settles from the leadership transition. (See Bridges Weekly, [8 December 2016](#))

Of the other TPP signatories, New Zealand has already passed legislation for ratifying the accord. Various others have already introduced the necessary bills into their domestic legislatures.

"It's good to see the world's third largest economy join New Zealand and show leadership on liberalisation," [said](#) New Zealand Trade Minister Todd McClay in response to Japan's TPP ratification.

RCEP countries hold 16th round

Meanwhile, countries participating in another Asia-Pacific trade initiative known as the Regional Comprehensive Economic Partnership (RCEP) concluded their sixteenth round of negotiations in Indonesia late last week.

The 16-country group includes all ten members of the Association of Southeast Asian Nations (ASEAN), together with their free trade agreement partners: Australia, China, India, Japan, New Zealand, and South Korea.

Talks for the accord kicked off in 2012 with a view to achieve "a modern, comprehensive, high-quality and mutually beneficial economic partnership agreement among the ASEAN Member States and ASEAN's FTA Partners," according to the [guiding principles](#) released at the time. (See Bridges Weekly, [21 November 2012](#))

While the group had previously indicated their goal of inking a deal in 2016, that timeframe has now been pushed back, with a draft work programme and schedule being prepared for the coming year.

This most recent round reportedly saw the conclusion of a chapter dedicated to small and medium-sized enterprises (SMEs), marking the second completed chapter of the deal, according to RCEP officials quoted in the Jakarta Post. (See Bridges Weekly, [10 November 2016](#))

Other topics on the docket for a future RCEP deal include trade in goods and services; investment; intellectual property; competition; and dispute settlement, among other potential issues. The chapter on economic and technical cooperation has already been completed. The next round is expected next February in Japan.

Australia, Indonesia aim to clinch 2017 deal

In other regional news, two members of RCEP – Australia and Indonesia – are working to finalise their own bilateral negotiations for a [Comprehensive Economic Partnership Agreement](#) (IA-CEPA) by the end of 2017 or sooner, [according](#) to Australian Trade Minister Steven Ciobo.

Negotiations for such a deal initially kicked off in 2010. There have been five rounds of formal talks to date, with the initiative "[reactivated](#)" this past March. Officials [say](#) that the accord aims to build on the various other existing deals that the two countries are a part of, including the FTA between ASEAN, Australia, and New Zealand.

"This is a market of 250 million people, around 50 million middle class Indonesians and that's expected to continue growing. It's tremendous opportunity for Australia to be able to export to this market," [said](#) Ciobo in an interview with ABC News 24, according to a transcript provided by his office.

"When we formally announced the resumption of these negotiations in March of this year we said it'd take 12 to 18 months, so we're on track for, I hope, a successful conclusion around the middle to end of next year," he added.

Separately, China and New Zealand are preparing to update their existing trade deal, announcing that the negotiations to do so will begin next year. (See Bridges Weekly, [24 November 2016](#))

ICTSD reporting; "Approval of TPP needed to keep momentum of free-trade deal alive," THE JAPAN NEWS, 10 December 2016; "Japan Ratifies Trans-Pacific Partnership, Which Trump Has Promised to Leave," THE WALL STREET JOURNAL, 9 December 2016; "Asia trade pact gains traction in Jakarta talks," BLOOMBERG NEWS, 10 December 2016.

WORLD TRADE ORGANIZATION

WTO Warns of Growing Stockpile of Trade Restrictions

WTO members reviewed the global trade body's annual report on the state of the international trading environment last week, which reiterated past warnings of a "worryingly high" level of trade-restrictive measures.

According to the report, WTO members implemented 182 trade-restrictive measures between mid-October 2015 to mid-October 2016, representing a slight decline from the last reporting period. However, Director-General Roberto Azevêdo [warned](#) that this does not necessarily represent a "downward trend" overall, and added that the overall stockpile of these measures remains high.

"The last thing the global economy needs today is trade restrictive measures," Azevêdo said. "They can have a further chilling effect on trade flows, with knock-on effects for economic growth and job creation."

The findings are consistent with the WTO's report on trade measures among G-20 economies, which similarly raised concerns over the growing trade restrictions stockpile. (See Bridges Weekly, [17 November 2016](#)) The G-20 economies implemented roughly half of the total trade-restrictive measures by WTO members.

The report also shows that of the nearly 3000 trade-restrictive measures implemented by WTO members since 2008, barely a quarter have been removed. The slow pace of removing these measures, combined with continuing creation of new ones, remains a long-term challenge for the global trading environment.

Meanwhile, the trade-facilitating measures adopted by WTO members outnumbered the restrictive ones during the 12 months reviewed, representing a continued increase since late 2014. The report credited some of the trade facilitation measures to the implementation of the Information Technology Agreement (ITA) expansion, a plurilateral agreement which commits participating members to eliminate import tariffs on products with over US\$1.3 trillion annual trade. (See Bridges Weekly, [3 November 2016](#))

Regarding services trade, the WTO report noted liberalisation efforts in sectors such as air and maritime transport, telecommunications, and construction. In terms of trade transparency, the WTO introduced a new online alert system for member states to notify each other ahead of introducing new sanitary and phytosanitary (SPS) measures – those which involve food safety or animal and plant health – and technical barriers to trade (TBT).

More generally, however, Azevêdo encouraged WTO members to continue submitting updated information for these types of review exercises, noting that replies were received by 84 members – just over half of the organisation's members – as well as some observers.

"Transparency requires constant commitment and engagement. I encourage other members to take part as well," he said.

The report also frames these developments in the broader context of slow trade and economic growth. Earlier this year, the WTO downgraded its global trade forecast for both 2016 and 2017. (See Bridges Weekly, [29 September 2016](#))

"The trends in the implementation of new trade measures by WTO members have to be considered against the uncertain global economic outlook," the report says. "If the forecast for 2016 is confirmed, this would mark the slowest pace of trade and output growth since the financial crisis of 2009 and the first time in 15 years that the ratio of world trade growth to world GDP growth has fallen below 1:1."

The rise of such restrictions has also been flagged as worrisome by trade experts given the growing anti-globalisation sentiment in some advanced economies and sluggish growth of the global economy more broadly.

"In the context of a challenging economic scenario, I think we should keep in mind the role of the multilateral trading system in providing a stable, predictable, and transparent trading environment," said Azevêdo, suggesting that members could use the upcoming ministerial conference in Buenos Aires, Argentina, next December as an additional incentive for removing restrictions.

ICTSD reporting.

EVENTS & RESOURCES

Events

Coming Soon

16 December, Washington, US. DOMESTIC RESOURCE MOBILIZATION'S CHANGING GLOBAL LANDSCAPE. This event is organised by the Centre for Strategic and International Studies (CSIS) and will discuss the progress of mobilising domestic resources to support development purposes, such as the UN's Sustainable Development Goals (SDGs). The event will feature a panel on the current and future policy landscape of domestic resource mobilisation in the US. Participants from the US government, civil society, and private sector are expected to attend. More information is available [here](#).

16 December, London, United Kingdom. THE END OF DEEPER INTEGRATION? MAKING SENSE OF BREXIT IN EUROPE. This event is being organised by Chatham House, featuring as its guest speaker Katinka Barysch, Associate Fellow of the Europe Programme at Chatham House. Barysch will discuss the impact of the UK's upcoming negotiations to exit the EU on European integration, with a specific focus on Germany. She will also address what lessons the EU can learn from Brexit. The conference is part of a series focusing on Britain and Europe. More information is available [here](#).

19-20 December, Hanoi, Vietnam. CONFERENCE: FINANCING QUALITY AND GREEN INFRASTRUCTURE IN ASIA. The conference is being organised by the Asian Development Bank Institute (ADBI) in partnership with the Organisation for Economic Co-operation and Development (OECD) and the State Bank of Vietnam. The conference will address ways to boost infrastructure growth in Asia, focusing on issues of financing, improving quality, and achieving sustainability. Participants from both public and private sectors are expected to attend. More information is available [here](#).

20 December, Washington, US. ENSURING THE SUCCESS OF THE POST-PARIS CLIMATE AGENDA: U.S.-JAPAN RELATIONS ON THE GLOBAL STAGE. This event is being organised by the Centre for East Asia Policy Studies and the Cross-Brookings Initiative on Energy and Climate at the Brookings Institution and will feature as its guest speakers climate experts from both the US and Japan. The panel will discuss the challenges for both countries to implement the goals negotiated under the Paris Agreement, along with what the UN climate deal means for energy policy and other related subjects. To learn more, click [here](#).

20 December, Washington, US. CAN WE MAKE GROWTH MORE INCLUSIVE? A TRANS-ATLANTIC PERSPECTIVE. This event is organised by the Centre on the United States and Europe (CUSE) at the Brookings Institution, featuring as its guest speaker Professor Philippe Aghion, professor of economics at Collège de France. Aghion will discuss the relationship between economic growth and inequality in the United States and Europe, along with the roles of education and labour market participation in boosting growth. 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.

16 December: Dispute Settlement Body

19 + 21 December: Trade Policy Review Body - United States of America

Other Upcoming Events

5 January 2017, Washington, US. GROUND TRUTH BRIEFING: WHAT DOES THE WORLD EXPECT OF PRESIDENT-ELECT DONALD TRUMP ON TRADE? This teleconference is being organised by the Woodrow Wilson International Centre for Scholars and will discuss the possible future of US trade policy under the Trump presidency. Guest speakers include Shihoko Goto, Senior Associate at the Wilson Centre; Meg Lundsager, Public Policy Fellow at the Wilson Centre; and Shawn Donnan, World Trade Editor at the Financial Times. More information is available [here](#).

18 January 2017, Tokyo, Japan. MAKING TRADE INCLUSIVE: SYMPOSIUM ON SMEs AND TRADE ADJUSTMENT. This event is organised by the Asian Development Bank Institute (ADBI) and will discuss the ways to increase small and medium-sized enterprises' (SMEs) participation in international trade. The event will feature a presentation of the WTO's 2016 World Trade Report. Guest speakers include Robert Koopman, WTO chief economist and director of the Economic Research and Statistics Division; Lucian Cernat, chief trade economist of the European Commission; and Peter Petri, Carl J. Shapiro, Professor of International Finance in the International Business School and a senior fellow of the East-West Centre. Other discussion topics include how to overcome free trade barriers and how to distribute trade benefits evenly. More information and registration is available [here](#).

9 February 2017, Geneva, Switzerland. DRIVING CLEAN ENERGY TECHNOLOGIES THROUGH TRADE POLICY. This event is being organised by the International Centre for Trade and Sustainable Development (ICTSD) and the World Energy Council, and will feature a discussion on recent research involving global value chains, non-tariff measures, and what trade policy can mean for the global supply of clean energy. Detailed information and registration is available [here](#).

Resources

THE RELEVANCE OF THE ENVIRONMENTAL GOODS AGREEMENT IN ADVANCING THE PARIS AGREEMENT GOALS AND SDGS: A FOCUS ON CLEAN ENERGY AND COSTA RICA'S EXPERIENCE. By Monica Araya for the International Centre for Trade and Sustainable Development (ICTSD) (December 2016). This paper analyses the path Costa Rica is taking to implement the Sustainable Development Goals and the Paris Agreement, with a special focus on its participation the Environmental Goods Agreement (EGA) which aims to reduce tariffs on certain clean energy technologies and other environmental goods. The paper also provides advice for other developing countries, drawn from this analysis. The publication is available for download [here](#).

ENVIRONMENT IN THE TRANS-PACIFIC PARTNERSHIP: A LEGAL ANALYSIS. Published by the International Centre for Trade and Sustainable Development (ICTSD) (December 2016). This new research paper reviews the environmental provisions of the Trans-Pacific Partnership (TPP) Agreement, along with what these could mean for trade and sustainable development policy both within the TPP group and beyond. The full paper can be downloaded [here](#).

AGRICULTURAL – TRADE DISTORTING SUPPORT CALCULATOR. Released by the Australian Permanent Mission and Consulate-General in Geneva (December 2016). This new tool is designed to help WTO members predict potential limits and expenditures on trade-distorting agricultural support under the organisation's rules on farm trade. The web tool and related tutorials can be accessed [here](#).

AFRICAN CONTINENTAL FREE TRADE AREA: POLICY AND NEGOTIATION OPTIONS FOR TRADE IN GOODS. By Magdi A. Farahat for the United Nations Conference on Trade and Development (UNCTAD) (December 2016). This paper discusses what it takes to establish free trade agreements (FTAs) in goods, the factors in supporting the Continental Free Trade Area (CFTA) negotiations, as well as policy suggestions to maximise the benefits of the CFTA once completed. The publication is available for download [here](#).

THE DETERMINANTS OF ENTRY IN THE ELECTRICITY GENERATION SECTOR IN OECD COUNTRIES: A FOCUS ON RENEWABLE ENERGY - ENVIRONMENT WORKING PAPER NO.111. By David Benatia and Tomasz Koźluk for the Organisation for Economic Co-operation and Development (OECD) (December 2016). This working paper analyses the deciding factors in the entry of OECD countries in the electricity generation market, focusing on the investments in renewable electricity generation during 1990-2007. The paper also reviews the related policy implications for this field. The paper is available for download [here](#).

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