

BRIDGES WEEKLY

Global trade news from a sustainable development perspective

VOLUME 20, ISSUE 9, 10 MARCH 2016

WASHINGTON

US Presidential Contenders
Spar on Trade As White House
Continues TPP Push.....1

CLIMATE CHANGE

Canada to Examine National
Carbon Pricing Options, Ramp
Up Climate Action4

AGRICULTURE

WTO Farm Talks Chair:
Subsidies “Key” to 2017
Outcome.....7

ENVIRONMENTAL GOODS

Environmental Goods
Agreement Negotiators Eye
Next Steps.....11

DISPUTES

India Files WTO Challenge
Against US Visa Fee Increases.....14

WORLD TRADE ORGANIZATION

Ratifications for WTO Trade
Facilitation Pact Grow as
Members Prepare for Next
Steps.....16

INTELLECTUAL PROPERTY

WTO TRIPS Council Discusses
Education Proposal, Possible
Next Steps for Non-Violation
and Situation Complaints17

EVENTS & RESOURCES

Events.....20
Resources22

WASHINGTON

US Presidential Contenders Spar on Trade As White House Continues TPP Push

The trade positions of US presidential candidates are increasingly coming into the spotlight, as the primary process moves closer to indicating who may represent the Democratic and Republican parties for the upcoming November general election.

Meanwhile, the White House continues to push for ratification of a major Asia-Pacific trade deal by the US Congress this year, despite the electoral dynamics. Along with making a strong push for the pact in an annual report of presidential trade priorities, US President Barack Obama is slated to discuss this Trans-Pacific Partnership (TPP) with Canadian Prime Minister Justin Trudeau this week.

Sanders versus Clinton

On the Democratic side of the presidential contest, US Senator Bernie Sanders of Vermont and former Secretary of State Hillary Clinton argued openly on trade during a recent [presidential debate](#), held on 6 March in Flint, Michigan.

Sanders and Clinton are the two remaining candidates in the Democratic race, with Clinton currently leading in the delegate count for the party's nomination.

“Secretary Clinton supported virtually every one of the disastrous trade agreements written by corporate America,” said Sanders during last week's debate, citing as examples the North American Free Trade Agreement (NAFTA) and securing permanent normal trade relations with China.

The Vermont senator specifically referred to the TPP – which was signed just last month – as an example where he and Clinton have differed in the past, and where he claims to have a longer track record in protecting US middle-class jobs.

“The reason that I was one of the first, not one of the last to be in opposition to the TPP is that American workers should not be forced to compete against people in Vietnam today making a minimum wage of US\$0.65 an hour,” he said, in an apparent reference to Clinton's comparatively more recent denunciation of the trade pact.

In response, the former Secretary of State referred to both her record as a former Senator for the state of New York, as well as her interest in knowing the content of the TPP before rendering judgment.

"To set the record straight, I voted against the only multinational trade agreement that came before me when I was in the Senate. It was called CAFTA," said Clinton, referring to what is now the [Dominican Republic-Central American Free Trade Agreement](#) (CAFTA-DR), a deal between the US, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic.

"I came out against the TPP after it was finished. I thought it was reasonable to actually know what was in it before I opposed it. I oppose it," she continued.

Clinton also countered that Sanders opposes the Export-Import Bank, the US' official federal credit agency for exports. The Ex-Im Bank [was re-authorised](#) through 2019 last December, after its mandate lapsed in June. (See Bridges Weekly, [28 May 2015](#))

"Senator Sanders opposes that. I think we're in a race for exports. I think China, Germany, everybody else supports their businesses," said Clinton, referring specifically to the agency's potential to assist small businesses' capacity to engage in trade.

Sanders has cited his concerns over who receives Ex-Im Bank loans – which he claims primarily go to large corporations – as the reasoning behind his opposition.

Republicans at odds

The four remaining candidates in the Republican race – Senator Marco Rubio of Florida, Senator Ted Cruz of Texas, Governor John Kasich of Ohio, and real estate mogul Donald Trump – have all outlined to varying extents their positions on trade and the TPP.

"Both at the border, and with trade – and every other country we do business with we are getting absolutely crushed on trade," said Trump during his party's [latest debate](#), held on 4 March in Detroit, Michigan.

"Every country we lose money with. As far as I'm concerned, we've got to reduce – we have to redo our trade deals 100 percent. I have the greatest business people in the world lined up to do it. We will make great trade deals," he continued. The real estate giant cited in particular trade ties with China, Japan, and Mexico as areas needing significant improvement, and has in the past come out against TPP.

Kasich, by comparison, has openly [backed](#) the Pacific Rim trade pact, calling it "critical" for the US economy, particularly for building deeper inroads in that region and countering different trade approaches from China.

Cruz had [previously said](#) that he would wait until seeing the TPP deal before deciding whether to support it, and is now said to be against the pact. Rubio, for his part, [said last year](#) that he was in favour of the deal, a position which he has reportedly moved away from in recent months.

TPP tops White House trade policy agenda

Meanwhile, last week the Office of the US Trade Representative (USTR) confirmed that the Obama Administration will be actively pushing to get the Trans-Pacific Partnership Agreement ratified this year.

"Trade done right is essential for our economy here at home and for America's position in the world," said USTR Michael Froman in this year's edition of the President's Trade Policy Agenda, released on 2 March. "At the heart of this agenda is the Trans-Pacific Partnership."

The President's Trade Policy Agenda is an annual document which outlines the US executive branch's priorities for the coming year. The 2016 edition runs at over 60 pages, divided into three main sections: one on the Trans-Pacific Partnership, the second on other US trade priorities, and the last on the White House's accomplishments during Obama's tenure.

Along with outlining the deal's potential benefits in areas such as automobile manufacturing, agriculture, the environment, and national security, among various others, the report highlights the importance of such a trade pact for US leadership and diplomacy, with quotes from top US defence officials and leaders from fellow TPP countries.

"It is not in the national interest to sit on the sidelines and let others define the rules of the road without us," said Froman.

The report also touts other trade initiatives, such as the negotiations with the EU for a Transatlantic Trade and Investment Partnership (TTIP); talks with over 20 fellow WTO members for a Trade in Services Agreement (TISA); and a plurilateral effort to clinch an Environmental Goods Agreement with 16 other WTO partners.

For the US-EU deal, the report states that the President is aiming to reach an "ambitious, comprehensive, and high-standard TTIP agreement in 2016" – a statement in line with the sentiment expressed by negotiators from both sides after the latest round of talks. (See Bridges Weekly, [3 March 2016](#))

Last month doubts had emerged over whether the White House was indeed operating on such a timeline, following comments by an Administration official on the subject which indicated that the talks could drag on into next year. (See Bridges Weekly, [11 February 2016](#))

The report also calls for an "ambitious conclusion" to the TISA negotiations this year. (See Bridges Weekly, [3 March 2016](#))

ICTSD reporting; "Transcript of the Democratic Presidential Debate in Flint, Mich.," THE NEW YORK TIMES, 6 March 2016; "Donald Trump: Here's the one area where Bernie Sanders and I agree," BUSINESS INSIDER UK, 7 February 2016; "Transcript of the Republican Presidential Debate in Detroit," THE NEW YORK TIMES, 4 March 2016; "What the Candidates Are Saying About Free Trade in the Debates," HUFFINGTON POST, 16 February 2016; "What should worry Clinton about Sanders's Michigan win," WASHINGTON POST, 9 March 2016; "Marco Rubio Advocates Pacific Trade Deal As A Tool To Force China To Stop Economic Manipulation," REAL CLEAR POLITICS, 28 August 2015.

CLIMATE CHANGE

Canada to Examine National Carbon Pricing Options, Ramp Up Climate Action

Canada is moving toward adopting a nation-wide carbon pricing mechanism, officials confirmed last week following a high-level meeting in Vancouver, as part of a larger effort to meet its international climate commitments.

The Vancouver meeting brought together Prime Minister Justin Trudeau and the country's provincial leaders – a group collectively known as “First Ministers” – in what was widely billed as an early test of the new premier's domestic climate leadership, as well as what reception his ideas would face at the provincial level.

Trudeau took office in November after his Liberal Party won a landslide victory against the Conservatives, who had been in power for nearly a decade. During that time, Canada withdrew from the Kyoto Protocol under then-Prime Minister Stephen Harper, in a move that sparked harsh international criticism from some camps.

Trudeau later ran against Harper on a platform which included a heavy focus on climate action, among other promises, geared toward bringing “a new tone” to the federal government.

In this context, the newly-minted Canadian premier has since directed Catherine McKenna, his choice for Environment and Climate Change Minister, to “take the lead on implementing the government's plan for a clean environment and a sustainable economy.”

“Your key priority will be to ensure that our government provides national leadership to reduce emissions, combat climate change, and price carbon,” he told McKenna in her [ministerial mandate letter](#).

Pan-Canadian framework

Canada has committed to slashing greenhouse gas emissions by 30 percent relative to 2005 levels by 2030, albeit under Harper's leadership, according to its “[nationally determined contribution](#)” submitted to the UN Framework Convention on Climate Change (UNFCCC) as part of last year's push to secure a new multilateral climate deal.

Honouring this pledge may be a tough ask, however, given reported differences among the provinces on how to approach topics such as carbon pricing and transitioning to cleaner energy sources.

The [Vancouver Declaration on clean growth and climate change](#) released after the First Ministers' meeting features a series of commitments aimed at meeting the 2030 emissions reduction goal, while leaving open how these will be met.

The declaration divides these commitments into various sections, specifically on how to boost current ambition levels; ensure clean, job-creating economic growth; take possible steps toward mitigation; ramp up adaptation and climate resilience efforts; and foster better cooperation.

While these are outlined in broad terms, such areas will be addressed in greater depth under a “pan-Canadian framework” that officials plan to implement early next year. This framework will be finalised during a meeting this autumn, First Ministers said.

A nation-wide carbon price?

Some Canadian provinces are already subject to a [carbon price](#), with Quebec participating in a cap-and-trade programme under the sub-national Western Climate Initiative – which also includes some US states – and Ontario and Manitoba also unveiling plans to introduce carbon trading, while British Columbia imposes a [carbon tax](#). (See Bridges Weekly, [16 April 2015](#))

However, going into the Vancouver meeting, one key question had been whether Trudeau and the provincial ministers would be able to find common ground on setting up a nation-wide carbon pricing mechanism. The minister of Saskatchewan, for example, had made clear his strong opposition to such a scheme ahead of the gathering.

The final declaration ultimately includes a reference to a carbon price as one of several mitigation steps that Canada will adopt in the future.

“First Ministers commit to transition to a low carbon economy by adopting a broad range of domestic measures, including carbon pricing mechanisms, adapted to each province's and territory's specific circumstances, in particular the realities of Canada's Indigenous peoples and Arctic and sub-Arctic regions,” the declaration says.

While the declaration does not provide additional details on how a country-wide approach to carbon pricing would work, it does direct a working group to provide a report by September on the subject.

The report will include possible options “on the role of carbon pricing mechanisms in meeting Canada's emissions reduction targets, including different design options taking into consideration existing and planned provincial and territorial systems.”

This report, along with those produced by three other working groups focusing respectively on clean technology, innovation, and jobs; specific mitigation opportunities; and climate resilience, will then be subject to a review, followed by recommendations issued to First Ministers by October. The reports will also be made public.

Meeting with Obama

In related news, Trudeau is set to meet with US President Barack Obama on Thursday 10 March, with various media reports suggesting that the two North American leaders may sign off on a joint environment and climate plan.

Obama, who is in his final full year of his presidency, has made tackling climate change one of his Administration's top priorities. The US leader has primarily pursued such efforts through both international diplomacy – including at last December's climate talks in Paris – and through executive action domestically.

The latter has been particularly controversial, with many critics – particularly of the opposing Republican Party – arguing executive overreach, among other complaints. Some of these efforts have also led to legal challenges, with the US Supreme Court putting on hold the enforcement of the Environmental Protection Agency's Clean Power Plan this past February, pending resolution of such legal complaints. (See Bridges Weekly, [11 February 2016](#))

[Speaking to reporters](#) last Thursday, White House Press Secretary Josh Earnest did not immediately confirm whether such a US-Canada deal is indeed in the works, while noting

that both leaders have agreed in the past that climate change could be a potential area for cooperation.

"I think what that does mean is...that there may be an opportunity for the United States and Canada to coordinate even more effectively our policies when it comes to climate change," Earnest said, after noting Trudeau's climate focus on the campaign trail last year.

The Administration also this week submitted US\$500 million to the UN's Green Climate Fund – the first tranche out of a US\$3 billion commitment Washington has made. The multilateral fund is aimed at helping developing countries in climate adaptation and in shifting toward low-emissions development and investment pathways.

ICTSD reporting; "Trudeau, Canadian provinces set for tough climate change talks," REUTERS, 29 February 2016; "Trudeau, Obama set to endorse continental strategy on climate change," THE GLOBE AND MAIL, 1 March 2016; "Canadian PM, premiers agree carbon pricing detail but leave out details," CARBON PULSE, 4 March 2016; "Trudeau, premiers agree to climate plan framework, but no specifics on carbon pricing," CBC NEWS, 3 March 2016; "Trudeau wants Canada to play key role in fighting climate change," TORONTO STAR, 2 March 2016; "Obama administration pays out \$500m to climate change project," THE GUARDIAN, 8 March 2016.

AGRICULTURE

WTO Farm Talks Chair: Subsidies "Key" to 2017 Outcome

Addressing farm subsidies could be "key" to a negotiating outcome next year on global trade, the chair of the WTO's farm talks [said](#) on Tuesday, as two prominent Indian experts hit back at a critique of the country's negotiating stance on agriculture.

The "overwhelming bulk" of WTO members see domestic support as the "clear priority" for talks on trade, said New Zealand ambassador Vangelis Vitalis, who chairs the WTO agriculture negotiations, at the first informal meeting this year open to all of the organisation's members.

Vitalis said that many countries explicitly identify this issue as "a key potential outcome" for the trade body's eleventh ministerial conference, which is due to be held in 2017.

In a related development, India's former WTO ambassador Jayant Dasgupta argued that slow progress in tackling farm subsidies means that the country's farmers "are perpetually threatened by highly subsidised and unfair exports," in a Financial Express [opinion piece](#) published yesterday.

Dasgupta and his co-author Professor Abhihit Das, head of the Centre for WTO Studies in New Delhi, pushed back at recent suggestions by India's chief economic advisor that the country's negotiating stance risked consigning the WTO to irrelevance (see Bridges Weekly, [3 March 2016](#)).

"Thalassa, thalassa" moment

Vitalis told negotiators that the WTO's ministerial conference in Nairobi last December had finally allowed the organisation's members to reach their "thalassa, thalassa" moment – a reference to the moment in Ancient Greek history when a battle-weary contingent of soldiers finally arrived at the sea ("thalassa" in Greek) after a long, difficult land journey. (See Bridges Daily Update #5, [19 December 2015](#))

"Put simply, you did something that mattered," he said. Among other outcomes, trade ministers in Nairobi struck a deal to eliminate agricultural export subsidies, following round-the-clock negotiations in the Kenyan capital city.

The chair used this week's meeting to report back on the dozens of bilateral consultations he had held since early January – which he said had totalled 72 in number – and also to explain how he planned to move ahead on the basis of existing negotiating mandates and instructions from ministers in Nairobi. (See Bridges Weekly, [18 February 2016](#))

"My intention is for us collectively to engage in a process of what I term, 'defining by doing' – at least for the immediate future," said Vitalis.

However, he also noted that negotiators had also expressed to him "their very real disappointment" about the lack of an outcome on domestic support in general, "and in cotton in particular."

Although Nairobi saw ministers also agree to a decision on cotton, the text falls far short of demands by West African cotton-producing countries for new ceilings and cuts in the permitted levels of trade-distorting domestic support.

Vitalis told the meeting that he would explore with members what might be possible in this area.

Special safeguard mechanism

The chair said he would hold dedicated negotiating sessions on a new “special safeguard mechanism” or SSM, which would allow developing countries to raise tariffs temporarily in the event of a sudden surge in import volumes or a price depression.

Similarly, he said he would convene dedicated sessions on public stockholding for food security purposes. Many developing countries have said that current WTO farm subsidy rules place unnecessarily stringent limits on their ability to buy food at administered prices as part of their food stockholding programmes, and have argued in favour of a permanent solution at the global trade body.

Developing countries in the G-33 coalition have repeatedly argued that the SSM is crucial to protecting small farmers from volatility on global markets. The coalition includes large WTO members such as China, India, and Indonesia, and also smaller ones such as Barbados.

The chair also noted that SSM negotiations would need to occur “in the context of addressing outstanding agricultural issues,” as ministers had instructed in Nairobi.

Farm exporting countries such as Australia and Brazil have argued that they would only be willing to negotiate the SSM in the context of a broader deal on market access issues.

One African trade negotiator told Bridges that he thought Vitalis would try to advance talks on the special safeguard mechanism and market access in parallel.

Dasgupta and Das argued that the mechanism would be needed to protect Indian farmers from a wide range of subsidised imports from abroad – rebutting suggestions to the contrary from India's chief economic advisor, Arvind Subramanian. (See Bridges Weekly, [3 March 2016](#))

“SSM would be an important policy instrument for India to protect its farmers from unfair trade, if the developed countries wriggle out of agriculture subsidy cuts in the WTO negotiations,” wrote Dasgupta and Das.

Calculating farm support

The two experts warned that US farm support was particularly high for canola, dairy, rice, and sugar. Support for these products had reached 61 percent, 30 percent, 82 percent, and 66 percent for these products respectively, Dasgupta and Das claimed.

However, other experts questioned how the numbers had been calculated.

“Support levels were certainly higher for rice in the early 2000s, but rice has had virtually no outlays since 2005,” said Joseph Glauber, senior research fellow at the International Food Policy Research Institute (IFPRI), in comments to Bridges.

Das told Bridges that the calculations were based on product-specific support as a percentage of the value of production in the years from 2001 onwards.

However, figures based on Washington's 2012 notification would be much lower, Glauber said, with canola at 6.6 percent, dairy at 9 percent, rice at 1.5 percent, and sugar at 39.3 percent.

Das emphasised that WTO talks were crucial to bringing down support levels. "It has to be done at the WTO – there is no other way," he said.

On Tuesday, Vitalis emphasised the importance of sharing up-to-date information with one another. "Defining by doing requires rich information and data to inform and shape our negotiating process," he said.

Market access still "a priority"

Vitalis told Tuesday's meeting that talks on market access "remain a priority" for a large group of WTO members.

However, he also added that some countries see progress in market access and domestic support talks as being contingent on movement elsewhere, including on issues that are outside the agriculture negotiations.

Some trade policy analysts have argued that the spate of regional trade deals outside the WTO has in recent years steadily eroded the scope for striking more comprehensive trade deals at the global trade body – with the newly-signed Trans-Pacific Partnership being seen as particularly significant among these.

"We are not discussing subsidies in any of these preferential agreements," cautioned Biswajit Dhar, Professor at the Centre for Economic Studies and Planning, Jawaharlal Nehru University.

The EU and Brazil have been among those calling for the trade body to begin addressing other issues that go beyond its traditional focus, while the US has repeatedly stated that revisiting old approaches to striking a deal is unlikely to lead to a successful outcome.

Vitalis said that "a minority of members" had suggested negotiators take up questions including export restrictions, sanitary and phytosanitary measures, private standards for agricultural products, and disciplines on subsidies for biofuels and bio-energy.

A mandate for ongoing farm trade negotiations contained in article XX of the [Agreement on Agriculture](#) could provide the basis for doing so, he said.

Export competition: unfinished business?

Many countries had "limited or no interest" in further talks on export subsidies and other "export competition" issues, Vitalis said. He explained that these members believed that negotiations in Nairobi in this area had already gone "as far as was possible."

However, a small group of members considered that the question of export credits remained "unfinished business."

The chair drew negotiators' attention to paragraph 31 of the Nairobi [Ministerial Declaration](#), which explicitly refers to the "strong commitment of all members" to advance negotiations on remaining Doha issues – including agricultural domestic support, market access, and export competition, as well as non-agricultural market access, services, development, intellectual property rights, and rules.

Negotiators are still trying to understand how this statement relates to paragraph 30 in the same text, in which ministers acknowledge that they do not agree with one another over

whether to reaffirm the negotiating mandate for the Doha Round of trade talks, which was launched in the Qatari capital in 2001.

In closing the meeting, he told members that he would conduct further consultations to identify when negotiators ought next to meet, and which issues they should address when doing so.

ICTSD reporting.

ENVIRONMENTAL GOODS

Environmental Goods Agreement Negotiators Eye Next Steps

A group of 17 WTO members – counting the 28-nation EU as one – discussed last week possible ways to move forward with a plurilateral effort to secure a tariff-liberalising Environmental Goods Agreement (EGA). The 2-4 March round marked the group's first formal gathering since the talks hit a snag last December.

According to informed sources, several proposals on "staging" for phasing out tariffs over time were also circulated ahead of the meet, which prompted some preliminary discussions among participants.

EGA participants had clashed at the end of last year over which items to include under the deal, running into particular difficulties around environmental goods under 54 product categories slated for tariff cuts to five percent or less by the end of 2015 as agreed by the 21-nation Asia-Pacific Economic Cooperation (APEC) alliance, which the group had previously indicated plans to build upon. (See BioRes, [9 December 2015](#))

Some EGA participants last year had floated the possibility of landing a deal – or at least agreeing on a list of products for liberalisation – in time for the confluence of events in December that included a landmark UN climate meet in Paris, France, and the WTO's Tenth Ministerial Conference (MC10) in Nairobi, Kenya.

Sources said that energy to push for a deal remained evident among many EGA participants last week, both during plenary sessions and in bilaterals, with upcoming events on the international calendar identified as possible ways to maintain momentum this year.

This included some discussion on whether a high-level meet might be held on the sidelines of the Organisation for Economic Co-operation and Development (OECD) trade ministers gathering in June to provide political guidance and possible use of the G-20 major economies process this year under the Chinese presidency.

Participants also mapped out some tentative dates for future rounds, subject to confirmation with capitals, with a potential slot identified for mid-April.

Identifying goods at the border

A spin-off "customs working group" reportedly made progress last week on goods tariff line classification and implementation issues. The group will likely only need to meet a few more times, sources say, although some of the items may need to be brought back to plenary where different understandings on what constitutes an "environmental good" remain.

Identifying products within tariff lines can be a complicated exercise due to the fact that the World Customs Organization's Harmonised System (HS) tariff classifications only go up to a six-digit subheading level, with some variations existing within national tariff lines (NTLs), which in turn also include a range of items.

APEC members in January released documents detailing implementation efforts around their environmental goods pledge, with several commentators suggesting that the exercise could prove a useful practical demonstration for the EGA talks. (See BioRes, [4 February 2016](#))

Staging proposals

The US reportedly circulated a proposal for staging tariff cuts in response to views from some other major participants that this would be important to advance work.

Washington's proposal broadly follows the approach used by 53 WTO members to [update](#) a separate plurilateral Information Technology Agreement (ITA). The new deal, known as ITA-II, will remove tariffs on an additional 201 information and communication technology goods that were not covered under the original ITA, with the new products worth US\$1.3 trillion in annual trade.

Under this WTO agreement, whose benefits extend to all members of the global trade body, tariffs are either eliminated immediately or progressively over a three-year period. Tariffs may also be eliminated over a period of five or seven years on a select number of exceptional products. (See Bridges Daily Update #3, [16 December 2015](#))

In the EGA context, sources said that the US proposal provided some details on what percentage of products could be included in such staging groupings and has suggested that 75 percent of products should be liberalised immediately on entry into force of the deal.

Another proposal for staging was offered by China during last week's round, whereby developed countries would be given three years to remove tariffs from certain products, while developing countries would have several different staging options. An option to maintain indefinitely a low level of tariffs on certain products, as opposed to full tariff elimination, might also be considered for the latter group.

While China has in the EGA context argued in favour of differentiation between developed and developing countries, in order to offer the latter more time to adjust to tariff removals, this view is controversial for some other members.

"The good thing is a spectrum of positions are on the table and we have sense of where the parameters of discussion are," one source said on the different staging proposals, adding that some work would be needed to bring these positions together in the coming months.

According to others, while EGA participants appear relatively divided on the proposals, a key takeaway from last week was that most were comfortable with discussing both staging and product coverage simultaneously.

Some sources explained that this represents a different approach to the ITA expansion, where the product coverage was agreed first, and staging decided after. (See Bridges Weekly, [23 July 2015](#) and [30 July 2015](#))

While some admitted that one method was not necessarily better than the other, the discussion on staging could help the group to manoeuvre around difficulties in agreeing on a final product list, although it would add a degree of complexity to the talks.

Next round

Participants have said that they will continue to work intersessionally on identifying ways forward and determining what level of staging – or not – might be acceptable for a given product nomination.

EGA participants have nominated products for inclusion under about 650 tariff lines since the negotiations were launched in July 2014. These products relate to a range of "environmental categories" identified by participants during the early months of talks, including cleaner and renewable energy, energy efficiency, air pollution control,

environmental monitoring and analysis, and solid and hazardous waste management, among others.

The next round, once confirmed, will likely include another general discussion on staging in conjunction with specific products. A “convergence list” of 350 tariff lines circulated last December by the chair of these talks – Andrew Martin, Counsellor for the Australian Department for Foreign Affairs and Trade – could be further revised in this process, but was not the main topic of discussion last week.

Some sources suggested that the next meeting might focus on categorising the convergence list into three broad baskets: the first representing those ready for immediate tariff elimination, a second subject to elimination through staging, and a third for more sensitive products that need to be examined in more detail.

APEC launches services plan

APEC economies, meanwhile, have recently launched a multi-year [Environmental Services Action Plan](#) geared towards lowering associated regulatory and trade policy barriers. This initiative is designed to complement the group's tariff reductions on environmental goods.

That initiative's preliminary focus will be on gathering critical information on services regulation and trade policy in APEC economies, including on cross-border supply, governance of commercial ownership, licensing, movement of workers, as well as preferential liberalisation and regulatory regimes. This work will also involve a study on APEC economies' regulatory and trade promotion policies in environmental services.

Several [experts](#) have argued that trade in environmental goods has been affected by the “servicification” of the global economy and often rely on services supplied before, during, and after the delivery of a given product.

While the EGA talks have focused on tariffs to date, a draft text on legal arrangements for the eventual deal currently includes institutional provisions such as a review clause, which would anticipate a process to update the product list in line with technology changes and also feature a built-in agenda to address environmental services liberalisation and non-tariff barriers to trade. (See BioRes, [10 November 2015](#))

ICTSD reporting.

DISPUTES

India Files WTO Challenge Against US Visa Fee Increases

India has brought a WTO challenge (DS503) against certain measures involving the US' non-immigrant temporary working visas, filing a request for consultations on Thursday 3 March.

At issue in the complaint are the increased fees imposed on certain applicants for two categories of non-immigrant temporary working visas, specifically "L-1" and "H-1B," as well as numerical commitments for the latter visas, according to the consultations request.

The L-1 and H-1B visas

Citizens of foreign countries wishing to work temporarily in the US as a non-immigrant [must have](#) their prospective employer file a petition with the country's federal immigration agency.

The types of visa fall under different categories, with these having their own individual qualification requirements. L-1 visas allow a US employer to transfer certain types of high-level employees from an affiliated foreign office to an American one.

The H-1B visa applies to people who wish to work in a specialty occupation, for certain Department of Defence (DOD) projects, or as a fashion model, subject to certain conditions.

Visa fee increases

Under the Consolidated Appropriations Act of 2016, Washington increased fees for L-1 type visas by US\$4500 and for H-1B type visas by US\$4000 for companies with 50 or more employees in the US, if more than 50 percent of their employees are non-immigrants employed on such visas. It was signed into law by President Barack Obama in December 2015, with the measures in place through September 2025.

India claims that these measures, along with earlier fee increases between August 2010 and September 2015, appear to violate the US' commitments under its Schedule of Specific Commitments under the WTO's General Agreement on Trade in Services (GATS) – the set of global rules involving services trade– along with being inconsistent with other GATS provisions.

The GATS distinguishes between four modes of supplying services: cross-border trade, consumption abroad, commercial presence, and presence of natural persons.

Along with a general set of obligations on services trade, ranging from issues such as Most-Favoured-Nation (MFN) treatment, transparency, economic integration, and participation of developing countries, WTO members must also provide a "schedule of specific commitments." These schedules identify the services for which the member guarantees market access and national treatment with respect to the four different modes of service supply, and any related limitations. Most schedules contain commitments that apply across all scheduled sectors, i.e. horizontal commitments, along with those that apply only to specific sectors.

According to India, the above-mentioned visa fee increases effectively treat Indian services suppliers with a commercial presence in the North American nation in a less favourable way

than US entities providing like services, in sectors such as "Computer and Related Services." Also, the movement of natural persons seeking to supply services is affected in a way that violates Washington's commitments under its GATS schedule, while nullifying or impairing benefits that should accrue to India.

The Indian IT industry is a major user of these types of temporary visas, with India's National Association of Software and Services Companies claiming that the changes may put a burden of [up to US\\$400 million](#) annually to India's export-driven IT outsourcing firms.

Changes to numerical commitments

Furthermore, New Delhi is also claiming that recent US changes to its numerical commitment for H-1B visas – specifically due to modifications Washington has made under FTAs with Singapore and Chile – also are inconsistent with its GATS schedule.

According to the consultations request, the US included under its horizontal commitments regarding mode 4 – that involving the movement of natural persons – that it would permit up to 65,000 people annually on a worldwide basis under the category of fashion models and specialty occupations.

Under the two FTAs mentioned above, these "numerical commitments" have allegedly been changed. According to India, US homeland security officials must now set country-specific limits for both countries, with these numbers taken away from the global total of 65,000 receiving H-1B visas.

Along with allegedly violating the US' schedule, "these measures also appear to raise the overall barriers for service suppliers from India seeking entry into the United States under section 1101(a)(15)(H)(i)(b) of the [Immigration and Nationality Act], compared to the level applicable prior to the implementation of the United States' Free Trade Agreements with Singapore and Chile," says the consultations request.

The request also includes a series of other alleged GATS violations as a result of these measures.

Next steps

The US and India must now hold consultations for a minimum of 60 days in an effort to resolve their differences. Should a mutually agreed solution not be reached during that process, New Delhi may then request that a WTO panel be established to hear the case.

ICTSD reporting; "India files trade complaint against U.S. over temporary work visas," REUTERS, 4 March 2016; "India moves WTO against US on temporary working visa issue," THE TIMES OF INDIA, 4 March 2016; "U.S. hikes H1B, L1 visa fee; to hit Indian IT companies," THE HINDU, 13 January 2016; "US visa fee hike: Tech companies hail India's plan to move World Trade Organization," THE ECONOMIC TIMES, 5 March 2016.

WORLD TRADE ORGANIZATION

Ratifications for WTO Trade Facilitation Pact Grow as Members Prepare for Next Steps

Ratifications of the WTO's Trade Facilitation Agreement continue to arrive, with 70 members having now notified the global trade body that they have approved the deal's terms domestically.

The multilateral deal requires approval from two-thirds of the WTO's 162 members – in other words, 108 members – in order to enter into force. While the current tally is still short of that number, the pace of ratifications is now such that members have been urged to prepare for the deal's eventual entry into force.

During a 3 March meeting of the Preparatory Committee on Trade Facilitation, members were reportedly encouraged to notify the WTO secretariat of any support they may need – for instance, in terms of technical assistance and capacity-building – in order for the multilateral pact to enter into force smoothly.

Of the 70 WTO members who have ratified the TFA, 21 have submitted ratifications since the committee last met in October. Various other members are reportedly making quick headway toward ratification, with Brazil, El Salvador, and Nepal expected to submit their instruments of acceptance in the near term.

The Trade Facilitation Agreement was reached just over two years ago at the WTO's Ninth Ministerial Conference in Bali, Indonesia, in what was heralded as a landmark development for the organisation. (See Bridges Daily Update #5, [7 December 2013](#))

The deal is the first multilateral trade agreement since 1995, and aims to ease customs procedures to expedite trade flows. Notably, it is the first time that commitments adopted in a WTO agreement are calibrated to members' individual capabilities for implementation.

Category notifications

The committee's chairperson, Ambassador Esteban Conejos of the Philippines, told last week's meeting that 81 "Category A" notifications – provisions under the TFA to be implemented immediately, with an additional year allowed for least developed countries (LDCs) – have been received to date.

"What is even more encouraging is that we also started receiving a growing number of B and C notifications. This is especially important since we are getting closer to seeing the Trade Facilitation Agreement enter into force – which equally shortens the remaining time for submitting B and C-related inputs," said Conejos.

Category B refers to provisions a member will implement after a transition period following the deal's entry into force, while Category C refers to those that require both a transition period as well as technical assistance and capacity-building support.

According to last year's [World Trade Report](#), published by the WTO, the trade pact could potentially boost global merchandise exports by US\$ 1 trillion per annum. (See Bridges Weekly, [29 October 2015](#))

ICTSD reporting.

INTELLECTUAL PROPERTY

WTO TRIPS Council Discusses Education Proposal, Possible Next Steps for Non-Violation and Situation Complaints

WTO members debated a series of intellectual property topics last week, ranging from the long-standing issue of “non-violation and situation” complaints to the relationship between global trade rules and UN biodiversity agreements, as well as how to foster intellectual property-related education that could lead to future innovation.

The discussions were held during the WTO's Council for the Trade-Related Aspects of Intellectual Property Rights (TRIPS), which had its first regular meeting of the year on 1-2 March.

Non-violation and situation complaints

During last week's meeting, WTO members continued their long standing debate on the extension of the moratorium for “non-violation and situation” complaints.

The moratorium in place means that WTO members may only file complaints about intellectual property issues if the TRIPS Agreement has allegedly been breached, rather than over damage arising from alleged violations of the spirit – though not the letter – of the organisation's rules in this area. Such complaints are, however, possible under other areas, such as goods or services trade.

The TRIPS Agreement initially set the moratorium's date through 2000. However, this has been extended regularly at WTO ministerial conferences – the organisation's highest-level meeting – including at the latest one in Nairobi, Kenya, last December. (See Bridges Daily Update #1, [14 December 2015](#) and Bridges Weekly, [26 November 2015](#))

The 2015 [Nairobi Ministerial Declaration](#) directed the TRIPS Council “to continue its examination of the scope and modalities” for such complaints in order to make recommendations for the next ministerial in 2017 – which is the new expiration date.

Some WTO members, namely the US and Switzerland, have asked in the past to end the moratorium. Others have pushed for the moratorium to be made permanent.

Last year, 17 members presented a [communication](#) outlining the reasoning for not applying non-violation complaints under TRIPS. Brazil, which had been one of the backers of that communication, reportedly reiterated at last week's meeting the concerns raised by that group.

These included, for example, the potential that WTO members would have to provide compensation to foreign rights holders suffering one of these “non-violation” situations that were not anticipated when the Uruguay Round was being negotiated – which could in turn have damaging effects for a country to use TRIPS flexibilities domestically in areas such as public health.

Such concerns were also raised by China and Cuba, among others, according to sources familiar with the meeting. Discussions on this subject are slated to continue at subsequent Council meetings in the lead-up to the 2017 ministerial.

TRIPS Agreement and the CBD

The relationship between the TRIPS Agreement and the United Nations Convention on Biodiversity (CBD), as well as the protection of traditional knowledge and folklore, also resurfaced last week.

According to media reports, members mainly discussed a Secretariat-prepared update of factual notes recapping delegations' past positions, as well as a repeated request by many developing countries to invite the CBD Secretariat to the TRIPS Council for a report on the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization, which [entered into force](#) in October 2014.

Many developed countries repeated their continued opposition to both this request and the call by Egypt and India, among others, for a TRIPS amendment making the disclosure of genetic resources in patent applications mandatory.

Canada reportedly said that such an amendment is unnecessary, given that TRIPS and the CBD are mutually supportive. Other members, such as Australia, Canada, Japan, the US, and Korea argued that the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) was the best venue to discuss these kinds of issues.

However, the latest IGC meeting in February showed little advancement across a host of areas, leading some developing countries to state at the TRIPS Council that the pace of progress there should not preclude any advances being made at the WTO level. (See Bridges Weekly, [25 February 2016](#))

Education and diffusion

How to improve education on intellectual property issues was also on the March meeting agenda, following a proposal made by Australia, the EU, Switzerland, and the US and sponsored by Japan, Peru, Russia, and Singapore.

In this context, Switzerland presented a 22 February [communication](#) on "Intellectual Property and Innovation: Education and Diffusion" with the aim of fostering a culture of innovation through education.

The proposal aims "to encourage members to share their experience concerning the role education plays in the use of intellectual property rights for the creation and commercialisation of innovative products and services, and more generally in the diffusion of knowledge concerning the role of the intellectual property system and how it functions."

Switzerland thus encouraged the inclusion of intellectual property in education, proposing a focus on copyright and trademarks in primary school and "special optional programs which allow... a very practical hands-on approach to the topic of intellectual property and innovation" in secondary school."

Besides the WTO members already backing this agenda item, several others also presented their national experiences under this topic, with some putting forward alternative ideas to formal education, ranging from youth-focused programmes to the use of social media for awareness purposes.

Japan, for instance, reportedly presented the activities conducted by its patent office to raise awareness of IP issues among the youth, such as "Children's Visit Days" where school students are invited in to learn about topics such as inventions and how to distinguish between real and counterfeit toys.

While recognising education as a means to diffuse knowledge and encourage innovation, some members also emphasised that the promotion of innovation takes place not only through IP protection but actually by open access.

Brazil reportedly suggested that IP protection is just one factor in creating an innovation-friendly environment, according to comments reported by [IP-WATCH](#) – warning that innovation could potentially suffer if subjected to overly broad intellectual property protections.

New notifications database

A separate meeting parallel to that of the TRIPS Council was held on 2 March to present members with the e-TRIPS Database project, which aims to facilitate and improve notifications on IP laws, while also including a search function, thus contributing to transparency as called for under TRIPS [Article 63](#).

Besides the new online submission option, the database will also accept submissions made under traditional methods. The system is currently being tested and a formal date for its launch has not been announced. The database will eventually be public.

ICTSD reporting; "IP And Innovation, Non-Violation Complaints On TRIPS Council Menu," IP-WATCH, 26 February 2016; "TRIPS Council: Differing Views on IP Education; New Database Project Launched," IP-WATCH, 4 March 2016.

EVENTS & RESOURCES

Events

Coming Soon

10 March, Washington, US. EU TRADE PRIORITIES IN 2016. Organised by the Peterson Institute for International Economics, this live webcast will feature European Commissioner for Trade Cecilia Malmström discussing key issues facing the bloc's trade. Topics will include the Transatlantic Trade and Investment Partnership (TTIP); next steps for the WTO; and other ongoing initiatives involving China, Japan, and members of the Association of Southeast Asian Nations. Details for the live webcast can be accessed [here](#).

14 March, Paris, France. CONFERENCE ON INVESTMENT TREATIES: THE QUEST FOR BALANCE BETWEEN INVESTOR PROTECTION AND GOVERNMENTS' RIGHTS TO REGULATE. This conference, hosted by the Organisation for Economic Co-operation and Development (OECD), will bring together representatives from the public and private sectors, civil society, academia, and international organisations for a discussion on how to address questions of balance between investment protection and government regulation, and how the OECD and other international organisations can contribute to policymaking relating to investment treaties. For additional information, please click [here](#).

14-18 March, Washington, US. 17TH ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY. This annual World Bank event will centre on the theme, "Scaling up Responsible Land Governance," involving policy sessions and roundtable discussions on how to mainstream land governance innovations and sustain investments for greater impact. Other events will include pre-conference workshops and post-conference courses, as well as an innovation fair exhibiting how technology can improve land governance at scale. Details for the event, including registration, can be accessed [here](#).

16 March, Geneva, Switzerland. UNCTAD EXPERT MEETING: TAKING STOCK OF IIA REFORM. This event, which will be hosted by the UN Conference on Trade and Development (UNCTAD) both in Geneva and online, aims to discuss the latest reforms in investment treaty policymaking and the way ahead. The event will bring together experts from a range of different sectors, allowing for an exchange of views and experiences on the subject. More information is available [here](#).

16-17 March, Geneva, Switzerland. MULTI-YEAR EXPERT MEETING ON INVESTMENT, INNOVATION AND ENTREPRENEURSHIP FOR PRODUCTIVE CAPACITY-BUILDING AND SUSTAINABLE DEVELOPMENT, FOURTH SESSION. This UNCTAD event will discuss various investment policy-related developments at the bilateral, regional, and multilateral levels, along with the UNCTAD Investment Policy Framework for Sustainable Development, the Entrepreneurship Policy Framework, and the Science, Technology, and Innovation Policy Framework. Details for this event, including meeting registration guidelines, can be accessed [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.

14 March: Working Group on Trade and Transfer of Technology

15 + 17 March: Trade Policy Review Body - Turkey

15 March: Informal Committee on Sanitary and Phytosanitary Measures

16-17 March: Committee on Trade and Development – Dedicated Session on RTAs

16 March: Committee on Trade and Development

17 March: Committee on Sanitary and Phytosanitary Measures

17 March: Working Party on GATS Rules

17 March: Committee on Specific Commitments

17 March: Informal Committee on Market Access

17 March: Working Party on Domestic Regulation

Other Upcoming Events

18 March, Geneva, Switzerland. FAO GENEVA BRIEFING SERIES: TRADE AND FOOD SECURITY. This event, held by the UN Food and Agriculture Organization's Geneva office, will feature a briefing on trade and food security, bringing together experts from member states, the UN Conference on Trade and Development (UNCTAD), and the International Centre for Trade and Sustainable Development (ICTSD). More information is available at the event [website](#).

21 March, London, UK. EUROPEAN CAPITAL MARKETS. This Chatham House conference will focus on the EU's roadmap for achieving a Capital Markets Union (CMU) as a means to drive economic growth. With a series of panel discussions and other sessions, it will consider the political and economic obstacles to achieving the goals of CMU and implications of potential EU reforms, focusing on the practical challenges for a single capital market, channelling investment to foster growth, and reviving trust in a time of increased volatility. Details for the event, including registration information, can be accessed [here](#).

1 April, London, UK. PRIVATE INVESTMENT, PUBLIC MONEY: EVALUATING DEVELOPMENT EVENT. Hosted by the Overseas Development Institute and streamed online, this event will feature a series of panels on how public money is invested in private projects and how these private investments can be leveraged to achieve sustainable development. Among other questions, it will ask how to ensure that public funding towards private investments are used well in developing countries, along with ways for evaluating impact. Details for this event, including registration and web streaming information, can be accessed [here](#).

11-20 July, New York, US. HIGH- LEVEL POLITICAL FORUM ON SUSTAINABLE DEVELOPMENT. This forum, hosted by the United Nations Economic and Social Council (ECOSOC), will review the goals set out in the [2030 Agenda for Sustainable Development](#) that was adopted in September of 2015. The forum will take input from a variety of groups, including intergovernmental bodies and relevant UN organisations, in order to see how sustainable development goals can be better reached. More information about the forum can be found on its [website](#).

Resources

TAKING STOCK OF IIA REFORM. Published by the UN Conference on Trade and Development (March 2016). This latest issues note outlines the need for reforming international investment agreements with a view to bringing them in closer conformity with sustainable development needs. The authors provide a review of recent reform efforts, as well as discussing "new generation" investment policies and the experiences seen to date with implementing policy options from the organisation's [Roadmap for IIA Reform](#). The publication is available for download [here](#).

REALITY CHECK FOR THE GLOBAL ECONOMY. Edited by Olivier Blanchard and Adam S. Posen for the Peterson Institute for International Economics (March 2016). This briefing aim to provide a "reality check" regarding the current state of the global economy, reviewing the available information on topics such as macroeconomic dynamics and policy capabilities. The authors ultimately find some signs of hope in the current context, while outlining possible opportunities for change under monetary and trade policy, among other topics. The briefing is available [here](#).

SHAKEN AND STIRRED: BRITAIN AND THE EU. Published by viEUws (March 2016). This new interactive timeline aims to provide a breakdown of the evolution between Britain's relationship with fellow EU member states, particularly in light of the ongoing debate over "Brexit" and the recently-agreed European Council reforms. The timeline is available [here](#).

OECD STATISTICS ON INTERNATIONAL TRADE IN SERVICES, VOLUME 2015, ISSUE 2. Published by the Organisation for Economic Co-operation and Development (OECD) (March 2016). This publication features updated statistics on international trade both for OECD member economies as well as for the EU, the euro area, Latvia, and Russia. The report is in table format, with additional information on the data methodology and relevant explanations. The statistics can be found [here](#).

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

BIORES

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

BRIDGES AFRICA

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

PUENTES

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

МОСТЫ

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

PONTES

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

桥

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

PASSERELLES

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

PUBLISHED BY



**International Centre for Trade
and Sustainable Development**

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

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

**DFID - UK Department for
International Development**

**SIDA - Swedish International
Development Agency**

**DGIS - Ministry of Foreign Affairs
Netherlands**

Ministry of Foreign Affairs, Denmark

Ministry of Foreign Affairs, Finland

Ministry of Foreign Affairs, Norway

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

Copyright ICTSD, 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,
Kimberley Botwright, Jonathan Hepburn, Anan
Hossain, Jimena Sotelo, and Eleni
Theodoropoulou. 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

