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TRADE AGREEMENTS

African Leaders Launch Continental Free Trade Area

African leaders gathered at an extraordinary summit of the African Union (AU) in Kigali, Rwanda, on Wednesday 21 March to launch the African Continental Free Trade Area (AfCFTA), with high hopes across the continent that this mega trade pact will boost intra-African commerce and lead to important development gains.

The five-day summit, which saw a series of meetings in various configurations, culminated in the signing ceremony of the Agreement Establishing the African Continental Free Trade Area (AfCFTA Agreement) by African leaders. This occurred during an Extraordinary Session of the AU's Assembly of the Heads of State and Government, which was preceded by meetings of the AU's Permanent Representatives Committee (PRC) and Executive Council, as well as a business forum.

With the legal framework of the AfCFTA now agreed, African countries will need to tackle the next steps for making the free trade area a reality on the ground. This includes defining members' schedules of commitments – the concessions they will offer to other AfCFTA members – for both goods and services and the preparation of product-specific rules of origin.

If successfully implemented, the AfCFTA will constitute the world's largest free trade area in terms of membership, comprising the 55 member states of the African Union. It will span a market with a total population exceeding one billion people and a combined GDP of more than US\$3.4 trillion, [according](#) to the African Union.

"This is a historic pact which has been nearly 40 years in the making, and it represents a major advance for African integration and unity," said Paul Kagame, President of Rwanda and new Chairperson of the AU, ahead of the summit.

"Our peoples, our business community and our youth, in particular, cannot wait any longer to see the lifting of the barriers that divide our continent, hinder its economic take-off and perpetuate misery, even though Africa is abundantly endowed with wealth," said Moussa Faki Mahamat, Chairperson of the African Union Commission, during the opening of the signing ceremony.

The summit was marked, however, by the fact that two of the continent's economic giants, namely Nigeria and South Africa, were among the handful of countries that did not sign the AfCFTA Agreement for the time being, although for different reasons.

State of play

When negotiations towards the establishment of the AfCFTA kicked off in June 2015, the initial objective was to wrap up a first phase covering trade in goods and services by the end of last year. Eight meetings of the African Continental Free Trade Area Negotiating Forum (AfCFTA-NF) were held between June 2015 and December 2017 with this target in mind.

Although AfCFTA members were able to achieve significant progress at the end of 2017, including on the drafting of the agreement itself, the protocol on trade in services, and most parts of the protocol on trade in goods, this indicative deadline could not be met. In particular, sticking points remained in the area of trade in goods. (See Bridges Africa, [8 December 2017](#))

After talks resumed last month, African negotiators deployed significant efforts to resolve outstanding issues and finalise legal scrubbing ahead of the Kigali summit to allow heads of state and government to sign the legal texts. They also agreed to a Transition and Implementation Work Programme to guide their future work.

On Wednesday in Kigali, 44 African heads of state and government signed the AfCFTA Agreement, including its protocols, annexes, and appendices, which form an integral part of the accord. These legal texts had been [approved](#) at the Fifth Meeting of AU Ministers of Trade in early March.

African heads of states and government and ministers present in Kigali also signed the "Kigali Declaration" on the launch of the AfCFTA, which had 43 signatories, as well as a protocol on the free movement of persons that was adopted at the last ordinary session of the AU Assembly, with 27 signatories. (See Bridges Weekly, [8 February 2018](#))

The AfCFTA Agreement – a copy of which has been seen by Bridges – includes a framework agreement and three fundamental protocols, which relate to trade in goods, trade in services, and dispute settlement, respectively.

Before the agreement can become operational, however, one important remaining step lies ahead in the development and submission by member states – or potentially customs unions in the case of trade in goods – of their respective schedules of commitments for both goods and services. This process is expected to involve substantial negotiations between countries.

"We urge our hardworking chief negotiators to continue these negotiations in the same spirit of solidarity and cooperation that they negotiated the main texts," declared Hope Tumukunde Gasatura, Chair of the AU's PRC, in opening the PRC meeting in Kigali on 17 March.

As part of the Transition and Implementation Work Programme, members are also expected to prepare a list of product-specific rules of origin, which along with the general rules of origin will enable countries to apply preferences provided under the AfCFTA. Rules of origin defines the criteria that determine the origin of products traded across borders, and thus whether they qualify for preferential treatment.

Harmonising rules of origin across the various regional economic communities has proven quite divisive among members. The debate has focused on the use of product-specific rules – an approach favoured by countries willing to tailor the design of the rules in relation to a particular sector of economic interest– versus general rules of origin that normally apply to all sectors, irrespective of product.

The protocol on trade in goods contains nine annexes related to rules of origin, customs cooperation and mutual administrative assistance, trade facilitation, non-tariff barriers, technical barriers to trade, sanitary and phytosanitary measures, transit, and trade remedies.

On trade in goods, AfCFTA members agreed last June to liberalise 90 percent of tariff lines, while keeping the flexibility to classify the remaining 10 percent as “sensitive” products with longer liberalisation periods, or as “excluded” products that will keep the same tariff level. (See Bridges Africa, [24 August 2017](#))

A key factor will be how countries apply these modalities in defining their market access commitments, as this could substantially affect the trade-related impacts.

“On the whole, African trade already comprises relatively few product lines, which means that if the most-traded products are excluded, intra-African trade will suffer, and the entire CFTA will be rendered redundant,” wrote Francis Mangeni, Director of Trade, Customs, and Monetary Affairs at the Common Market for Eastern and Southern Africa (COMESA), in an [op-ed](#) published by Project Syndicate.

Regarding trade in services, the dedicated protocol provides that parties “shall undertake successive rounds of negotiations based on the principle of progressive liberalisation accompanied by the development of regulatory cooperation, and sectoral disciplines.”

AfCFTA members have chosen to proceed through a positive list approach and are expected to identify nine priority sectors that will be subject to liberalisation. Under a positive list, countries that are party to a trade deal outline which sectors they wish to liberalise, as opposed to a negative list where all sectors are included unless indicated otherwise. (See Bridges Africa, [8 December 2017](#))

“The challenge has been that all countries want their important sectors prioritised, and if you prioritise everything you prioritise nothing,” noted a source close to the negotiations in his comments to Bridges.

Integrating Africa for development

Many in the African and global trade and development communities have shown particular enthusiasm about the AfCFTA. The hope is that the agreement will significantly boost intra-African trade, which is very low compared to intra-regional trade in other world regions, and help put the continent’s economies on a path towards structural transformation and robust economic development. (See Bridges Africa’s [special issue](#) on the AfCFTA)

The establishment of such a continent-wide free trade area is one of the 12 flagship projects of Agenda 2063, the continent’s own development vision piloted by the African Union.

A 2012 [study](#) by experts from the UN Economic Commission for Africa has estimated that the AfCFTA could lead to a 52.3 percent increase in intra-African trade flows by 2022, compared to a baseline scenario without such an agreement.

Despite the currently low level of intra-regional trade on the continent, African countries trade more sophisticated products between themselves than with the rest of the world. In 2014, manufactured products represented 14.8 percent of African exports to the rest of the world, compared with 41.9 percent of intra-African exports.

In this context, various analysts have noted that by strengthening intra-African trade, the AfCFTA could play a significant role in supporting the diversification of African economies away from low-value-added products and commodities as well as the development of regional value chains with considerable upgrading potential.

"The promise of free trade and free movement is prosperity for all Africans, because we are prioritising the production of value-added goods and services that are 'Made in Africa'," [said](#) Kagame in opening the signing ceremony.

Beyond regional dynamics, proponents hope that the AfCFTA will also help strengthen Africa's position in global trade. In recent years, many analysts have been putting a growing focus on the potential role of regional value chains in helping African producers to better integrate into global markets.

For the potential economic benefits of the agreement to materialise, however, various observers have noted that African countries will need to show sustained and solid commitment towards its operationalisation.

"There are sometimes political statements of solidarity which are not matched by concrete action," [said](#) UN Conference on Trade and Development (UNCTAD) Secretary-General Mukhisa Kituyi at the summit's business forum. At a time of "rising protectionism," African leaders need to "put their back into African integration," he added.

Another key element for success might lie in adopting adequate accompanying measures, including via the thorough implementation of the AU's broader Action Plan for Boosting Intra-African Trade (BIAT). This plan is made up of seven priority clusters – trade policy, trade facilitation, productive capacity, trade-related infrastructure, trade finance, trade information, and factor market integration.

"The BIAT Action Plan provides the framework that member states can use to prioritise the policy reforms required to derive the full benefits of the CFTA," said David Luke, Coordinator of the African Trade Policy Centre at the UN Economic Commission for Africa, and Jamie MacLeod in a [piece](#) published last year by Bridges Africa.

Last minute hurdles

Wary of the potential impacts of the AfCFTA with regard to his country's national economy and industrialisation efforts, Nigerian President Muhammadu Buhari signalled over the weekend that his country would refrain from signing the agreement and will initiate additional consultations with various stakeholders.

This development came as a surprise to observers, as Nigeria's Federal Executive Council – which is the cabinet of Nigeria – had previously approved the signing of the agreement. The country has also played an active role in the negotiations and expressed interest in hosting the CFTA Secretariat, which will administer and implement the trade agreement.

"We are therefore widening and deepening domestic consultations on the CFTA, to ensure that all concerns are respectfully addressed. Any African free trade agreement must fairly and equitably represent the interest of Nigeria, and indeed, her African brothers and sisters," [said](#) Buhari in a series of tweets.

"Nigeria fully recognises and appreciates the efforts of the African Union Commission so far, regarding the implementation of a sustainable Continental Free Trade Agreement (CFTA) for Africa. We also acknowledge that our continental aspirations must complement our national interests," he [added](#).

Several business organisations, including the Manufacturers Association of Nigeria, had called upon the government to weigh carefully the competitive pressures that could arise from the implementation of the AfCFTA. Proponents of the AfCFTA have argued, however, that the agreement can include various safeguard mechanisms that would allow Nigeria's industries and priority sectors sufficient space to strengthen their competitiveness and thrive in a wider context.

South Africa, another major economy involved in the process of establishing the AfCFTA, participated in the summit and signed the Kigali Declaration, while putting on hold the actual signature of the AfCFTA Agreement given its domestic constitutional requirements, which impose a national consultation process to be carried out prior to the signing of international treaties.

Next steps

According to the Transition and Implementation Work Programme, which sets out a roadmap for the work ahead, the 11th Meeting of the AfCFTA-NF will take place in early May – in parallel with technical working groups – and focus on the “implementation and practical application” of agreed modalities for the negotiations on both trade in goods and trade in services.

AfCFTA members will then participate in a signalling conference on trade in services, as well as a “Workshop on the Schedule of Tariff Concessions and Schedule of Specific Commitments on Trade in Services” during the 12th Meeting of the AfCFTA-NF in late May.

The AfCFTA and related protocols will enter into force 30 days after 22 countries have deposited their instruments of ratification.

“The time is no longer for hesitation. I, therefore, call upon all the Member States to sign and ratify the Free Trade Area Agreement. Our ambition must be to ensure its entry into force before the end of this year,” said Moussa Faki Mahamat at the summit.

The full coverage of AfCFTA is meant to include disciplines on competition policy, investment, and intellectual property rights, a group of issues that will be covered during a second phase of negotiations that are due to begin in August.

ICTSD reporting.

GLOBAL ECONOMY

US President Signs Memo on Proposed "Section 301" Measures Directed at China

(Editor's note: This story has been updated after its original publication on Thursday in order to reflect the final announcement from Washington.)

US President Donald Trump signed a [presidential memorandum](#) on Thursday 22 March which laid out the possibility of hefty tariffs on imports from select Chinese technology and industrial sectors, as well as potential restrictions on investment and the launch of a WTO legal case, while leaving the full scope and application of these measures to be finalised at a later date.

Trump [described](#) the move as a sign that "the era of economic surrender is over," presenting the document during a press conference in Washington on Thursday where he was flanked by government officials such as Vice President Mike Pence, Commerce Secretary Wilbur Ross, US Trade Representative (USTR) Robert Lighthizer, as well as business representatives.

Along with citing concerns over Chinese intellectual property practices, Trump also reiterated past criticisms of China's bilateral trade surplus with the US, while tying the move into the wider narrative of trying to negotiate better deals with major American trading partners.

"I've been speaking with the highest Chinese representatives, including the President, and I've asked them to reduce the trade deficit immediately by US\$100 billion. It's a lot. So that would be anywhere from 25 percent, depending on the way you figure, to maybe something even more than that. But we have to do that," said Trump before signing the memorandum.

He also said that while his administration has been in touch with Chinese officials, and he has established his own relationship with Chinese President Xi Jinping, the Trump Administration still finds that there is more work to be done to resolve deep-seated trade irritants.

"So we've spoken to China and we're in the midst of a very large negotiation. We'll see where it takes us. But in the meantime, we are sending a Section 301 action," he said. Trump was not specific about what he meant by the negotiation with China, such as whether it involved resuming a "Comprehensive Economic Dialogue" among high-level officials which was launched last year or through some other approach.

Section 301 report lays out IP claims

In tandem with the presidential memorandum, the Office of the US Trade Representative also released the [Section 301 report](#) whose findings served as justification for the proposed measures. The investigation was launched in August 2017.

Section 301 refers to part of the [1974 Trade Act](#), specifically to the section entitled "relief from unfair trade practices." That section describes options for pursuing mandatory or discretionary measures in response to such trade practices, following an investigation conducted by the Office of the USTR and a decision by the US President, along with prescribing what form these measures could take and other conditions.

Discretionary measures, like the ones proposed yesterday, can be in response to “an act, policy, or practice of a foreign country [that] is unreasonable or discriminatory and burdens or restricts United States commerce” and where “action by the United States is appropriate.”

The 215-page Section 301 report addresses four overarching areas of concern: various measures, including investment restrictions, that allegedly force US firms operating in Beijing to transfer their intellectual property or technology to Chinese firms; “discriminatory licensing practices” with the same objective; the facilitation of Chinese company “systematic investment in, and/or acquisition of, US companies and assets,” also geared towards achieving technology transfer; and claims of government-facilitated cybertheft of trade secrets and other know-how.

The report also raises questions over whether China's alleged practices are in violation of WTO rules, such as the commitments that Beijing took on when joining the global trade club in 2001.

“In 2001, China joined the WTO and committed not to condition the approval of investment or importation on technology transfer. Since then, according to numerous sources, China's technology transfer policies and practices have become more implicit, often carried out through oral instructions and ‘behind closed doors,’” the report notes.

It specifically cites paragraph 7.3 of China's WTO accession protocol, which requires Beijing to be in line with the organisation's Agreement on Trade-Related Investment Measures (TRIMs) immediately upon becoming a WTO member. That paragraph also requires China to make sure that any approvals for importation or “right of importation or investment” by traders are “not conditioned on” technology transfer or domestic content requirements, among others.

The Section 301 report also devotes several pages to analysing Beijing's “Made in China 2025” strategy and other technological development programmes. The 2025 strategy is aimed at a massive overhaul of Chinese industry, with a focus both on pursuing more innovative approaches to manufacturing as well as on meeting specific time-bound targets for increasing the share of domestic content in Chinese goods.

The plan would have this share go up to 40 percent by the end of the decade and rise significantly further, to 70 percent, just five years later. The Made in China 2025 strategy was announced in 2015, and Chinese officials [pledged](#) last October to direct an additional US\$1.5 billion in funding projects to support its objectives.

“Like the MLP a decade ago, newer plans such as the Made in China 2025 Notice and the various plans focused on information and communications technologies call for a wide array of Chinese government intervention and financial and other support designed to transform China into a world leader in technology. While these policies and practices are not necessarily new, their actual and potential effects on foreign companies and their technologies have become much more serious,” the Section 301 report says.

The term MLP refers to China's National Medium- and Long-Term Science and Technology Development Plan Outline, which covers the years 2006 to 2020 and targets a series of sectors for advancing technological development.

“A key part of China's technology drive involves the acquisition of foreign technologies through acts, policies, and practices by the Chinese government that are unreasonable or discriminatory and burden or restrict US commerce,” the report continues.

Actions proposed, final details pending

The presidential memorandum itself refers to a three-pronged approach that the Trump Administration says it intends to use in response to the above-mentioned allegations.

One of these three parts involves ad valorem tariffs, which are duties levied based on a product's value. These tariffs would target sectors such as "aerospace, information and communication technology, and machinery," according to a USTR [factsheet](#). The factsheet suggested that these duties could be up to a quarter of a product's value.

The exact list of products that would be targeted for tariffs is not yet finalised, according to the presidential memorandum. Instead, the Office of the USTR is due to release a "proposed list" of such goods, along with additional details on the levels of tariffs each would face. This list would be published sometime in the coming fortnight and would be followed by additional steps such as comment periods and consultations before being finalised.

Trump suggested on Thursday that the value of products targeted could be worth up to US\$60 billion. Lighthizer [told lawmakers](#) in the Senate Finance Committee on Thursday that he would be recommending that these tariffs cover products in around 10 specific areas.

"If you sit here, you're going to think this is basically America in ten years. Aerospace and aeronautics equipment, maritime equipment and high-tech shipping, modern rail transport equipment, new energy vehicles and equipment, power equipment, agricultural equipment, new materials and biopharma and advanced medical products," said Lighthizer in a hearing, which was on the President's 2018 trade agenda.

"Now, every one of these, [China says] they want to be mostly self-sufficient in, I think, two or three years and basically world dominant by China 2025. That's the sense of China 2025," the US trade chief continued. He also said that the full list of products would be determined partly by an algorithm aimed at limiting adverse effects on US consumers while having the intended impact on China.

The second facet of Trump's approach would involve filing a case under the WTO's dispute settlement mechanism, while the third would involve possible investment restrictions, pending a proposal by the US Treasury Department and other related steps.

The WTO case would address Beijing's "discriminatory technology licensing practices," according to a [statement](#) from the USTR's office. Sources familiar with the planned legal dispute indicate that the US plans to focus on TRIPS obligations, claiming there is a discrimination against foreign-owned technology and that intellectual property owners are deprived of their ability to protect their rights in the Asian economic giant.

The term TRIPS stands for the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights. The Section 301 report outlines in further detail what the US considers discriminatory licensing practices in this context. It also notes that the US and other countries have asked Beijing to elaborate on its technology transfer regime in the past, including on its licensing requirements for foreign IP licensors, such as during meetings of the WTO's TRIPS Council.

The USTR report also notes, for example, concerns raised by Japan in a [government review](#) regarding the Regulations of the People's Republic of China on Administration of Import and Export Technologies (TIER), specifically on how "mandatory provisions are applied only to foreign companies providing the technology."

The US says that TIER and other Chinese regulations "place US technology owners at a disadvantage relative to their Chinese counterparts when licensing technology into the Chinese market. The disparate treatment is effectively based on nationality, resulting in discrimination under Section 301."

The report also cites another alleged licensing restriction, specifically related to situations in some sectors where Chinese and foreign firms partner up to form a shared business entity in China, known otherwise as a joint venture (JV). The report specifically takes issue with Chinese regulations that provide a maximum ten-year term for technology transfer agreements involving these joint ventures.

"The provision may result in US companies only having control over their transferred technology for ten years, even though some forms of technology, such as patents and trade secrets, may be protectable for much longer than ten years," the USTR report says, noting that after the end of the agreement, the Chinese joint venture "shall have the right to continue to use transferred technology."

The third and final set of actions mentioned in Trump's presidential memo involve investment restrictions, which are also not yet final. Instead, the US Treasury Secretary is now tasked with proposing options for Trump, with a progress report due from that department within two months. US Trade Representative Robert Lighthizer [told reporters](#) on Thursday that these restrictions would also focus on "high technology."

Chinese officials, US lawmakers air concerns

The proposed Section 301 measures, which have been rumoured for weeks, have drawn scrutiny at home and abroad for their potential to damage US-China trade relations significantly. Other concerns include the possibility of these measures destabilising interconnected value chains both between the two economic giants and at a wider scale, given the multi-country nature of many of the value chains involved. Even though some analysts note that the intellectual property issues are long-standing, many have questioned whether the proposed measures are the right approach.

Trade analysts also question whether the tariffs would even achieve their intended effect, given that they would likely cover only a minute fraction of US-bound exports from China. They have also noted the relatively low value of the possible tariffs being considered.

A few hours prior to Trump signing the memorandum, a spokesperson for the Chinese Ministry of Foreign Affairs pledged that Beijing would be prepared to respond to Section 301 measures.

"China will never sit idly and let its lawful rights and interests be undermined and will surely take all necessary measures to firmly safeguard its legitimate rights and interests. We hope that the US can be fully aware of the mutually beneficial and win-win nature of China-US economic and trade relations and refrain from moves that will hurt both itself and others," [said](#) Foreign Ministry Spokesperson Hua Chunying at a press conference in Beijing.

After the US announcement, a spokesperson from China's Ministry of Commerce issued a [statement](#) affirming that Beijing is "fully prepared to defend our legitimate interests." It also said that China is "confident and capable of meeting any challenge." In addition, China's Ambassador to the WTO, Zhang Xiangchen told the Reuters news agency that Beijing would be considering filing its own WTO challenge, among other possibilities, but is hoping to discuss the situation further with Washington in a bid to lower tensions. Other officials have similarly stressed the importance of the multilateral rules-based trading system in this context and avoiding an escalation in tensions if possible.

While China is reportedly considering other measures, including targeting a series of US goods worth a total US\$3 billion with tariffs ranging from 15-25 percent, it has not yet confirmed plans to do so.

Various US lawmakers have also cautioned that higher tariffs on these Chinese-made goods could have unintended consequences, such as by forcing American consumers to bear the

brunt of these higher costs. The proposed measures have prompted questions from members of both major political parties, Democrat and Republican, in light of their implications for the US economy as well as the wider dynamic of recent unilateral US trade policy actions.

"While I commend the administration for taking much-needed action toward China, I am concerned with their approach on tariffs. Hitting billions in goods with tariffs runs the risk of putting a bigger dent in the pocketbooks of American families across the country," said Orrin Hatch, the Utah Republican who chairs the Senate Finance Committee, in a [statement](#) after the presidential memorandum was signed.

His Democratic counterpart on that panel, Oregon Senator Ron Wyden, [also welcomed](#) the attempt to address concerns over Chinese intellectual property practices and pledged to take an active part in upcoming consultations, while noting that he would need to study the USTR Section 301 report in further detail.

Earlier in the day, both senators expressed concern over what Wyden referred to as the "chaotic" nature of some other US trade policy actions, particularly the administration's approach towards enacting separate tariffs on imported steel and aluminium. The latter have drawn vocal pushback from many US trading partners, along with prompting intense discussions aimed at securing exemptions at either country or product level. Some trading partners have also made clear that they are ready to implement their own responses such they be hit by those measures.

On Thursday morning, Wyden had told US Trade Representative Robert Lighthizer in the above-mentioned Senate Finance hearing that he was hoping to see a more coherent approach to US trade policy going forward, a sentiment shared by Hatch.

"Bottom line, the Trump administration stormed into office promising better deals, more certainty for businesses to create jobs in America, and a stronger position in the world economy. But after 14 months, it's mostly delivered a whole lot of chaos. Total chaos on trade isn't going to create a single red-white-and-blue job," [said](#) Wyden.

Meanwhile, financial markets have also taken a toll, with key indicators such as the Dow Jones Industrial Average dropping 724 points on Thursday in a development that analysts have generally attributed to fears of worsening trade relations with Beijing.

ICTSD reporting; "Dow plunges 724 points as trade war fears rock Wall Street," CNN MONEY, 22 March 2018; "Exclusive: China to respond to U.S. tariffs, resist protectionism – WTO envoy," REUTERS, 22 March 2018; "Markets edgy on US-China trade war fears," BBC, 23 March 2018.

GLOBAL ECONOMY

G20 Finance Ministers Call for Continued Dialogue on Trade as US Prepares Metal Tariffs

This week, finance ministers and central bank governors from the world's 20 major advanced and emerging economies meeting in Buenos Aires sought to find common ground on trade and called for "further dialogue and actions" on the subject.

The ministerial-level meeting, the first of the Argentine G20 presidency, found officials eager to affirm the importance of international trade and cooperation and grappling with how to address trade tensions as the US prepares to implement tariffs on aluminium and steel imports on national security grounds.

The US tariffs of 25 percent on steel imports and 10 percent on aluminium are due to take effect on Friday 23 March. (See Bridges Weekly, [8 March 2018](#))

Other key G20 items for discussion focused on inclusive growth, examining two of Argentina's three priorities for the 2018 agenda: the future of work and infrastructure for development. Longstanding G20 agenda items were broached, such as the international financial architecture, the global tax system, and financial regulation, as well as newer topics such as cryptocurrencies.

"It is necessary for the G20 to put the needs of people first, with a focus on equality and sustainability," [said](#) Argentine President Mauricio Macri at the close of the meeting, adding that his hope was to inject "a perspective from the global south to the G20 presidency."

Macri called on officials to demonstrate the relevance of the G20 as an "efficient mechanism to address the global challenges of the 21st century."

The two-day meeting drew over 400 delegates from G20 countries and international organisations. The group will next meet at the sidelines of the Spring Meetings of the International Monetary Fund (IMF) and the World Bank on 20 April. In parallel, the G20's Trade and Investment Working Group (TIWG) will be hosted in Argentina for the first time from 7-8 May.

In support of international trade

The final communiqué includes a couple of lines on trade and investment, largely referring back to last year's leaders' statement from their summit in Hamburg, Germany. (See Bridges Weekly, [23 March 2017](#))

The [communiqué](#) released this week in Buenos Aires also calls international trade and investment "important engines of growth, productivity, innovation, job creation, and development," and repeats language from last year on "working to strengthen the contribution of trade to our economies."

"It is a clear and decisive message on the benefits of international trade," Argentine Treasury Minister Nicolás Dujovne [said](#) of this week's communiqué in a press conference on Tuesday, underscoring the need for continued dialogues to build consensus.

The communiqué also surveys the brighter global economic outlook and notes a “pick-up in investment and trade” since the previous meeting last October, adding that many challenges still remain, including “heightened economic and geopolitical tensions.”

“This is our moment to take action to address structural growth impediments, rebuild buffers, reduce excessive global imbalances, and mitigate risks,” read the statement.

Trump tariff fall-out

With steel and aluminium tariffs due to take effect this week, questions loom around product exclusions, as well as the countries that will be implicated. Washington has adopted a case-by-case approach to exemptions. Several countries and country groups, including Argentina, Australia, Brazil, the EU, Japan, and South Korea, have approached the US for an exemption. (See Bridges Weekly, [15 March 2018](#))

Canada and Mexico have already been granted exemptions, pursuant to ongoing talks for upgrading the North American Free Trade Agreement (NAFTA), among other factors. (See Bridges Weekly, [8 March 2018](#))

The response elicited from trading partners will be decisive in averting or fuelling a series of responsive measures. The EU has already catalogued those US products it plans to target should it not be exempted from US tariffs, including cigarettes, sweetcorn, lipstick, sailboats, citrus products, motorcycles, Kentucky bourbon, and blue jeans. The sum total of US exports hit could run up to €6.4 billion (US\$7.9 billion).

“The first risk is the risk of inward looking policies and protectionism,” Pierre Moscovici, EU Commissioner for Economic and Financial Affairs, said on Monday, according to comments reported by Reuters. “A trade war would be stupid. There would be damage on both sides of the Atlantic.”

US officials have defended the measures as necessary to protect American workers and shore up domestic industries so they can meet national security needs.

China, as the top global producer of steel, has been at the centre of concerns over steel overproduction and alleged dumping, resulting in factory shut-downs and job losses in other markets on a global scale. Beijing has noted that it is working to address the issue domestically, while also stressing that the overcapacity issue is a global problem.

Topics for inclusive growth

Officials also discussed two priority areas identified by the Argentine presidency in terms of their potential contributions to inclusive growth. Deliberations considered the future of work in view of widespread technological change upending traditional work structures, and a role for the G20 in finding ways to harness the opportunities for growth, job creation, productivity, economic equality, and quality of life.

Any potential policy response would also need to address the associated challenges, identified in the communiqué as changes to labour markets, growing importance of skills and adaptability, and the risk of increased inequality within and between countries. Concretely, members agreed to develop a menu of policy options for consideration when finance ministers and central bank governors reconvene in Buenos Aires from 21-22 July.

“We want to ensure that adopting technological advances does not lead to economic exclusion or other negative side effects,” President Macri [said](#) in December 2017, explaining the Argentine vision for the G20 during its presidency.

“We must ensure that any new wave of technological advances is as inclusive as possible, and this requires considerable investment in training so that citizens have the skills they

need for work and life. We need to forge the opportunities and skills which prepare our people for this transformation, starting now," he said.

Cryptocurrencies were also up for debate this week, as ministers weighed both their possible contribution to financial inclusion, along with potential associated risks such as funding illegal activities.

"We acknowledge that technological innovation, including that underlying crypto-assets, has the potential to improve the efficiency and inclusiveness of the financial system and the economy more broadly," the communiqué affirmed.

The second priority, infrastructure for development, aims at closing a US\$5.5 trillion infrastructure gap projected from now up to 2035 to promote inclusive growth. "Infrastructure is critical to boost productivity, enhance connectivity, sustain long-term inclusive growth and provide our citizens with physical and digital access to the new economy," explains the communiqué.

ICTSD reporting; "Steven Mnuchin rejects accusations of US protectionism," FINANCIAL TIMES, 20 March 2018; "World Economic Leaders Warn of Trade War as Mnuchin Defends Policies," NEW YORK TIMES, 20 March 2018; "Europe reveals long list of US exports it could hit," CNNMONEY, 16 March 2018; "Protectionism could harm G20 economic growth, must be avoided: EU," REUTERS, 19 March 2018; "Japan says G20 communique to reflect fears of protectionism, gap remains," REUTERS, 20 March 2018; "G20 pushes for free trade as U.S. vows to defend national interest," REUTERS, 19 March 2018; "Trade fights loom over G20 meeting in Argentina," CNNMONEY, 18 March 2018.

GLOBAL ECONOMY

Trade Ministers Look to WTO Next Steps at "Mini-Ministerial" in New Delhi

Trade ministers and senior officials meeting in New Delhi on 19-20 March defended the role of the WTO as both an arbiter of trade disputes as well as setting the rules of the road for the multilateral trading system. Officials also met to discuss possible next steps for negotiations at the global trade club in the wake of the Buenos Aires ministerial conference last year, which ended without agreed negotiated outcomes.

According to the Indian government, representatives from around 50 WTO members participated in this week's event, of which 27 participated with ministers or vice ministers. Also on hand was WTO Director-General Roberto Azevêdo. The gathering included a [presentation](#) from Indian Prime Minister Narendra Modi on the second day.

While China's vice-minister and South Africa's minister participated in the meeting, neither the US nor the EU were represented at this level. The US was represented by its new WTO ambassador, Dennis Shea, while Australia and New Zealand also sent their ambassadors to participate at the event. Russia's chief trade negotiator Maxim Medvedkov was also present.

Many WTO members had hoped that the trade body's eleventh ministerial conference, held in Buenos Aires last December, would take decisions on select negotiating areas and identify a roadmap for future work in others. However, the meeting ended without reaching any substantive agreements at the multilateral level, including on how to move forward on ongoing negotiations on topics such as agriculture, fisheries, and services. (See Bridges Daily Update, [14 December 2017](#))

Some participants were optimistic that the New Delhi meeting could contribute to rebuilding trust among the WTO membership, particularly in the wake of the Buenos Aires conference.

Indian Commerce and Industry Minister Suresh Prabhu told a press conference on Tuesday that "free and frank discussions" at the event had helped countries begin to clear the air following the Buenos Aires conference.

"I am sure that this particular meeting will be another building block for building trust, confidence and bringing countries together," Prabhu said. Topics reportedly up for discussion in New Delhi included long-standing issues such as public stockholding for food security, as well as negotiations on disciplining harmful fisheries subsidies, among others.

Chair's summary

As the event's host, Prabhu said he would be releasing a chair's summary on his own responsibility summarising the discussions.

According to a copy seen by Bridges, the summary noted that many interventions had emphasised "the importance of achieving progress on the Doha issues, especially agriculture, fisheries subsidies, and domestic regulation in services, while seeking to address the differences on the basis of pragmatic and flexible options."

On agriculture, Prabhu's concluding remarks noted that some interventions had also identified as priority areas "issues related to reforms in domestic support, a permanent

solution on public stockholding for food security purposes, cotton, and an agricultural special safeguard mechanism."

He also noted that several countries had highlighted the importance of concluding negotiations on fisheries subsidies by 2019 in order to help achieve the UN Sustainable Development Goal 14.6, which sets a 2020 deadline for scrapping subsidies to illegal, unreported, and unregulated fishing (IUU) and for banning subsidies that contribute to overfishing and overcapacity.

The Indian minister's summary also made reference to some of the joint initiatives among groups of WTO members that were announced at the Buenos Aires ministerial.

These include statements or declarations on electronic commerce, investment facilitation, women's economic empowerment, and micro, small, and medium-sized enterprises (MSMEs). The e-commerce and investment facilitation initiatives aim to lay the groundwork for future negotiations among interested members, while those on gender and MSMEs are not aimed at negotiations but instead focus on addressing knowledge gaps, sharing experiences and best practices, and fostering more in-depth and informed discussions on the issues involved.

"In many interventions it was emphasised that open, transparent, and inclusive discussions within the joint initiatives by the proponents of issues such as electronic commerce, investment facilitation, gender, MSMEs, etc., would deepen the understanding of issues and benefit all members," Prabhu said.

He noted however, that some other members felt that "all negotiations at the WTO must follow the fundamental principle of multilateralism and that any other approach represents a threat to the multilateral trading system."

The signatories to the e-commerce and investment facilitation meetings each held organisational meetings last week in Geneva, open to both those who signed the joint statements and to non-signatories alike. Separately, a workshop was held on gender-based analysis of trade on Friday 16 March as part of the programme of work for implementing the Buenos Aires Declaration on Trade and Women's Economic Empowerment.

Azevêdo: Members must "match words with deeds"

For his part, Azevêdo welcomed the New Delhi meeting as an opportunity for renewed discussion, while noting the "animosity" and disappointment that was present at the Buenos Aires ministerial. "All members realise the seriousness of the situation, and the fact that we all together need to work to find a solution in all areas," he told reporters.

"The spirit that I detected today is one that recognises that the solution lies in collective work," he told reporters. He added that while the "constructive conversation" that emerged towards the end of the Buenos Aires conference had come too late, it could be built on now.

"Just pledging support for the system is not enough. We need to match words with deeds," he added later in the press conference.

After the event, the European Commission's Denis Redonnet [wrote](#) on social media site Twitter that the meeting served as "a useful moment of engagement at a time of stress for the multilateral trading system." Redonnet serves as the Director for WTO, Legal Affairs, and Trade in Goods at the European Commission's Directorate-General on Trade.

Trade sources told Bridges that the mini-ministerial could be seen as building on talks in January among a group of trade ministers on the margins of the World Economic Forum meeting in Davos, and ahead of an annual ministerial meeting in Paris next month within

the context of the Organisation for Economic Co-operation and Development (OECD). (See Bridges Weekly, [25 January 2018](#))

Earlier on Tuesday, Azevêdo also [warned participants](#) that members must take urgent action to ensure the global trade body's dispute settlement mechanism continues to function normally, in the wake of Washington's move last year to block the start of selection processes for filling vacancies on the WTO Appellate Body.

That panel serves as the organisation's highest trade court and currently has three spots vacant, out of seven total positions. Given that three Appellate Body members must sign off on any case, the court is at risk of being unable to function should the impasse continue into next year. A fourth position comes up for renewal in September.

Trade tensions looming

The meeting in the Indian capital also came amid growing concerns that planned US tariffs on imported steel and aluminium could spark responsive measures from other countries. These new duties are due to take effect on Friday 23 March, having been confirmed by US President Donald Trump earlier this month. Additional details regarding the tariffs, such as country or product exclusions, are expected to emerge later this week. (See Bridges Weekly, [15 March 2018](#))

In his concluding remarks, Prabhu said that in many interventions "deep concern was expressed at the serious threat posed to the credibility of the WTO rules and some of its cardinal principles, such as non-discrimination, by the cycle of recent unilateral trade measures and proposed counter-measures."

In New Delhi, Azevêdo said that the WTO did not take a stance on this particular issue as an institution. However, he did reiterate to reporters that he was concerned that the US measures could lead to an escalation of retaliatory actions by other countries, while calling for members to resolve their differences using the WTO's own mechanisms.

"My hope is that this is what's going to happen at some point, that they will talk about how to handle this using the multilateral framework, because I think that's the only way that we can avoid a very disruptive and unpredictable scenario in global trade," Azevêdo said.

Although the US has characterised the tariffs as necessary on national security grounds, and has conducted the investigation under a 1960s era law that specifically refers to national security, other countries have indicated they are sceptical of this claim and prefer to see the new duties as safeguard measures under WTO rules. A more detailed report on the final duties and responses from US trading partners will be available in next week's Bridges. (See Bridges Weekly, [15 March 2018](#))

ICTSD reporting.

BREXIT

UK, EU Confirm "Political" Deal on Brexit Transition, Including on Trade and Fisheries

Officials representing the UK and the remaining 27 EU member states have reached a political deal that will govern the transition period after Brexit, releasing the draft text on Monday 19 March. Along with setting the terms for their relationship from March 2019 through December 2020, the document also covers topics such as whether the UK can negotiate trade deals with non-EU partners in that timeframe.

The [130-page text](#) features sections covering a wide range of topics, including the rights of EU citizens in the UK and vice versa, access to the EU's single market, the UK's financial obligations to the EU, and the application of EU law, among others.

While it recognises the importance of addressing the special situation involving Northern Ireland and Republic of Ireland, and has said that the "legal backstop" agreed previously under a joint report should be ready if necessary, it has left the final resolution of the subject up for further negotiation. This backstop would keep Northern Ireland within the single market and customs union if negotiators cannot reach another outcome.

The text also recognises that more work remains in some other areas. The document clarifies that while many provisions are formally agreed, there are some others that have been resolved at a political level but will need further clarification, as well as a few sections which still require further discussion and negotiation. These are colour-coded in the text in green, yellow, and white, respectively.

"What David [Davis] and I are presenting today is a joint legal text which, in my view, marks a decisive step... covering a large part of what will make up the international agreement for an orderly UK exit," [said](#) Michel Barnier, the EU's chief negotiator for Brexit.

David Davis is the UK's Secretary of State for Exiting the European Union and is his country's lead on the Brexit talks.

Barnier is due to present the deal to the European Council in its "Article 50" formation on Friday 23 March for their approval. Article 50 refers to the provision for exiting the EU in the bloc's Treaty of the European Union, and Article 50 formation refers to all EU member states except the United Kingdom.

Davis, for his part, [told reporters](#) on Monday that the deal "gives a certainty demanded by businesses and citizens across the European Union and United Kingdom." In a [letter](#) to European Council President Donald Tusk, UK Prime Minister Theresa May similarly called the result "further proof that, with political will and collaboration, we can find answers to difficult issues together."

Trade agreements with external partners

One of the questions throughout the negotiation had been whether London would be able to ink trade deals with external partners during the transition period, and if so whether it would require EU sign off to do so.

Under the terms of the draft deal, the UK would be empowered to enter into new international accords during the transition period regarding areas of EU "exclusive

competence," so long as these agreements take effect from 2021 onward. Specifically, the UK is allowed to move ahead on negotiation, signature, and ratification within the 21-month timeframe from the 29 March 2019 Brexit date.

In the nearly two years since UK voters endorsed an exit from the European Union, UK officials have been meeting with their counterparts from countries such as Australia, New Zealand, and the United States to test the waters on prospects for future trade agreements and begin some of the preparatory work. (See Bridges Weekly, [6 April 2017](#))

These meetings have not involved formal negotiations, however, in light of the UK's current EU membership. Trade falls within the EU's exclusive competence, meaning that the bloc's institutions are tasked with the negotiation, signature, and ratification of trade deals on behalf of its member states. There are [cases](#), however, where some of the content of EU trade accords has fallen with the bloc's shared competence with member states and have thus required approval of member state legislatures. (See Bridges Weekly, [18 May 2017](#))

During the transition period, the UK will still have access to the EU's single market and customs union. However, it will no longer be able to weigh in on decisions affecting the single market, unless requested to do so and under certain conditions. Meanwhile, the UK and EU will need to negotiate the terms of a trade agreement that will set the terms of their future relationship after the transition period expires.

Fisheries: CFP result

The document also clarifies how the UK and EU will handle the Common Fisheries Policy (CFP) until the end of the transition period.

The CFP governs the management of shared fisheries resources among the EU's 28 member states. Among other provisions, the CFP ensures that EU fleets can access all EU waters, meaning that UK fishers can fish in the waters of other EU member states, and vice versa. It also sets out other terms, such as how Total Allowable Catch (TAC) of fish stocks should be allocated on a country level, which is based around historical shares for each member state.

Officials had debated whether the UK should be able to leave the CFP entirely upon its exit from the European Union; whether the UK should remain within the CFP for that period; or whether there would be some other form of interim arrangement during the transition. (See Bridges Weekly, [15 March 2018](#))

In response to this issue, Article 125 of the draft deal says that the EU must consult the UK "in respect of the fishing opportunities related to the United Kingdom, including in the context of the preparation of relevant international consultations and negotiations," regarding periods that fall within the transition timeframe.

Among other provisions, it also indicates that the UK will be able to give its feedback "on the Commission Annual Communication on fishing opportunities, the scientific advice from the relevant scientific bodies and the Commission proposals for fishing opportunities for any period falling within the transition period."

The rest of the article refers to keeping the "relative stability keys" for allocating fishing quotas, specifically for time periods during the transition. The term "relative stability key" refers to the percentage allocated to each EU member state for different fish stocks.

ICTSD reporting.

EUROPEAN UNION

EU Eyes New Digital Tax, Implementation of Data Privacy Rules

The digital economy in the European Union is gearing up for a series of potentially landmark changes, as officials move forward with the Digital Single Market strategy and debate a proposed digital tax.

The latter tax is expected to have significant implications for large technology firms, and is part of Brussels' attempts to establish a more level playing field in taxation systems among the EU members. The taxation [proposal](#) was released on Wednesday 21 March, and has been described by Commission officials as a complement to the bloc's Digital Single Market strategy.

In addition, a major overhaul of data flow and privacy rules will take effect in the European Union this coming May, as the bloc marks the third anniversary of its Digital Single Market strategy. The General Data Protection Rules (GDPR) aim to offer EU citizens more control over how their data is used, while providing for free movement of data and enacting more stringent rules on companies.

A separate EU legislative proposal, aiming at abolishing localisation requirements for non-personal data, is also under discussion within the bloc's institutions.

Digital tax

The European Commission's proposal for a digital tax, which experts say could have significant implications for firms such as Google, Facebook, and Apple, could potentially generate an additional €50 billion annual contribution to the European bloc's budget.

The EU executive has put forward a two-pronged approach. A first proposal focuses on allowing EU members the chance to levy taxes on profits from digital platforms with "a taxable digital presence," subject to certain conditions. A second proposal involves an "interim tax" covering advertising revenue generated by digital companies, the fees raised from users and subscribers, and the income made from selling personal data to third parties.

EU officials [argue](#) that digitalisation brought about unfair discrepancies in tax treatment of digital companies compared to traditional businesses. Digital companies benefit from public services and infrastructure, such as high-speed internet connection, but they do not pay "their fair share of taxes" in the countries where they operate. [According to](#) the Commission, the effective tax burden for traditional companies is 23 percent, while for digital companies this number is just 10 percent.

Last fall, the EU's largest continental economies – Germany, France, Spain and Italy – [came out in favour](#) of equalising the tax treatment, arguing that corporate tax frameworks have been unable to match the rapidly digitalising environment. They also suggested that technology companies pay too little tax in the bloc by routing some of their profits through Luxembourg and Ireland, which impose lesser taxes.

Under current rules, a company can only be taxed on the profits it makes in a country if it has a physical presence, such as offices or factories, but not if it only does its business in that country digitally. One of the Commission proposals issued on Wednesday would change that, taxing instead if the company surpasses certain revenue thresholds in

individual EU member states, or exceeds other thresholds like number of users or business contracts for digital services.

"Our pre-Internet rules do not allow our member states to tax digital companies operating in Europe when they have little or no physical presence here. ... Our aim is not to burden foreign or European tech giants but to make sure that digital income is brought into line with the real economy," EU Commissioner for Economic and Financial Affairs, Taxation, and Customs Pierre Moscovici [said](#) in previewing the package of proposals, according to comments reported by the Financial Times.

On the other side of the Atlantic, the US has voiced serious concerns about the European proposal. Steven Mnuchin, the US Treasury Secretary, told the New York Times "having gross taxes on internet companies is not fair."

"To the extent that there are issues with change in taxation systems regarding physical presence, that needs to be addressed. It should not be a two-tiered system where internet companies are taxed under a different standard," Mnuchin added.

The news comes as EU antitrust authorities have been investigating and, in some cases, pressing charges against business practices of certain American tech giants, such as Google, citing antitrust concerns. (See Bridges Weekly, [29 June 2017](#))

In order to become a law, the digital tax proposal must go through the legislative approval procedures of the European institutions, which includes negotiation and sign-off with the EU Council and Parliament. Reports suggest that EU member states remain split on the proposal.

Personal data protection and cross-border flows

The General Data Protection Rules (GDPR) were formally adopted in 2016. After a two-year transition period, the GDPR is now set to become effective and enforceable from 25 May and will introduce stricter rules for businesses on obtaining customer consent on personal data usage.

Under the new regulation, firms [will have to](#) "demonstrate that the data subject has consented to processing of his or her personal data." Going beyond usual terms and conditions forms, online businesses need to formulate user agreement in an "intelligible and easily accessible form," and also use "clear and plain language."

In the provision commonly referred to as "the right to be forgotten," EU citizens can ask businesses to communicate and delete personal information. The new regime also requires firms to report data breaches within three days. Companies that deal with "systematic monitoring of data subjects on a large scale" must have a data protection officer in their organisation. It also significantly increases the fines for non-compliance, up to four percent of global annual turnover or €20 million, whichever is the highest.

The scope of the GDPR is international, applying to any business offering services in the EU, regardless of where its head office is located. Some estimates suggest that larger companies could face costs in the billions of euros.

Consulting firm PwC [found](#) that businesses have "mixed reactions" about GDPR. In a survey, around half of the respondents from business viewed the new rules positively. Pat Moran, PwC's Cyber leader, [said](#) that it is "worrying that one in two respondents still see no real benefits of GDPR." While the transition might be painful, there are still tangible benefits, Moran said.

"Not only will your organisation have a cleaner data set, being GDPR compliant will ensure personal data is protected and secure and will reduce the risk of a data breach and consequent possible reputational damage," said Moran.

[As described](#) by recent ICTSD research, while the GDPR offers clear guidelines for EU countries on how to collect and use personal data, in the US there is no federal law covering such matters. Rather, different US states have addressed the issue in their own regulations, and industries have also taken their own approaches on the subject. (*Editor's note: ICTSD is the publisher of Bridges*)

Since 2016, the EU and US have had in place an updated "Privacy Shield" agreement, replacing the previous "Safe Harbour Framework" and imposing stricter obligations on US companies to protect personal data of EU citizens. (See Bridges Weekly, [14 July 2016](#))

With limited time remaining before its application, in January the European Commission released guidance for business and authorities to prepare for the new law. Věra Jourová, EU Commissioner for Justice, Consumers and Gender Equality, called on all affected actors to be prepared.

"We need modern rules to respond to new risks, so we call on EU governments, authorities, and businesses to use the remaining time efficiently and fulfil their roles in the preparations for the big day," Jourová [said](#) at the time.

While covering protection and privacy rules, the GDPR also provides for cross-border flows and portability of personal data within the European Union. It does not cover non-personal data, such as financial systems or weather. A separate EU initiative seeks to establish the same free movement for non-personal data as the GDPR does for personal data.

Non-personal data flows

The regulation proposal on "Free Flow of non-personal data" was announced in September by European Commission Vice President Andrus Ansip as a complement to the GDPR.

"Our proposal, together with EU personal data protection rules will enable the free movement of all types of data in the single market," Ansip [said](#) in a statement, adding that it primarily affects business. Estimates published by the EU executive suggest that it could yield a notable GDP increase as a result.

"The free flow of data will make it easier for [small and medium-sized enterprises] and startups to develop new innovative services and to enter new markets." Under the proposal, which aims to do away with data localisation requirements, EU countries can no longer force businesses to store data within their borders, except for "reasons of public security."

Mariya Gabriel, EU Commissioner for the Digital Economy and Society, [welcomed](#) the initiative to "ensure Europe's success in the new era of the digital economy."

"Removing obstacles to cross-border data flows is essential for a competitive European data economy," she added.

Various industry players in the European business community have said that they [support](#) the proposed legislation "to remove and prevent unjustified restrictions to the free flow of data."

"The EU should introduce a legal instrument that removes existing national data localisation requirements and prevents the creation of new ones," says a Business Europe position paper.

The business community has also highlighted the need for an "appropriate setting to share data based on contractual terms, allowing for innovation."

"As regards data ownership, access and liability, we believe that these issues are – for the time being – adequately addressed by existing legislation," the Business Europe paper continues.

While easing data localisation requirements, the proposal gives public authorities continued access to data even if it is stored or processed in another EU country. Other provisions include the creation of EU "codes of conduct" to ease switching between cloud storage providers and transferring and adapting data to users' respective systems.

The proposal text has since moved to the European Parliament, where last February its Economic and Social Committee [failed](#) to endorse it for its "lack of ambition and political will and determination," while welcoming the effort to develop such legislation. The Parliament has asked the Commission to revise the proposal further.

Background: Digital Single Market

Both the GDPR and the free flow of data initiative represent the latest attempts by the EU executive arm to update its rules to keep up with technological evolution. Data flows are also reportedly a hot topic in recent EU-level discussions over how to craft related provisions in foreign trade agreements.

The flagship Digital Single Market strategy, adopted in May 2015, included key actions aimed at easing cross-border digital trade and integrating the bloc into the wider digital economy. (See Bridges Weekly, [26 October 2017](#))

Initiatives range from cybersecurity to e-commerce, parcel delivery, telecoms and copyright rules, and cross-border digital trade. If completed, advocates say that the digital single market would facilitate intra-EU trade and cut costs for smaller companies.

Published last October, the Commission's 2018 Work Programme called for boosting efforts to implement the bloc's digital discussions, flagging slow progress in the strategy. Only six of the 24 related legislative proposals tabled by the EU's executive arm over the past two years had been endorsed by all EU institutions, the programme [said](#).

ICTSD reporting; "EU calls on firms, governments to speed up privacy law preparation," REUTERS, 24 January 2018; "Should we forget about the 'right to be forgotten'?" THE GUARDIAN, 5 March 2018; "The General Data Protection Regulation: What it says, what it means," POLITICO, 13 February 2018; "Companies face high cost to meet new EU data protection rules," FINANCIAL TIMES, 19 November 2017; "GDPR: Crackdowns and conflict on personal privacy," FINANCIAL TIMES, 16 November 2017; "EU moves to remove barriers to data flows in trade deals," REUTERS, 9 February 2018; "EU scrapes a pass on Digital Single Market," POLITICO, 10 May 2017; "Bitter divisions undermine Europe's digital tax plans," POLITICO, 27 September 2017; "EU to unveil plan to tax turnover of big U.S. tech firms," REUTERS, 21 March 2018; "Google, Facebook and Apple face 'digital tax' on EU turnover," FINANCIAL TIMES, 15 March 2018; "Europe's Planned Digital Tax Heightens Tensions With U.S.," THE NEW YORK TIMES, 19 March 2018.

GLOBAL ECONOMY

Australia, ASEAN Leaders Pledge Commitment to Free Trade, Highlight Regional Cooperation

Leaders from the Association of Southeast Asian Nations (ASEAN) and Australia [met](#) in Sydney on 18 March to discuss the next steps for their [Strategic Partnership](#), initiated in 2014, with regional trade agreements, digital trade, and sustainable urbanisation high on the agenda.

The meeting came as the two sides are engaged in a series of regional economic integration initiatives, and leaders have pledged to hold summits biennially from here onwards.

Malay Prime Minister Najib Razak told local media that "Australia's wish to integrate ASEAN... as well as the cooperation in strategic fields including counter-terrorism, [are] the success[es] of the summit."

Australian Prime Minister Malcolm Turnbull similarly [told reporters](#) that the event had been a "resounding success" which arrives at a "critical time in history. The pace and scale of change is utterly without precedent."

The summit concluded with the adoption of the [Sydney Declaration](#), a joint statement reaffirming the parties' commitments to boosting their cooperation on economic issues, digital trade, security, infrastructure, and women's economic empowerment, among other topics.

The two sides have longstanding ties, with Australia serving as the Southeast Asian coalition's [first dialogue](#) partner since the 1970s. Counted as one, ASEAN members Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam [represented](#) 15 percent of Australia's total trade in 2016-2017, according to Australian statistics.

Free trade, RCEP future

Trade was one of the key topics for the Sydney talks, officials said, with the final declaration reiterating their "support to enhance trade and investment as well as resisting all forms of protectionism to improve regional development and prosperity."

The statement also referred to the "critical importance of the rules-based multilateral trading system," along with plans to boost their engagement both in the negotiation of regional accords and in the implementation of existing ones.

Australian and ASEAN leaders also referred to the ongoing work to conclude negotiations for the Regional Comprehensive Economic Partnership (RCEP) agreement, saying in the Sydney Declaration that they wish to see a "swift conclusion of a modern, comprehensive, high quality, and mutually beneficial [deal]," and would "intensify efforts" this year towards meeting this goal.

Currently, ASEAN has free trade agreements with the additional six members of RCEP, namely Australia, China, India, Japan, New Zealand, and South Korea. Together, RCEP parties will cover approximately [30 percent](#) of global GDP, according to Australian statistics.

Australian Prime Minister Malcolm Turnbull [told reporters](#) in Sydney that the conclusion of RCEP “would be... an antithesis to protectionism. It would ensure on the back of the TPP-11 that the Indo-Pacific region continues to be the fulcrum of open and free trade.” The RCEP talks have been underway since 2012, with the timeframe for completion extended on multiple occasions.

The term TPP-11 refers to the 11 Trans-Pacific Partnership (TPP) countries, who signed an updated Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) earlier this month. (See Bridges Weekly, [15 March 2018](#))

Digital trade, standards harmonisation

The parties also announced progress to “deepen cooperation on cyber security and digital trade issues” and ensure “accessible and peaceful [information and communications technology, or ICT] environment consistent with each state’s respective domestic laws and regulations,” as stated in the Sydney Declaration.

They highlighted, for example, that making growth more inclusive will require workers to be “digital-ready” going forward. Digital trade, they added, would be another key element in attaining this growth goal.

For example, the countries [confirmed](#) plans for the “ASEAN-Australia Digital Trade Standards Initiative” to adopt and implement digital trade standards and ensure that “harmonised international standards [are] applied across the region.”

Sustainable growth, regional urbanisation

The Sydney Declaration recognised the “the critical role of quality, sustainable, and transparent infrastructure development, facilitating access to finance, and smart and sustainable urban planning in our growing cities in improving economic growth and integration in our region.”

It also welcomed new efforts to “promote complementarities between the ASEAN Community Vision 2025 and the UN 2030 Agenda for Sustainable Development.”

Australia offered a report [entitled](#) “Australian green building: developing a smart, sustainable ASEAN” also referred to as “Smart Cities” programme, which looks at opportunities to draw on industry expertise to support ASEAN economies in areas such as “green” infrastructure. Canberra has also pledged to provide financial support for efforts such as a regional forum on urbanisation this year, along with training.

Singapore also recently announced plans for a similar initiative, dubbed the [“ASEAN Smart Cities Network.”](#) These initiatives come at a time when the urban population of ASEAN countries is slated to escalate swiftly, with Australian [figures](#) projecting that an additional 90 million people will be living in ASEAN cities by 2030.

ICTSD reporting; “Australia to fund project to prepare ASEAN cities for massive growth,” NIKKEI ASIAN REVIEW, 18 March 2018; “ASEAN-Australia Special Summit ends with commitments on cybersecurity, free trade,” CHANNEL NEWS ASIA, 18 March 2018; “Singapore proposes ‘ASEAN Smart Cities Network,’ BANGKOK POST, 6 February 2018; “Asean-Australia summit recommends taking counter-terrorism enforcement to next level,” THE SUN DAILY, 18 March 2018.

DISPUTES

US Files WTO Challenge Over India Export Subsidy Schemes

The US filed a [request](#) for consultations at the WTO last week, claiming that India has exempted many of its exporters from paying certain taxes, fees, and duties in a way that violates global trade rules.

Washington [says](#) that those measures provide producers of steel products, pharmaceuticals, chemicals, information technology products, textiles, and apparel with benefits to the tune of around US\$7 billion per year, enabling India exporters to "sell their goods more cheaply to the detriment of American workers and manufacturers."

This dispute comes at a time when India is in the middle of implementing its ambitious five-year export promotion [plan](#). New Delhi officials have [said](#) that they aim to "raise the share of manufacturing from the current level of about 15 percent to 25 per cent of GDP by 2025."

Prohibited export subsidies

In its consultations request, the US listed 27 examples of Indian laws and regulations that it claimed are WTO-prohibited export subsidies. Under the global trade club's subsidy rules, its members are prohibited from using state aid to support exports that are "contingent... upon export performance," and outlines examples of what would fall under this category.

The WTO also allows developing and least developed countries (LDCs) to be exempted from this ban subject to certain conditions. India was one of the 20 developing countries listed as qualifying for this exemption for the reason of having less than US\$1000 gross national product (GNP) per capita when the WTO opened its doors in the 1990s, based on World Bank data at the time.

In 2001, WTO members [agreed](#) in a Ministerial Decision on Implementation-Related Issues and Concerns that those developing countries on that list can only graduate from this special and differential (S&D) treatment when their GNP per capita hits US\$1000 for three consecutive years.

Other developing countries are meant to phase out their export subsidies within eight years from when the WTO was established in 1995, though members later agreed to [extend](#) this deadline to 31 December 2015 [given](#) "the particular situation of certain developing country members."

Since 2011, India has been one of the members on the exemption list [arguing](#) for a change to WTO subsidy rules for more "clarity", suggesting that they should have a similar eight-year phase-out period when they reach the US\$1000 graduation criteria. They have also called for the option of prolonging this phase-out period. This proposal, however, [has not advanced](#) under the WTO's Doha Round of trade talks.

Based on the latest [calculations](#) by the WTO secretariat, which were released this past July, India's GNP per capita in 2013, 2014, and 2015 has exceeded the graduation threshold. This data is provided on a yearly basis for the WTO's Committee on Subsidies and Countervailing Measures.

At a committee meeting last October, the US [argued](#) that those figures indicate that India has graduated from the exemption, and that New Delhi should therefore “end all of its export subsidies in all sectors of its economy.” Meanwhile, India claimed that those subsidies should be removed gradually, referring again to its eight-year transition period proposal.

Last week when filing the WTO dispute, Washington said that India's exemption has expired, and claimed that New Delhi's export subsidy programmes have actually grown instead of being cancelled.

Export competitiveness

Another facet of WTO subsidy rules that has come into play in previous US-India discussions on export subsidies involves the issue of “export competitiveness.” Under these terms, a developing country that qualifies for an exemption from the prohibited subsidy rules would still need to eliminate its export subsidies within eight years for products that have reached “export competitiveness.” This threshold involves that country having “a share of at least 3.25 percent in world trade of that product for two consecutive calendar years.”

In 2010, the US had asked the WTO secretariat to calculate the export competitiveness of Indian textile and apparel products. “A computation undertaken by the secretariat at the request of any member” is one of the approaches provided by WTO rules to determine whether export competitiveness exists.

While the secretariat's data found that Indian textile and apparel products were “export competitive,” India [argued](#) that most of its measures were “refund duties on inputs used in exported goods,” and are therefore not export subsidies. In some cases, New Delhi said that the alleged state aid had already been terminated through other trade policy measures. In any event, India said that it has until December 2018 to remove the alleged export subsidies, since it received the data on these products being “export competitive” only in 2010.

The US has also challenged this set of Indian rules and regulations in its consultations request.

Next steps

The consultations request marks the first step in WTO dispute settlement proceedings. Given that the dispute involves prohibited subsidies, parties now have 30 days to reach a mutually agreed solution. Should a deal not be reached in that timeframe, the US can then request the immediate establishment of a panel to examine the case.

ICTSD reporting.

TRADE AGREEMENTS

US-Korea Trade Talks Continue with Steel Tariffs in the Background

Negotiators from the US and South Korea met last week in Washington to continue discussions on amending their free trade agreement, known also as the KORUS FTA. The talks come at a time of heightened trade tensions between the two trading partners, particularly with the US set to impose tariffs on imported steel and aluminium on Friday.

The original KORUS FTA was reached in 2007 under former US President George W. Bush and was later partially renegotiated under former US President Barack Obama, after which it was ratified under both the US and Korean legislatures in 2011. It went into effect in March of the following year.

Details on progress were limited at press time, however, and dates for the next round were not yet publicly announced. "Officials from the United States and the Republic of Korea held discussions and are expeditiously negotiating amendments and modifications to the KORUS agreement," a spokesperson for the Office of the US Trade Representative told Reuters.

Yonhap, the Korean government-supported new agency, reported that officials continued talks around Seoul's auto market and Washington's planned steel tariffs during last week's meetings.

Current landscape

The KORUS FTA has come under scrutiny under the administration of US President Donald Trump, which has raised concerns over Washington's trade deficit with Seoul. In an April 2017 interview with the Washington Post, Trump suggested that he might withdraw the US from the deal if negotiations to update it fail.

"With the Korean deal, we terminate and it's over," Trump said at the time. "I will do that unless we make a fair deal. We're getting destroyed in Korea."

Since then, US and Korean negotiators have met to address possible areas for updating the deal to better suit their respective needs. Two special sessions of a "joint committee" under the FTA were held in August and October of last year.

Officials have since held two formal negotiating rounds this year. Among the issues that have reportedly emerged in the discussions are automobile tariffs and market access, as well as investor-state dispute settlement (ISDS) and trade remedies. The latter two are priorities for Seoul, MOTIE said in a [press release](#).

Prior to this month's negotiations, US President Donald Trump called Korean President Moon Jae-in to discuss the talks' progress and future direction, according to a Korean government statement cited by Reuters.

Tariffs in the background

The meetings also coincided with a recent US announcement that it would be imposing a 25 percent tariff on imported steel and a 10 percent tariff on imported aluminium, due to take effect on Friday 23 March. (See Bridges Weekly, [8 March 2018](#))

Although exceptions will be carved out, at least temporarily, for the US' partners in the North American Free Trade Agreement (NAFTA), Mexico and Canada, South Korea will have to seek out an exemption if it wants to avoid the duties. Exemptions can be requested at the country level and/or at the product level, subject to certain conditions.

"[Seoul] will deploy all possible means to respond to US steel tariffs measures and make an all-out effort," South Korean Finance Minister Kim Dong-yeon said in remarks reported by Reuters. Seoul is one of the top exporters of steel to the United States.

The topic of tariffs came up during last week's discussions in Washington. "The two sides made some headway in some of the key issues and agreed to promptly conduct follow-up negotiations," the Korean MOTIE said in a statement reported by Yonhap. "The partners will continue to talk about the steel duties."

South Korean officials suggested that they were optimistic about Seoul's ability to negotiate exemptions. "I think there will be a good result within this week if we wait for the results," Trade Minister Paik Un-gyu said in remarks reported by the Yonhap news agency.

ICTSD reporting; "South Korea will 'deploy all possible means' to respond to U.S. tariffs: finance minister," REUTERS, 12 March 2018; "S. Korea to Discuss US Steel Tariffs in KORUS FTA Talks," KBS WORLD RADIO, 9 March 2018; South Korea, U.S. to hold third round of free trade talks on Thursday," REUTERS, 14 March 2018; "U.S. seen as using steel tariffs as leverage for KORUS FTA talks," YONHAP NEWS AGENCY, 9 March 2018; "Trump: 'We may terminate' U.S.-South Korea trade agreement," THE WASHINGTON POST, 28 April 2017; "S. Korea, U.S. discuss steel tariff exemption, autos in FTA talks," YONHAP, 17 March 2018; "US may exempt our steel from tariffs: S. Korea," BUSINESS STANDARD, 19 March 2018; "Trump asked South Korea officials to show flexibility in trade talks – Seoul," REUTERS, 17 March 2018.

EVENTS & RESOURCES

Events

Coming Soon

26 March, Geneva, Switzerland. WORKSHOP ON ENHANCING THE DEVELOPMENT POTENTIAL OF TRADE IN SERVICES FOR THE LEAST DEVELOPED COUNTRIES THROUGH PREFERENTIAL TREATMENT. During this UN Conference on Trade and Development (UNCTAD) workshop, the importance of preferential treatment in terms of services and service suppliers for least developed countries (LDCs) will be discussed. Case studies from four LDCs will be presented to review the implementation of the LDC services waiver under the WTO and identify domestic capacity constraints faced by LDCs. For more information and to register as a delegate, visit the event [website](#).

27 March, Beijing, China. THE TOP TRENDS TO WATCH IN 2018 ON GLOBAL TRADE POLICIES: A DIALOGUE ALONGSIDE THE CHINA DEVELOPMENT FORUM. This event is being organised by the International Centre for Trade and Sustainable Development (ICTSD) and the Center for China and Globalization (CCG) in partnership with China Institute for WTO Studies, University of International Business and Economics (UIBE). The meeting will examine regional integration prospects for the coming year, along with looking more broadly at what may lie ahead for the multilateral trading system. To learn more, visit the ICTSD [website](#).

27 March, London, UK. HOW NATIONS CAN COPE WITH DIGITAL TRANSFORMATION. This Chatham House event will feature Estonian President Kersti Kaljulaid and will focus on his country's track record in undertaking a digital transformation across both government services and the private sector. It will also examine what challenges have emerged in this context and what may come next for this process. For more information and to register, visit the event [website](#).

WTO Events

An updated list of forthcoming WTO meetings is posted [here](#). Please bear in mind that dates and times of WTO meetings are often changed, and that the WTO does not always announce the important informal meetings of the different bodies. Unless otherwise indicated, all 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.

23 March: Council for Trade in Goods

23 March: Informal Group of Developing Countries

26 + 28 March: Trade Policy Review Body – Philippines

27 March: Dispute Settlement Body

28 March: Informal Open-ended Dispute Settlement Body – Special Session

28 March: Negotiating Group on Rules

28 March: Working Party on the Accession of Comoros

Other Upcoming Events

3-5 April, Manchester, UK. WORLD SYMPOSIUM ON CLIMATE CHANGE AND BIODIVERSITY. This event is being organised by the Hamburg University of Applied Sciences and Manchester Metropolitan University. It will look at various facets of biodiversity and climate change, bringing together scholars, activists, government representatives, and practitioners to exchange experiences and debate next steps. For more information and to register, visit the event [website](#).

4 April, Rome, Italy. ADVISORY COMMITTEE ON SUSTAINABLE FOREST-BASED INDUSTRIES MEETING (ACSF). The Advisory Committee on Sustainable Forest-based Industries (ACSF), part of the UN Food and Agriculture Organization (FAO), will meet at FAO headquarters to provide recommendations that could serve the forest industry. To learn more and to access documents as they become available, visit the ACSF's [website](#).

5 April, Paris, France. OECD GLOBAL FORUM ON DEVELOPMENT. This event is being organised by the Organisation for Economic Co-operation and Development (OECD) and will examine progress and policies that empower women and youth to become agents of change. It will include collaboration between government representatives, business leaders, NGOs, and civil society members during a series of keynote addresses and panels on the subject. For more information or to register, visit the event [website](#).

10-12 April, Bonn, Germany. SEVENTEENTH MEETING OF THE STANDING COMMITTEE ON FINANCE. During this UN Framework Convention on Climate Change (UNFCCC) meeting of the Standing Committee on Finance, officials will examine the work plan for the year, along with the biennial assessment and overview of climate finance flows, among related topics. For more information and to view relevant documents, visit the UNFCCC [website](#).

11 April, Geneva, Switzerland. LAUNCH OF THE RESPONSIBLE MINING INDEX. This event presented by the Graduate Institute will involve a discussion on the results from the first Responsible Mining Index. The document looks at how to use the potential of minerals and metals to benefit the economy as well as their impact on environmental and developmental issues. For more information and to register, visit the event [website](#).

January 2019, location TBC. FIRST CARBON PRICING LEADERSHIP COALITION (CPLC) CONFERENCE. This event will be the first research conference on carbon pricing held by the Carbon Pricing Leadership Coalition (CPLC). It will bring together researchers, policy makers, and practitioners in this field, aiming for an exchange of ideas and information that can help resolve the gaps that exist between theory and existing practice. More information will be made available closer to the date. To learn more, visit the CPLC [website](#).

Resources

SERVICES NEGOTIATIONS IN SOUTHEAST ASIA: IMPLICATIONS FOR LOW-INCOME COUNTRIES IN THE REGION. By Batshur Gootiz for the International Centre for Trade and Sustainable Development (ICTSD) (March 2018). In this research paper, the author examines the role of services in the economies of Cambodia, Laos, Myanmar, and Vietnam. The paper then analyses the policies in each country and provides recommendations to enhance the performance of the sector. This publication is available for download from the ICTSD [website](#).

GROUNDSWELL: PREPARING FOR INTERNAL CLIMATE MIGRATION. Published by the World Bank (March 2018). This new report finds that climate change could force migration within the regions of Sub-Saharan Africa, South Asia, and Latin America at a massive scale – potentially leading to 140 million people migrating by mid-century. It also looks at how this could be averted with ambitious climate action. The report is available at the World Bank [website](#).

FIVE REASONS WHY THE FOCUS ON TRADE DEFICITS IS MISLEADING. By Robert Z. Lawrence for the Peterson Institute for International Economics (PIIE) (March 2018). In the face of increased attention to trade deficits, this policy brief argues that common conceptions about trade deficits may not stand up to scrutiny. The author concludes that relying on trade deficits in creating policy can ultimately hurt those the new policies hope to help. To download the complete policy brief, visit PIIE's [website](#).

ANALYSIS OF RISKS AND OPPORTUNITIES OF LINKING EMISSIONS TRADING SYSTEMS. By Dennis Tänzler et al. for Umwelt Bundesamt (February 2018). Analysts say that linking different countries' emissions trading systems (ETS) can increase international cooperation on climate change mitigation. This report looks at how economic, ecological, and political objectives to link ETSs were identified and develops a method to evaluate their effects. To download this report, visit the German Environmental Agency's [website](#).

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