

BRIDGES WEEKLY

Global trade news from a sustainable development perspective

VOLUME 22, ISSUE 37, 8 NOVEMBER 2018

GLOBAL ECONOMY

US Midterm Elections:
Incoming Congress to Face
Slate of Trade Policy
Considerations1

GLOBAL ECONOMY

China's International Import
Expo Launches, With
Cooperation and Open Markets
in Focus4

WORLD TRADE ORGANIZATION

WTO Member Group Circulates
Transparency Proposal, Eyeing
Improved Notification
Compliance6

GLOBAL ECONOMY

Bloomberg Forum Highlights
Business-Government
Cooperation to Meet Global
Challenges8

DEVELOPMENT

EU Regulation on Cadmium in
Chocolate Fuels WTO Debate
on Health, Development11

LABOUR RIGHTS

EU Mulls Withdrawing Trade
Preferences for Myanmar and
Cambodia, Given Rights
Concerns14

EVENTS & RESOURCES

Events16
Resources18

GLOBAL ECONOMY

US Midterm Elections: Incoming Congress to Face Slate of Trade Policy Considerations

The US held its midterm elections on Tuesday 6 November, with Democrats taking control of the House of Representatives and Republicans retaining their majority in the Senate, setting up a divided legislature that could have significant implications for Washington trade policy for the coming two years.

While all 435 seats in the US House of Representatives were up for grabs this week, only 35 of the Senate's 100 seats were up for a vote, two of which involved special elections. The vast bulk of the Senate incumbents facing a vote this year were Democrats, putting the party on defence in a bid to avoid losing seats to Republicans in that chamber. Several gubernatorial and state legislative races were also underway.

The midterm elections were set to be the largest litmus test of the United States' political mood since Donald Trump secured his unexpected win of the American presidency two years ago. While votes were still being tallied at press time, Democrats appeared to have secured a commanding lead in the House. In the Senate, that chamber's makeup is still being determined, in light of some races being too close to call and one race heading to a runoff.

The country has grappled openly with division in the time since, amid heated debates over immigration policy; Washington's approach to trade negotiations and trading relationships; the future of healthcare legislation; and growing fears that xenophobia, racism, sexism, and other forms of discriminatory rhetoric and actions are on the rise.

Meanwhile, political activism has increased dramatically, with new players entering the scene that could inject new energy and approaches into existing political parties, particularly as attention begins to shift to the next presidential elections in 2020.

USMCA: signature, ratification upcoming

One of the first trade-related tasks on the incoming Congress' docket will be to review, weigh in, and approve or reject new or updated trade accords negotiated under the Trump Administration.

The US-Mexico-Canada Agreement (USMCA), for example, will be subject to review and possible ratification by the incoming Congress, which takes office in late January. The USMCA is designed to replace the North American Free Trade Agreement (NAFTA), the decades-old accord which has set the rules of the road for trade between the three countries.

The USMCA negotiations wrapped up on 30 September, following just over one year of negotiations, and the three parties plan to sign the final accord by 30 November, before Mexican President Enrique Peña Nieto leaves office. (See Bridges Weekly, [4 October 2018](#))

The USMCA will then need to undergo a series of steps in the US legislature to face a vote, the terms of which are set under the Trade Promotion Authority legislation, with the current version also known as the Bipartisan Congressional Trade Priorities and Accountability Act of 2015.

Trade Promotion Authority (TPA) is the US legislation which sets out Washington's negotiating objectives for trade accords; delegates trade negotiating powers to the executive branch for a time-bound period; sets out requirements for congressional and public notification and consultation; and sets out the procedures for trade agreements to face a straight up-or-down vote, no amendments, in Congress as long as they meet the relevant negotiating objectives.

How the changed makeup of the incoming Congress will affect the voting process remains to be seen, and may be clearer next year once committee assignments are finalised in both chambers. Approving trade agreements in Congress has long been a challenging proposition, at times taking years to achieve and in some cases requiring renegotiating aspects of a concluded trade accord with the relevant partner.

Trade-related negotiations in the pipeline?

The Office of the US Trade Representative (USTR) has also notified the current Congress of its intent to negotiate trade agreements with the European Union, Japan, and the United Kingdom. The notifications were submitted in September, kick-starting the process under TPA before formal negotiations can be launched. Any new negotiations can only begin 90 days after this notice of intent is filed. (See Bridges Weekly, [25 October 2018](#))

The next step in launching these negotiations formally, at least on the US side, will involve submitting to Congress the negotiating objectives for these planned trade accords. This must occur at least 30 days before negotiations start and must be released publicly. TPA also envisions consultations between the executive branch and various House and Senate committees on the subject.

The proposed timeframe for concluding any one of these three proposed negotiating processes has not yet been made public by the Trump Administration, and will depend on a series of factors. The US will need to agree on the scope of a proposed accord with the country involved, negotiate the terms, and in the case of the United Kingdom, wait until after Brexit to begin formal negotiations, and ratify the deal only after the post-Brexit transition period ends.

The negotiation and approval of a new US Farm Bill is also likely to fall to the new Congress, given that the most recent version of the omnibus agricultural spending legislation lapsed in September, without being extended or replaced. Lawmakers in the House of Representatives approved a new Farm Bill in June, while the Senate approved their own version that same month. The Farm Bill process, along with being a hot-button topic domestically, is also being watched closely by US trading partners, given the country's role as a major agricultural exporter and long history of state aid to its farm sector.

The renewal of the Farm Bill stalled partly due to marked differences between the proposed Senate and House versions, particularly regarding their contrasting approaches on altering and adding to existing work requirements for food stamp recipients. Food stamps, also known as the Supplemental Nutrition Assistance Programme (SNAP), are an essential welfare system that also serve as the cornerstone of the country's "nutritional safety net." (See Bridges Weekly, [28 June 2018](#))

Section 232, trade remedy investigations

Congressional lawmakers from both sides of the aisle have publicly expressed concern over mounting trade tensions between the US and various of its trade partners, such as China and the European Union. Moreover, many have argued that the increasing use of unilateral tariffs on national security grounds, namely via the "Section 232" investigative process, will provoke measures in response from these trading partners that could translate to increased costs for US producers and consumers alike, while reshaping global value chains in a way that ultimately disadvantages the United States.

Some lawmakers have called for curbing the US president's powers to conduct Section 232 investigations and other probes and impose related trade measures, though legislation that would do so has not advanced far in Congress. It is also not clear whether any bill, even if cleared by both chambers of the US legislature, would have the necessary support to override a presidential veto.

Even so, a shared concern by Republican and Democratic lawmakers has also been the need for the US administration to consult more with Congress on these actions and their potential implications across various aspects of the American economy.

ICTSD reporting; "Senators introduce bill to change process to levy national security tariffs," THE HILL, 1 August 2018; "U.S. lawmakers, at impasse on new Farm Bill, mull extension of old one," REUTERS, 2 October 2018.

GLOBAL ECONOMY

China's International Import Expo Launches, With Cooperation and Open Markets in Focus

China kicked off its inaugural International Import Expo (CIIE) this week in Shanghai, bringing together a host of participants from around the world from 5-10 November to discuss the current and future landscape of trade and investment.

The six-day event, the first of its kind to focus solely on imports, brought together thousands of governmental representatives, business leaders, and top officials from international organisations, and also featured speeches from the heads of the International Monetary Fund (IMF), World Bank Group (WBG), and World Trade Organization (WTO).

The CIIE has been over a year in the making, announced in spring 2017 during the Belt and Road Forum in Beijing, China. In parallel, Chinese Premier Li Keqiang met with the heads of the World Bank, IMF, WTO, International Labour Organization (ILO), the Organisation for Economic Co-operation and Development (OECD), and the Financial Stability Board for the "1+6" Roundtable in Beijing. That meeting was devoted to discussing China's role in the future economy and the current status of global trade.

Trade, Chinese policy reforms in the spotlight

Given the continued trade tensions among major economies, Chinese President Xi Jinping highlighted in his opening remarks the importance of having gatherings where stakeholders can weigh in on potential opportunities for cooperation and collaboration.

"[The import expo] is a major policy for China to push for a new round of high-level opening-up and a major measure for China to take the initiative to open its market to the world," he stated. "All countries should be committed to opening up and oppose protectionism and unilateralism in a clear-cut stand," he said, warning against countries adopting a "law of the jungle" approach.

Regarding concrete policy measures from Beijing, Xi [pledged](#) that China would move to reduce import tariffs, improve investment market access, and take steps to open China's services sectors further, among other actions.

WTO Director-General Robert Azevêdo [spoke](#) of the importance of compromise and collaboration in international trade during his remarks at the opening ceremony, including in efforts to shore up the international trade system and make it better suited for current and future needs.

"We must work together now to strengthen those foundations" that institutions such as the WTO have established, he said, noting that these same foundations already facilitated "greater openness and economic integration."

IMF Managing Director Christine Lagarde applauded China's own reform efforts over the past four decades, while also noting that the current tensions in the international trade arena could dampen growth and weaken important systems.

"On behalf of the IMF, I have called on all countries to de-escalate and resolve the current trade disputes and to fix the global trade system, not destroy it. To achieve these goals, we

need more international cooperation, not less – and that goes well beyond economics," she stated during the opening ceremony, according to a [transcript](#) released by her office.

The import expo also drew the participation of a host of national leaders, many of whom used the event as an opportunity to call for greater trade cooperation as well as noting the value of continued market opening from Beijing. For example, Lithuanian President Dalia Grybauskaitė reiterated the importance of economic liberalisation during her remarks at the CIIE's Trade and Investment Forum, naming China's own recent history as an example worth examining and building upon.

According to a Lithuania government [press release](#), she called on Beijing to pursue additional reforms, including allowing foreign companies better market access for bidding for government contracts, and taking further measures to protect intellectual property rights.

Some trade experts from other world regions also welcomed the import expo as an opportunity to showcase domestic markets in the hopes of making greater inroads into China, as well as Asia more broadly – a sentiment expressed by Lubinda Haabazoka, President of the Economics Association of Zambia, in comments to Xinhua.

"We are not only going to see China exporting finished products to Africa, Africa will start exporting both raw and finished products to China and that is a win-win situation that we would want to see," Haabazoka said.

Also on the margins of the CIIE, China and Singapore wrapped up talks to modernise their free trade agreement (CSFTA), following a meeting of ministers earlier this week. The planned changes include lower tariffs, as well as chapters devoted to subjects such as the environment, services, and electronic commerce.

1+6 Roundtable: Fears persist over trade tensions, protectionism

Concurrently, the "1+6" Roundtable that met in Beijing this week culminated in a [joint press statement](#) from participants, who expressed their fears over the uncertain nature of today's trade climate and the "downside" risks that the global economy faces. The press release also referred to other topics of shared interest, including the achievement of the UN's 2030 Agenda for Sustainable Development and related Sustainable Development Goals (SDGs).

"We call on all parties to jointly uphold multilateralism, support free trade, support the positive role of multilateral institutions in global economic governance, support a rules-based, open, transparent, inclusive, and non-discriminatory multilateral trading system, work together to build an open world economy, and foster sound development of globalisation," leaders said.

They also referred to the continued strain the WTO's dispute settlement system is facing, given the vacancies on its Appellate Body. The selection processes for putting new judges on the global trade court has been stalled, with the US repeatedly blocking these from moving ahead, citing various concerns over how the court operates in practice.

On China specifically, the statement welcomes both the import expo as well as "China's efforts to promote a new round of high-standard opening up to the outside world."

ICTSD reporting; "China Opens First Import Expo With Veiled Warning to Trump," THE DIPLOMAT, 6 November 2018; "Singapore, China conclude talks to upgrade free trade agreement," CHANNEL NEWS ASIA, 5 November 2018; "Full Text: Joint Press Release of the Third "1+6" Roundtable," XINHUA, 6 November 2018; "China's import expo a door way to global trade: Zambian experts," XINHUA, 6 November 2018; "Xinhua Headlines: China's import expo opens, Xi urges building an open world economy," XINHUA, 5 November 2018; "China's Xi Jinping hits out at 'law of the jungle' trade policies," FINANCIAL TIMES, 5 November 2018.

WORLD TRADE ORGANIZATION

WTO Member Group Circulates Transparency Proposal, Eyeing Improved Notification Compliance

A group of WTO members has circulated a communication proposing that the General Council adopt a set of "procedures to enhance transparency and strengthen notification requirements under WTO agreements." The proposal lays out a series of "administrative measures" that could apply to members that fall behind on submitting their notifications to the global trade club.

The document was submitted on behalf of Argentina, Costa Rica, the European Union, Japan, and the United States. US Ambassador to the WTO Dennis Shea and EU Ambassador to the EU Marc Vanheukelen had previewed their intentions of crafting this proposal at last month's WTO Public Forum, naming it as one aspect of their efforts to support the modernisation of the global trade club. (See Bridges Weekly, [11 October 2018](#))

WTO members are due to discuss the communication, along with other topics, during a meeting of the organisation's Goods Council, which is scheduled for 12-13 November. The US submitted a communication on the same subject one year ago, which was discussed in the same forum. (See Bridges Weekly, [9 November 2017](#))

Delays in notifications have long been raised by WTO members as posing systemic risks to the organisation, complicating members' abilities to negotiate new disciplines that accurately account for current trade realities, along with having implications for trade monitoring exercises and dispute settlement. For example, the issue has come up repeatedly in the WTO's agriculture negotiations, given the challenges in assessing members' actual support levels, along with what types of support they provide.

Notification requirements are also one of the topics under discussion in the WTO's negotiations on disciplines for harmful fisheries subsidies, and the communication refers to those talks and suggests that the "rules negotiating group" working on this issue "develop enhanced notification procedures."

Compliance processes and reviews

The communication outlines a multi-pronged process that proponents say could help improve WTO members' compliance with their notification obligations. These include, for example, giving specific directions to the Working Group on Notification Obligations and Procedures on updating the relevant WTO bodies on members' compliance, as well as tasking that group with providing recommendations for improvements.

This includes, for example, working with the WTO Institute for Training and Technical Cooperation (ITTC) to see where members may need technical assistance on this front, along with updating the Goods Council regularly on their work.

Other provisions focused on improving compliance include making changes to the WTO's system for trade policy reviews, which all members must undergo at regular intervals. Namely, the communication calls for "[instructing] the Trade Policy Review Body to ensure that beginning in 2019 all trade policy reviews include a specific, standardised focus on the member's compliance with its notification obligations."

The communication also refers to the practice of counter-notifications, a practice already allowed under WTO rules where a member can submit a notification that challenges the data that another member has provided. The US, in a notable first, submitted in May a counter-notification under the WTO's Agreement on Agriculture regarding India's domestic agricultural support for the marketing years 2010-2011 to 2013-2014. (See Bridges Weekly, [21 June 2018](#))

Under the proposal's terms, members who fall behind on their notification obligations would be "encouraged to submit to the relevant committee by [x date] and by [x date] of each subsequent year an explanation for the delay, the anticipated timeframe for its notification, and any elements of a partial notification that a member can produce to limit any delay in transparency."

The communication also makes a distinction between notifications under the WTO's Agreement on Agriculture and the various other WTO agreements which feature notification requirements, crediting this to "the particular importance members attach to the WTO's work to reform agriculture," and provides additional suggestions on how the organisation's dedicated committee on farm trade can modify its own requirements in this area.

Developing country considerations

The communication makes particular reference to the challenges that developing country members may face when trying to keep pace with the demands of their notification obligations, and sets out a series of provisions involving possible assistance and capacity-building support.

Specifically, the communication envisions this process as a discussion between the member involved and the WTO secretariat, which would look into issues such as what type of support can be offered. Those countries would also be urged to update both the above-mentioned working group and the "relevant committee" should they fall behind on notifications due to needing additional support.

Penalties for non-compliance

Continued non-compliance with notification obligations would come with penalties, which would increase over time. The communication describes these as "administrative measures," though exceptions would be made for members "that have submitted information on the assistance and support for capacity building that the member requires."

For example, after the first year from when a notification deadline has lapsed, the WTO member in question would lose the right for their representatives to "preside over WTO bodies," along with receiving answers to questions posed in WTO Trade Policy Reviews, as well as facing additional requirements for their budgetary contributions to the organisation. There would also be additional reporting specific to that member at both the Goods Council and General Council.

After two years have passed, these penalties would evolve, with the member in question being designated as an "inactive member" and acknowledged as such in WTO meetings. It would place the member's speaking rights after that of regular members but before that of observers.

ICTSD reporting.

GLOBAL ECONOMY

Bloomberg Forum Highlights Business-Government Cooperation to Meet Global Challenges

The inaugural Bloomberg New Economy Forum wrapped up in Singapore this week, bringing together world business and political leaders to broach imminent challenges around global governance, international trade, technology, climate change, and inclusion against an evolving global economic backdrop.

The Forum aims to harness the role of business to work collaboratively with governments in providing solutions to major global challenges, including inequality, conflict, food insecurity, exponential population growth, migration, disruptions from technological innovation, and global warming. Organisers say that such partnerships would contribute to promoting stability and economic growth and to making full and effective use of technological advancements for inclusive development.

"We are facing the challenge of insufficient governance...in a world of an increasingly complicated structure of interests, rapid development of new technologies and economies, and profound evolution of the international landscape," said Chinese Vice President Wang Qishan, keynote speaker, at the opening of the event.

"The existing governance mechanisms of the world lag behind economic globalisation and technological advances," he added, with business inputs and leadership needed to help fix these gaps. Moreover, the increasing uncertainty on the policy and political front could have damaging implications for sustainable growth, he said.

Kicking off the two-day meeting on Monday, company founder Michael Bloomberg underscored public-private cooperation to ensure that global economic benefits are shared, including by fostering the skills demanded in changing labour markets, improving economic opportunities for women and disadvantaged groups, and cutting emissions that contribute to climate change.

"We're aiming to come up with solutions that are practical, realistic, and easy to copy in cities and countries around the world," he said in his [opening remarks](#). Bloomberg is a former mayor of New York City, a philanthropist and activist, and a UN Special Envoy for Climate Action.

The Forum focuses also on new poles of economic influence, such as in emerging economies, where rapid growth has often perpetuated new opportunities for businesses and improved living standards. "Still, economic growth in emerging economies also creates new challenges in how we address issues around trade, technology, intellectual property, capital markets, and common societal challenges, such as public health and climate change," he said.

The contribution of emerging economies to global growth is driving changes to international trade and established industrial structures, Wang said.

Trade tensions

On Monday, Wang underscored the importance of international cooperation, coupled with domestic reform and opening up. "In such a world of uncertainties, one thing that is certain is the trend of economic globalisation and multilateralism," he said.

The deep and abrupt changes in the global economy have contributed to divisive domestic political environments, Wang said. "The polarisation of right-leaning populism has manifested itself in political demands, which has led to unilateral policies against globalisation and seriously affected the international political ecosystem."

Viable and long-lasting solutions, however, rest on improved economic ties between Beijing and Washington, with Wang pledging to strive for "mutual benefit" and expressing readiness to pursue a solution that would satisfy both global economic giants.

"It is our firm belief that China and the US will both gain from cooperation and lose from confrontation," he said, finding common ground and citing trade as the "anchor and propeller of China-US relations."

China and the US have been experiencing mounting trade tensions over the past year, with the US imposing tariffs on several billion dollars' worth of Chinese goods, and China responding in kind. The US has justified the bulk of these tariffs as necessary for tackling concerns over alleged forced technology transfers and discriminatory licensing practices, among others. China, in turn, has sharply criticised the move and approach, and called for cooperation while also imposing tariffs of various imported American products worth around US\$110 billion, according to [Bloomberg and US Census Bureau data](#).

US President Donald Trump will meet with Chinese President Xi Jinping at the G20 Leaders' Summit in Argentina at the end of the month. Trump has reportedly tasked administration officials with sketching the terms of a possible agreement to mitigate trade tensions in anticipation of the meeting.

"If the world order becomes defined by continuous conflict between the US and China, sooner or later it risks getting out of control," Henry Kissinger, former US Secretary of State and national security adviser, said on Tuesday at the Forum.

Trade tensions and uncertainty could contribute to lowering global economic growth prospects and may undo some of the progress seen in the economic recovery, with the International Monetary Fund (IMF) and other international agencies recently revising their growth forecasts for 2018 and 2019 downward. The IMF now forecasts growth this year and next at 3.7 percent, according to the October version of its semi-annual World Economic Outlook. The WTO has similarly revised its trade growth forecasts to reflect additional risks. (See Bridges Weekly, [11 October 2018](#))

"The world would be in terrible shape" should trade issues pass into "strategic conflict," said Kissinger, according to comments reported by the Bloomberg news outlet. "I think we have high incentives to avoid catastrophe."

WTO modernisation

In addition, several speakers weighed in on the subject of WTO modernisation, which has been gaining momentum in trade circles, with the establishment of various working groups on the subject.

The drive among various members to advance talks on WTO reform has also drawn the public backing of G20 trade and investment ministers, who endorsed a joint communiqué in September that referred to the urgent need for boosting confidence in the health and resilience of the global trade system. (See Bridges Weekly, [20 September 2018](#))

The Bloomberg New Economy global survey results [released](#) in the lead-up to the conference in October, surveying 2000 private sector representatives in 20 developed and emerging markets, saw the vast majority, at nearly three-quarters of those interviewed, hopeful "that the global system of trade might be restored, though only in the long term."

"The WTO has almost become too big to avoid failing," said Peter Mandelson, a former EU Trade Commissioner.

Wang added his voice on a potential role for China. "As a staunch supporter of the multilateral trading regime, China will implement trade and investment liberalisation and facilitation policies of high standards, and support needed reform of the WTO," he said.

ICTSD reporting; "Trump Asks Cabinet to Draft Possible Trade Deal With China," BLOOMBERG, 2 November 2018; "China VP Wang Qishan Keynote at New Economy Forum," BLOOMBERG, 6 November 2018; "Here's What's Coming Up at Day Two of the New Economy Forum," BLOOMBERG, 6 November 2018; "We are living in an age of unprecedented risks," FINANCIAL TIMES, 6 November 2018; "China says ready for U.S. talks, sees no winners in trade war," REUTERS, 6 November 2018; "Kissinger 'Fairly Optimistic' China, U.S. Can Avoid Catastrophe," BLOOMBERG, 6 November 2018; "China's Trade Olive Branch Can't Dispel Fears of Clash With U.S.," BLOOMBERG, 6 November 2018.

DEVELOPMENT

EU Regulation on Cadmium in Chocolate Fuels WTO Debate on Health, Development

The EU's incoming rules on cadmium in chocolate and other foodstuffs again drew scrutiny from some developing country WTO members at a meeting of the organisation's Committee on Sanitary and Phytosanitary (SPS) Measures on 1-2 November, trade sources say. The regulation takes effect in less than two months, and has fuelled debate over how to ensure food safety without harming farmer livelihoods.

At issue is European Commission Regulation 488, which was adopted in 2014 and is due to go into effect on 1 January 2019. The regulation restricts the levels of the metal that are permitted in chocolate, citing the need to safeguard the health of children. Yet various developing countries and other stakeholders have raised questions over the scientific rationale used for the new limits, as well as their implications for the welfare of poor small-scale farmers in some parts of the developing world.

Reviewing the scientific basis of new rules

Cadmium (Cd) is a heavy metal found naturally in the soil, as well as in pesticides and fertilisers. Cocoa trees absorb the metal through their roots, which transmit it into the leaves and beans of the tree. Cadmium is classified as a human carcinogen, and has been linked to kidney damage and bone demineralisation.

In light of these concerns, the EU has had maximum limits for cadmium in foods on the books since 2001. In 2014, it updated its regulations, adding maximum thresholds for milk and dark chocolate, among other changes. For milk chocolate with less than 30 percent cocoa content, which is most popular amongst children, the rules are particularly strict: it cannot be sold in the EU if it has more than 0.1 parts per million (ppm) of cadmium. Milk chocolate with more than 30 percent cocoa content, and other chocolate with less than 50 percent content, will have a 0.30 ppm maximum permitted cadmium level, while chocolate with more than 50 percent, and cocoa powder, have 0.80 ppm and 0.60 ppm limits respectively.

Colombia, Côte d'Ivoire, and Peru called for a fresh discussion on the impending rules at the SPS committee meeting last week, sources said. Building on previous submissions and interventions at past SPS Committee meetings in [March](#) and [July](#), as well as its most recent submission to the committee under the document name "[G/SPS/GEN/1646](#)," Peru reiterated questions on the scientific merits of the EU's cocoa limits, along with what these could mean for the Peruvian economy.

It noted that the Joint FAO/WHO Expert Committee on Food Additives (JECFA) considers a food to represent a risk when it contributes five percent or more of the maximum tolerable intake of the contaminant. FAO refers to the UN's Food and Agriculture Organization, while WHO refers to the World Health Organization.

Based on this parameter, Peru [said](#), there were no grounds for including chocolate and cocoa products in Commission Regulation (EU) No. 488/2014, since they contribute only 4.3 percent to dietary cadmium exposure. On these grounds, Peru argues that the European Regulation is not consistent with Articles 2.2 and 2.3 of the WTO's SPS Agreement, because it is "not based on updated scientific principles with respect to the risk to human health" and thus amounts to a "disguised restriction on international trade."

The EU reportedly countered that within Europe, and particularly amongst vulnerable subgroups of the population, the five percent limit is indeed crossed. The EU has also pointed out on multiple occasions that its regulation is based on the European Food Safety Authority (EFSA) [Scientific Opinion on Cadmium in Food](#) of 30 January 2009. That report found that the mean dietary exposure for European adults was close to or slightly exceeded the "tolerable weekly intake," while subgroups such as children may face exposure levels that are double that of the tolerable weekly intake.

Some members suggested that the EU is using a hazard-based approach that may not adequately take into account the health or development implications of the new rules. A hazard-based approach regulates a product on a precautionary basis if it contains a substance that is known to have severe health effects, even if there is no evidence of consumer exposure to the hazardous substance. However, the SPS Agreement requires countries to use a risk-based approach, which also evaluates whether there is exposure to the substance. The EU responded that it had used a risk-based approach in developing regulation 488/2014 based on the EFSA analysis.

Interventions by Colombia, Côte d'Ivoire, and Peru also urged the EU to apply the rules of the Codex Alimentarius Commission, which sets out international food safety standards. Under WTO SPS rules, Codex serves as one of the "relevant international organisations" setting food safety standards. According to sources familiar with the meeting, this point was reiterated in supporting statements from Bolivia, Costa Rica, El Salvador, Ecuador, Guatemala, Indonesia, Nicaragua, Panama, Trinidad and Tobago, the US, and Venezuela.

Codex has so far agreed only on rules for chocolate containing more than 50 percent cocoa, and the EU regulations are in line with these standards. At their next meeting on 29 April to 3 May 2019, Codex members are slated to develop rules for chocolate with less than 50 percent cocoa. Several interventions urged the EU to wait for these new rules.

Developing countries warn of adverse impacts on livelihoods

Virtually all the interventions from developing countries underscored how important cocoa production is for their populations of smallholder farmers, and how the EU regulations could have an adverse effect on them. In Peru, 90,000 families are economically dependent on cocoa. Their submission notes that "producers and exporters, including agricultural cooperatives and producers' associations, are chiefly located in the high poverty areas for which the European market accounts for more than 75 percent of the value of total exports."

A December 2017 [study](#) by researchers at Instituto de Cultivos tropicales (ICT), the US Department of Agriculture (USDA), and the University of Florida's Institute of Food and Agricultural Sciences found cadmium levels in worryingly high concentrations in cacao cultivated in key regions in Peru, namely Amazonas, Piura, and Tumbes.

"Peru is one of the leading exporters of organic cacao beans in the world. However, the accumulation of heavy metals in cacao beans represents a problem for cocoa bean export and chocolate quality," researchers said at the time.

Several producer countries also noted their difficulties in complying with the regulations, and said that their exports to the EU seem to be decreasing in anticipation of the entry into force of the regulation. They also suggested that importing firms in Europe may be already implementing the regulation's terms, albeit incorrectly, namely by applying it to input materials like cocoa beans, rather than just finished products like chocolates and certain cocoa-based products.

Ecuador raised this issue at the [SPS meeting](#) this past July, with the support of Colombia and Guatemala, and sources say it was raised again at last week's session. In July, the EU acknowledged the concern, while noting that since the issue referred to how private firms

are operating, and thus is an issue that the EU lacks the jurisdiction to address. According to minutes of the meeting, the EU also suggested that “this concern went beyond the scope of the SPS Agreement,” while noting that an alternative could be to discuss the issue in other settings, such as the International Cocoa Organization.

Some countries argue that the new regulation could also inhibit efforts to combat illicit drug trafficking. For example, Peru, Colombia, and others highlighted how cocoa has gained ground in their countries through joint efforts with the international community to develop sustainable programmes for the development of alternatives to coca leaf production. The entry into force of the European rules on cadmium would reduce exports, they argued, and lead farmers to return to the cultivation of coca. This would have adverse environmental effects as well through deforestation for replanting of coca.

Next steps

The EU regulations are slated to enter into force in January 2019. A host of producer countries from different world regions have asked the EU to exclude chocolate and cocoa from the regulation or to extend the timeline for implementation to allow their cocoa sectors to prepare and allow for new Codex international standards to be developed.

The EU responded that the regulation has already provided for a five-year adjustment period, well in line with the SPS Agreement’s language on providing a “reasonable interval”.

Colombia and others asked for technical assistance to meet the new limits. The presence of cadmium is a particular problem for cocoa from some Latin American countries due to factors like volcanic activity and forest fires. Yet because cadmium occurs naturally in soil, it is relatively difficult to address. The Standards and Trade Development Facility ([STDF/PPG/577](#)) is currently developing a regional strategy for handling cadmium contamination in cocoa beans in Latin America and the Caribbean.

The EU is approving a new, multi-million euro project this week designed to deliver specific technical assistance for Colombia, Ecuador, and Peru. The projects would start in 2019 through the EU Development-Smart Innovation through Research in Agriculture (DeSIRA) programme and would encourage innovation for sustainable cocoa production, with activities related to cadmium. Research indicates that potential solutions include grafting onto low cadmium root stock plants, breeding new varieties that are not as prone to cadmium uptake, modifying soils to reduce plant cadmium uptake, post-harvest measures such as the use of microorganisms during fermentation, and the use of nanotechnology on cocoa mass.

ICTSD reporting; “EFSA Scientific Opinion on Cadmium in Food; EFSA Scientific Report on Cadmium dietary exposure in the European population,” EUROPEAN FOOD SAFETY AUTHORITY, 30 January 2009; “High cadmium levels in cocoa from Peru may impact chocolate quality,” CONFECTIONARY NEWS, 3 July 2017; “Heavy metal accumulation in leaves and beans of cacao (*Theobroma cacao* L.) in major cacao growing regions in Peru,” SCIENCE OF THE TOTAL ENVIRONMENT; 15 December 2017; “The Impacts of New EU Cadmium Regulations on the Cocoa Supply Chain,” WORLD COCOA FOUNDATION, 19 September 2018.

LABOUR RIGHTS

EU Mulls Withdrawing Trade Preferences for Myanmar and Cambodia, Given Rights Concerns

The European Commission said last week that it is mulling the temporary removal of trade preferences to Myanmar, and is preparing to remove Cambodia's preferences, citing urgent concerns over both countries' compliance with fundamental, international human and labour rights conventions.

Myanmar and Cambodia are both beneficiaries of duty and quota-free access to the EU market through "Everything But Arms" (EBA) agreement of the Generalised Scheme of Preferences (GSP).

Under the EBA scheme, least developed countries can sell any products, with the exception of arms and ammunition, to the EU market without facing tariffs or quotas. That access comes with conditions, however, namely that those countries must fulfil their obligations under international conventions on human and labour rights, such as those set out by various UN accords and International Labour Organisation (ILO) conventions.

Should the EU find significant violations of these conditions, there is the option of temporarily lifting these trade preferences until the situation improves.

EU fact-checking mission finds human rights violations in Myanmar

At the end of August, UN investigators [published](#) a detailed report which found a host of human rights violations by the Myanmar military against the Rohingya, a stateless Muslim minority group. The findings included forced labour and evictions, sexual violence, forced disappearances, killings, and a host of other examples of "extreme violence."

"The horrors inflicted on Rohingya men, women, and children during the August 2017 operations, including their indiscriminate killing, rise to the level of both war crimes and crimes against humanity," [said](#) Radhika Coomaraswamy, one of the members of the UN mission conducting the probe.

The August 2017 "operations" refers to "clearance operations" that UN investigators say involved mass killings of Rohingya individuals.

Myanmar's government has criticised the findings, arguing that the UN investigation is "flawed, biased, and politically motivated," and laying the blame for the violence itself on "terrorists," according to comments reported by local media.

Following the UN report, the EU sent its own fact-finding mission to Myanmar from 28-31 October, with European officials publicly expressing their own concerns over the situations in Myanmar's Rakhine, Kachin, and Shan states.

"Our trade policy is value-based. These are not just words. We have to act when there are severe violations," the EU's Trade Commissioner Cecilia Malmström said in early October, prior to the fact-finding mission. After the 28-31 October review, her office issued a [statement](#) where she said that Brussels "now expects Myanmar to address the severe shortcomings that have been highlighted during this monitoring mission."

Should the problems continue, she warned that Myanmar's government would ultimately be "putting their country's tariff-free access to the EU market in danger – a scheme which has proved to be vital for the economic and social development of the country, providing thousands of jobs to workers in sectors such as textiles, agriculture, and fisheries."

Meanwhile, the New York-based group Human Rights Watch (HRW) called on the governments of Myanmar and Bangladesh to suspend an effort to return Rohingya refugees to Rakhine state. "Myanmar's government keeps talking about returns, but it has done nothing to allay the Rohingya's fears of being returned to the same violence and oppression they fled," said Bill Frelick, who serves as HRW's refugee rights director, in a [statement](#) issued on 2 November.

Malmström warns Cambodia on "blatant disregard" for key values

Cambodia is also at significant risk of losing EBA access, given the various human rights concerns involving the government of Hun Sen, who was re-elected as prime minister earlier this year. Hun Sen has spent decades in office, and under his tenure independent media outlets have closed, opposition parties have been dissolved by the courts, and labour and human rights violations have been reported as rampant.

Shortly after the July elections, Malmström informed Cambodia that the EU would be kick-starting a review process of the country's EBA eligibility.

"In Cambodia, meanwhile, we are seeing very troubling developments with a clear deterioration of human rights and labour rights, without convincing improvements in sight," she [wrote](#) in a blog post on the European Commission's website last month.

Malmström referred to the findings of the recent EU mission to the Southeast Asian nation, citing "serious and systemic violations of, for instance, freedom of expression, labour rights and freedom of association."

At the time, she confirmed that the EU's executive arm has informed the Cambodian government that it will be "launching the process for the withdrawal of their Everything But Arms preferences," and that this process will be fulfilled unless there are "clear and evident improvements on the ground."

Some experts and business associations warn that the temporary withdrawal of trade preferences for Myanmar and Cambodia could have significant economic ramifications, given the EU's role as a significant export market, including job losses in the textile sector and reduced inflows of foreign direct investment.

ICTSD reporting; "Myanmar rejects UN findings in Rohingya genocide report," AL JAZEERA, 29 August 2018; "Asian MPs urge halt to Rohingya repatriation plan amid safety fears," REUTERS, 2 November 2018; "EU considers sanctions on Myanmar over Rohingya crackdown," AL JAZEERA, 2 November 2018.

EVENTS & RESOURCES

Events

Coming Soon

14 November, Geneva, Switzerland. E-COMMERCE AND DEVELOPMENT: POLICY, NEGOTIATIONS, AND A FRESH LOOK INTO SPECIAL AND DIFFERENTIAL TREATMENT. This workshop, hosted by the International Centre for Trade and Sustainable Development (ICTSD) and the Government of Finland, will place a particular focus on the e-commerce-development nexus, particularly in light of e-commerce discussions in multiple international and domestic forums. Topics for discussion include competition policy, trade negotiations, and special and differential treatment. Please note that attendance is by invitation only. To learn more, visit the ICTSD [website](#).

15 November, London, United Kingdom. WHAT CAN BRITAIN EXPECT FROM TRADE AGREEMENTS ON SERVICES. This Chatham House event will examine the UK's future prospects when it comes to crafting trade agreements involving services, specifically after Brexit has occurred. Panellists and participants will review two related briefing papers prepared by the UK Trade Policy Observatory, a partnership between Chatham House and the University of Sussex. To learn more, visit the Chatham House [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.

9 November: Council for Trade-Related Aspects of Intellectual Property Rights

9 November: Informal Open-ended Negotiating Group on Rules (Fisheries Subsidies)

12 November: Council for Trade in Goods

Other Upcoming Events

22 November, Geneva, Switzerland. NEGOTIATIONS ON FISHERIES SUBSIDIES: ADDRESSING IUU FISHING IN WTO RULES. This event, organised by the International Centre for Trade and Sustainable Development (ICTSD), is one of a series focused on the WTO's negotiations on disciplining harmful fisheries subsidies. It is also part of ICTSD's WTO: Paths Forward initiative. This particular seminar focuses on subsidies for illegal, unreported, and unregulated (IUU) fishing, with the aim of generating ideas that can support the negotiating process. Please note that event attendance is by invitation only. For more information, please visit the ICTSD [website](#).

26-28 November, Nairobi, Kenya. SUSTAINABLE BLUE ECONOMY CONFERENCE. This event, co-hosted by Kenya, Canada, and Japan, will aim to bring stakeholders from government, international organisations, academia, civil society, and the private sector to harness the energy from multiple international efforts, including the UN's Sustainable Development Goals (SDGs), to learn more about the vast potential of the blue economy and the importance of safeguarding marine resources to support current and future livelihoods. To learn more, visit the conference [website](#).

27-29 November, Incheon, South Korea. THE 6TH OECD WORLD FORUM: THE FUTURE OF WELL-BEING. This event, organised jointly by the Organisation for Economic Co-operation and Development (OECD) and Statistics Korea, will focus on a series of topics related to the overarching theme of “the future of well-being.” The related themes that serve as the basis of the Forum's programme include: exploring and measuring future well-being; digitalisation and well-being; governance in a complex world; and business and well-being. The event will feature keynote speeches, networking opportunities, roundtables, and seminars. To learn more, visit the OECD World Forum [website](#).

14-15 February 2019, New Delhi, India. CARBON PRICING LEADERSHIP COALITION (CPLC) RESEARCH CONFERENCE. This event will be the first international research conference on carbon pricing, hosted by CPLC. It will bring together researchers, policymakers, 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. CPLC seeks to foster leadership across the public and private sectors, academia, and NGO communities in order to implement carbon pricing policies more effectively and reduce global emissions. To learn more, visit the CPLC [website](#).

Resources

THE EVOLUTION OF SUBSTANTIVE INVESTMENT PROTECTIONS IN RECENT TRADE AND INVESTMENT TREATIES. By Catharine Titi for the RTA Exchange (November 2018). This paper has been prepared for the RTA Exchange, which is jointly implemented by the International Centre for Trade and Sustainable Development (ICTSD) and the Inter-American Development Bank (IDB). This new publication reviews eight international investment agreements (IIAs), examining how substantive investment protections have evolved in treaty-making. To learn more and to download the publication, visit the ICTSD [website](#).

DOING BUSINESS INDEX 2019. Published by the World Bank (October 2018). This index has been updated to reflect the latest data and trends on the ease of doing business within different countries, including how this affects small and medium-sized enterprises (SMEs). It looks, for example, at what steps governments have taken to support entrepreneurship and private enterprise, among various others. To learn more or to access the index, visit the World Bank [website](#).

COMPETITION POLICY, TRADE AND THE GLOBAL ECONOMY: EXISTING WTO ELEMENTS, COMMITMENTS IN REGIONAL TRADE AGREEMENTS, CURRENT CHALLENGES AND ISSUES FOR REFLECTION. By Robert D. Anderson, William E. Kovacic, Anna Caroline Müller, and Nadezhda Sporysheva for the World Trade Organization (WTO) (October 2018). This working paper focuses on the evolution of competition law enforcement, looking at past efforts to develop a general agreement on competition policy for the international trading system, as well as at competition policy provisions in current trade agreements. To download the paper, visit the WTO [website](#).

CHINA AND THE UNITED STATES: TRADE CONFLICT AND SYSTEMIC COMPETITION. By C. Fred Bergsten for the Peterson Institute for International Economics (PIIE) (October 2018). This policy brief examines the long-standing Sino-American trading relationship and the recent tensions that have emerged. The author also provides a series of related recommendations, which involve areas such as the WTO modernisation discussions among some countries, as well as participation in regional trade agreements, among others. The policy brief is available at the PIIE [website](#).

INTERNATIONAL INVESTMENT LAW AND SUSTAINABLE DEVELOPMENT: KEY CASES FROM THE 2010s. Published by the International Institute for Sustainable Development (IISD) (October 2018). This e-book examines a series of past cases involving investor-state dispute settlement, with a particular focus on the sustainability dimension. The cases chosen for the review cover topics such as renewable energy, human rights, and environmental protection. The e-book is available at the IISD [website](#).

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

BRIDGES AFRICA

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

PASSERELLES

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

PUENTES

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

PONTES

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

МОСТЫ

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

桥

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

PUBLISHED BY



International Centre for Trade
and Sustainable Development
Chemin de Ballexert 7-9
1219 Geneva, Switzerland
+41-22-917-8492
www.ictsd.org

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

DFID - UK Department for
International Development

SIDA - Swedish International
Development Agency

DGIS - Ministry of Foreign Affairs
Netherlands

Ministry of Foreign Affairs, Denmark

Copyright ICTSD, 2018. Readers are encouraged
to quote and reproduce this material for
educational, non-profit purposes, provided the
source is acknowledged.



This work is licensed under a Creative Commons
Attribution-NonCommercial-NoDerivatives 4.0
International [License](https://creativecommons.org/licenses/by-nc-nd/4.0/).

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

Contributors to this issue are Sofia Alicia Baliño,
Emily Bloom, Sarah Mohan, Fiona McGuinty, and
Alena Sokolyanskaya. The Senior Editor of
Bridges Weekly Trade News Digest is Sofia Alicia
Baliño.

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

ISSN 1563-003X



