

# BRIDGES WEEKLY

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## TRADE AGREEMENTS

### Pacific Alliance, Associate Members Advance Trade Talks, Eye New Economic Opportunities

The second round of the Pacific Alliance's negotiations with its potential "associate members" wrapped up on Friday 2 February in Gold Coast, Australia, with officials from the countries involved reporting steady advances in the talks across various subject areas.

The talks brought together officials from Australia, Canada, New Zealand, and Singapore with the Pacific Alliance coalition made up of four Latin American countries – Chile, Colombia, Mexico, and Peru. The process of negotiating this "associate member" relationship began last year.

The goal of last week's talks, officials confirmed, was to help pave the way for the future exchange of market access offers and advance discussions on future rules. The accord, if reached, would aim to go beyond existing arrangements, open up new market opportunities, and significantly deepen regional relationships.

Ministers from both current Pacific Alliance countries and prospective associate members highlighted the good pace of the negotiations so far, as well as the economic and strategic value that could come from solidifying this partnership.

"This negotiation process will allow the bloc to advance towards the fulfilment of one of its fundamental objectives: to become a platform for economic and commercial integration in the Asia-Pacific region," [said](#) Chilean official Pablo Urria at the start of the talks.

Urria is the director of the Bilateral Economic Relations division at Direcon, the Ministry of Foreign Affairs' General Directorate of International Economic Relations.

Australian Minister for Trade, Tourism, and Investment Steven Ciobo, who served as the round's host, [welcomed](#) the talks as an opportunity to develop Canberra's commercial ties with the Pacific Alliance members, along with ensuring that the Oceanic nation does not fall behind other large economies in fostering deeper trading relationships in the region.

"The Pacific Alliance trading bloc remains an under-explored market for Australian exporters; and Australia's competitive access to the economies in this bloc has been limited by high tariffs and barriers," Ciobo said.

He added that "a comprehensive and high-quality FTA will open the door to new and rapidly growing markets for Australian businesses, putting [our] exporters on the same footing with the United States, the European Union, and Canada – who all have FTAs that give them preferential access."

Last week's round of talks follows the initial negotiating round held last November in the Colombian city of Cali, where officials presented the planned text of the "commercial protocol." The document is meant to serve as a starting point for negotiations with the four candidates for associate membership. (See Bridges Weekly, [2 November 2017](#))

### **Negotiation results**

During the five-day round held last week, the parties reportedly met on a series of trade topics that could form part of a future accord, according to a [summary](#) released by the Pacific Alliance press office.

These included goods market access; investment; environment and labour rules; public procurement; temporary visas for business people and other services-related issues; rules of origin; customs; technical barriers to trade (TBT); regulatory cooperation; competition policy; sanitary and phytosanitary measures (SPS); gender; and small and medium-sized enterprises (SMEs), among other issues. The group also plans to develop sectoral annexes involving regulatory cooperation for select products.

Colombian Minister of Commerce, Industry, and Tourism María Lorena Gutiérrez [welcomed](#) negotiators' progress in some specific areas, including non-tariff barriers and economic integration, as a positive signal for the talks to come.

"I highlight the willingness and commitment of associate member candidates to achieve the objectives set from the beginning of the negotiation," said Gutiérrez.

The Peruvian Deputy Minister of Foreign Trade, Edgar Vásquez, [has suggested](#) that these meetings will allow the Latin American coalition to advance its efforts to boost economic and commercial integration with the wider Asia-Pacific region.

"These meetings present the opportunity to improve the terms we have in the trade agreements signed with these countries," he said.

Vásquez also welcomed the inclusion of such topics as non-tariff measures, SMEs, and sanitary measures in the discussions, suggesting that negotiating these with the associate member candidates within the Pacific Alliance framework could yield both economic gains along with helping define the original grouping's future work.

"New elements are being explored that allow for greater benefits to be derived from these commercial agreements and, in addition, we hope this process can help define a work agenda with the countries in the Pacific Alliance," he said.

Chilean officials have similarly suggested that including SMEs, intellectual property, labour, gender, and environment, among other topics, is a key objective for Santiago given that these are not featured in the current Pacific Alliance framework.

The next round of negotiations is set to begin on 5 March in Santiago, Chile.

## Evolution of the alliance

The Pacific Alliance was set up in 2011 and its members reached a framework agreement in 2012. The coalition plans to ensure the free movement of goods, services, capital, and people within their grouping, along with addressing various other shared objectives. (See Bridges Weekly, [13 June 2012](#))

Since then, the Alliance has gained 52 [observer countries](#) from regions around the world, including Oceania, Europe, Asia, Northern Africa, and the wider Americas. These observers can participate in Pacific Alliance meetings on the invitation of full members, and need to demonstrate that they share the group's goals and established principles.

Observer countries can also move to become full Pacific Alliance members, subject to [certain conditions](#) and timeframes. This includes, for example, having trade agreements in place with at least half of the original group's membership. Costa Rica and Panama are currently candidates for full membership, though the accession process remains ongoing.

The new "associate member" status announced last year was designed to allow for the Pacific Alliance coalition to negotiate trade deals jointly with other interested countries, subject to specific terms of reference. (See Bridges Weekly, [6 July 2017](#))

The four associate member candidates already have well-established ties with the Pacific Alliance members individually, including through existing trade accords. For example, Canada has in place free trade agreements with all four Pacific Alliance countries. The North American nation and the bloc exchanged C\$48 billion (US\$38.3 billion at current exchange rates) in goods trade in 2016.

Australia has recently concluded negotiations for a bilateral trade agreement with Peru and already [has in place](#) a trade agreement with Chile. Singapore has concluded trade agreements with Chile and Peru, while the city-state has negotiations [currently underway](#) with Canada and Mexico. (See Bridges Weekly, [16 November 2017](#))

Meanwhile, most of the current Pacific Alliance members and all four associate member candidates are members of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), the successor to the original Trans-Pacific Partnership (TPP).

Negotiations to suspend certain TPP provisions or ink new side letters were concluded just weeks ago, and the CPTPP members are now due to sign the final deal in early March, also in Santiago.

ICTSD reporting; "Finaliza segunda ronda de negociaciones entre Alianza del Pacífico y candidatos a Estado Asociado," EL MERCURIO, 2 February 2018.

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## INVESTMENT

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### **Brazil Circulates Proposal for WTO Investment Facilitation Deal**

Brazil submitted an extensive [draft proposal](#) for a potential agreement on investment facilitation to the WTO's General Council last week, in a bid to jumpstart more "structured discussions" on the subject.

The proposal, which was circulated on 1 February, serves as a response to the call made by 70 WTO members in a "[Joint Ministerial Statement on Investment Facilitation for Development](#)," which was released on 13 December on the margins of the WTO's Eleventh Ministerial Conference (MC11). (See Bridges Daily Update, [14 December 2017](#))

The MC11 statement followed the work done by the "Friends of Investment Facilitation for Development" (FIFD) group, which had led to informal discussions on the subject last year. The FIFD group had also helped convene a high-level investment facilitation meeting in Abuja, Nigeria, with the support of regional partners last November. (See Bridges Weekly, [9 November 2017](#))

That same MC11 document had confirmed that this group of members would begin holding "structured discussions with the aim of developing a multilateral framework on investment facilitation," along with welcoming any other interested members to join the initiative.

This framework, they said, would be "flexible" and "responsive" given members' respective priorities, while also preserving the right to regulate "in order to meet their policy objectives."

The group had also confirmed plans to meet early in the new year "to discuss how to organise outreach activities and structured discussions on this important topic," without setting a concrete date for doing so. The Brazilian proposal is the first formal document to emerge on investment facilitation and the WTO since MC11 drew to a close in mid-December.

#### **Illustrative example of a future deal**

In its submission, the Brazilian delegation clarifies that the draft proposal is not intended to serve as a negotiating text, but rather is meant to serve as a "concrete illustration" of what an agreement on investment facilitation could look like. The submission, they say, could help serve as a starting point for a "more focused and text-based discussion" on the subject, along with supporting outreach efforts towards bringing more WTO members on board.

The Brazilian text is more extensive and detailed compared to earlier proposals submitted by various delegations in 2017. The scope and the main elements, however, remain the same. These include articles that aim to improve the transparency, predictability, and efficiency of regulatory and administrative frameworks related to investment policies and measures. Proponents of these measures say that these would then provide a more stable and secure enabling environment for investors to undertake sustainable investments in host economies, thus promoting trade and economic growth.

The Brazilian proposal includes examples of articles that would strengthen institutional or "electronic" governance, such as by setting up a "single electronic window" that would

publish relevant documents and help streamline the application and admission procedures for incoming investments.

The proposal also includes an article that would establish a national focal point, in other words a delegated authority which would mediate and facilitate investor concerns with public authorities and would also operate the above-mentioned single electronic window.

In line with previous proposals submitted last year by other delegations, the Brazilian text emphasises that issues such as investment protection, dispute settlement "not foreseen" under current WTO dispute rules, and market access, as well as government procurement, are outside the ambit of an investment facilitation accord.

Brazil has also included a range of other illustrative articles, such as "voluntary principles and standards of corporate social responsibility" for investors to undertake in other countries, along with suggested provisions for special and differential treatment (S&DT) for developing country and least developed country (LDC) members. These provisions include technical assistance, additional time for implementing certain articles, and the exclusion of LDCs from meeting some requirements.

The South American country has also outlined how a potential "WTO Committee on Investment Facilitation" could work, including reviews on implementation, cooperation with other international agencies, and the potential establishment of subsidiary bodies.

### **Questions remaining**

Going forward, it remains to be seen how the proposal will be received among both current participants in the investment facilitation joint statement, as well as the WTO's wider membership. Earlier attempts to discuss investment facilitation-related issues at the General Council last year and in minister-facilitated meetings during MC11 were strongly opposed by a coalition of countries, which included India and South Africa.

Some sceptics of the investment facilitation initiative have suggested that the subject falls outside the organisation's mandate, while some have said the issue of investment facilitation is no different than the original "Singapore" issue of investment that had been considered for inclusion in the Doha Round of trade talks, only to be dropped from consideration.

Along with trade and investment, the other "Singapore" issues, so named for the location of the 1996 WTO ministerial which set up working groups to discuss certain subject areas, were trade facilitation, trade and competition policy, and transparency in government procurement. Only trade facilitation advanced to formal WTO negotiations from this working group process.

Another open question is whether and how the process for more "structured discussions" on new issues, such as investment facilitation, would be integrated within the WTO's structures and formal processes.

The investment facilitation talks are not the only new initiative being pursued by WTO member groups in the wake of MC11. Joint ministerial statements were also released on e-commerce and on micro, small, and medium-sized enterprises (MSMEs), along with a declaration on trade and women's economic empowerment. All of these drew the backing of several WTO members, who urged others to consider signing on.

ICTSD reporting.

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## CARBON MARKETS

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### European Parliament Backs Post-2020 Carbon Market Reform

The EU's legislative body adopted a highly-anticipated deal to strengthen the bloc's Emissions Trading System (ETS) in the post-2020 period on Tuesday 6 February. The compromise package was approved by a large majority of lawmakers, with 535 votes to 104, and 39 abstentions. EU member states will now have a final vote on the reform deal, though this is largely seen as a formality.

"We have done our best to agree an ambitious update. The ETS has had many detractors over the years. We tackled many problems – from a carbon price that was clearly too low to make the market function to the extremely difficult issue of striking the balance between our environmental ambition and the protection of energy-intensive European industry," [said](#) Julie Girling, the European Parliament's rapporteur on the ETS reform and a British lawmaker for the European Conservative and Reformist group.

The cap-and-trade scheme is a key tool in the EU's commitment under the UN's Paris Agreement to cut greenhouse gas emissions by at least 40 percent compared to 1990 levels by 2030. It caps emissions for 12,000 installations at an annually decreasing level and allows companies to trade carbon permits among themselves to drive cost-efficient emissions reductions.

However, an oversupply of carbon permits has weakened its price signal, with prices tumbling by almost 70 percent since early 2008. This prompted the European Commission to table a reform proposal in 2015, which was followed by a complex negotiating process to lead to the final result.

#### Strengthening the EU carbon market

The reform measures, agreed in November after months of intense discussions between the European Parliament, the Council, and the Commission, are meant to address the glut of permits and strengthen the EU's carbon price signal. (See Bridges Weekly, [16 November 2017](#))

In the post-2020 period, companies will face tighter pollution limits, with the overall cap on the total volume of emissions decreasing by 2.2 percent annually, compared to the current rate of 1.74 percent. This change is meant to help companies cut emissions by 43 percent relative to 2005 levels by 2030.

While the share of free allocation of carbon permits will remain at 43 percent, they will be more strictly targeted towards companies at a higher risk of relocating to countries with less stringent emissions regulations, a phenomenon known as "carbon leakage."

As a short-term measure to drive up prices, the volume of permits that will be placed in the Market Stability Reserve (MSR) will double to 24 percent of permits in circulation over a five-year period. Some allowances in the reserve will also be invalidated from 2023 if they surpass the number of permits sold at auction in the previous year. The MSR was agreed in 2015 as a tool to absorb excess permits from 2019 onwards.

Under the agreement, two funds will support modernisation and innovation in the EU's power system. A "modernisation fund" will assist lower-income EU states in upgrading their

power sectors, while an “innovation fund” will finance investments in renewable energy, energy innovation, and carbon capture and storage.

Following Tuesday's vote, EU carbon permits were trading at around €8.90 per tonne, up 15 percent from when the reform deal was struck last November. Critics warn, however, that this price is still insufficient to spur the necessary transition towards low-carbon investments and energy sources.

"The changes approved today have already helped to push prices up from the paltry €5 per tonne we had a year ago, but won't bring us anywhere near the level needed to meet our Paris climate agreement commitments. Member states now have a duty to come up with national policies to boost the carbon price, for example by introducing national minimum prices that lie above the current ETS price," [said](#) Bas Eickhout, a Dutch lawmaker for the Green Party in the European Parliament, on the day of the vote.

### **New Jersey to rejoin East Coast carbon market**

On the other side of the Atlantic, newly-elected Democratic Governor Phil Murphy of the US state of New Jersey has signed an executive order to begin the process of rejoining the East Coast's cap-and-trade scheme. New Jersey had pulled out from the Regional Greenhouse Gas Initiative (RGGI), as the scheme is known, under its previous Republican Governor Chris Christie.

"Five years ago, New Jersey faced Superstorm Sandy. That storm and the devastation it brought to our state was an all-too-real look at our new normal if we do not take climate change seriously," Murphy said in announcing the order on 29 January. "Climate change is real, and a real threat to our state. Doing nothing is not an option."

Superstorm Sandy was a powerful hurricane which ravaged both some Caribbean island nations as well as various states on the US East Coast and some Canadian provinces. New Jersey and New York were among those US states that were hardest hit, both from the high winds themselves as well as from the intense rainfall and resulting “storm surge.”

Virginia, another state on the East Coast which saw Democrats make significant electoral gains in the 2017 state-wide elections, might be the next US state to join the RGGI, analysts suggest, either building on an executive order issued by the previous governor and/or through legislation. While [a bill](#) aimed at enacting the necessary cap-and-trade scheme to meet the RGGI's requirements is being considered in the state legislature, whether it can muster the necessary votes in Richmond to move forward remains in question after the effort stumbled in committee.

Given its large number of coal-fired power plants, bringing Virginia on board would increase the size of the carbon market by more than 40 percent.

These efforts are another example of US states stepping up their climate ambition to fill the void left by the Trump administration. Last June, US President Donald Trump announced his intention to withdraw the world's largest emitter from the Paris Agreement and is rolling back other federal climate policies that had been adopted under his predecessor, Democratic President Barack Obama. (See Bridges Weekly, [8 June 2017](#))

Many US sub-national actors, including governors, mayors, philanthropists, private sector representatives, and civil society leaders have since promised to continue tackling climate change irrespective of what the federal government does.

ICTSD reporting; “Parliament rubber-stamps EU carbon market reform,” EURACTIV, 7 February 2018; “New Jersey to Rejoin East Coast Carbon Market, Virginia May Be Next,” INSIDE CLIMATE NEWS, 29 January 2018.



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## AFRICA

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# African Leaders Prep for Summit on Continental Trade Deal

African national leaders concluded the 30<sup>th</sup> Ordinary Session of the Assembly of the African Union last week, with the summit adopting a series of decisions on issues related to continental economic integration – including on the next steps for the Continental Free Trade Area (CFTA), as well as the free movement of people and air travel.

The two-day meeting in Addis Ababa, Ethiopia, also saw participants discuss progress towards realising the continent's own development vision, [Agenda 2063](#), as well as the UN's [2030 Agenda for Sustainable Development](#). The African Union (AU) and the UN signed a framework agreement on implementing those two broad development-oriented agendas in a mutually supportive way.

High on the meeting agenda was the fight against corruption, a topic chosen as this year's summit theme. Various African leaders emphasised that despite a growing recognition of the necessity to tackle this problem, more work needs to be done at all levels.

"We must seize the opportunity of the theme of this year on the fight against corruption to take decisive action against this scourge that impedes development and undermines social cohesion," [said](#) Moussa Faki Mahamat, Chairperson of the AU Commission, in his address to the meeting.

The summit was also marked by the [election](#) of Rwandan President Paul Kagame as the new AU chairperson. He succeeds Guinean President Alpha Condé and will guide the work of the organisation over the coming year.

### CFTA summit: the final countdown?

African leaders agreed to hold an extraordinary summit on 21 March in Kigali, Rwanda, with the goal of considering legal texts related to the CFTA and signing the agreement establishing the free trade area. It will be preceded by an extraordinary session of the Executive Council on 19 March, also in Kigali.

"Scale is essential. We must create a single continental market, integrate our infrastructure, and infuse our economies with technology. No country or region can manage on its own. We have to be functional, and we have to stay together," said Kagame in his [opening remarks](#) to the AU Assembly.

The projected mega-FTA is expected to bring together the 55 members of the African Union into a continental market with a cumulative GDP exceeding US\$3.4 billion and a total population of over one billion people. If concluded and implemented successfully, it would become the largest free trade area in the world in terms of membership.

Negotiations towards establishing the CFTA were launched in 2015 with the initial goal of concluding a first phase covering trade in goods and services by the end of 2017. Despite significant progress achieved at the end of last year, however, sources say that members are still working to finalise talks on all aspects related to phase one negotiations. Phase two will move the talks towards discussing topics such as competition policy and intellectual property. (See Bridges Africa, [8 December 2017](#))



While negotiators completed their work on the Agreement Establishing the Continental Free Trade Area and the Protocol on Trade in Services in November 2017, additional discussions are needed to resolve remaining sticking points involving trade in goods. This includes aspects related to rules of origin, sensitive and excluded products, trade remedies, and infant industries.

Negotiations resumed this week with a view towards bridging remaining differences ahead of the March summit, and the process of legal scrubbing is currently underway for the texts that have already been finalised.

The AU also [announced](#) last week at the summit a “strategic partnership” with the AfroChampions Initiative, a group of public-private [projects](#) driven by well-known African government officials and business leaders. This new collaboration will aim to promote the CFTA by boosting engagement with the continent’s entrepreneurs.

“By sharing the reflections of its members and their ‘on-the-ground’ experience, the AfroChampions Initiative will allow us to develop more relevant approaches on many technical subjects – especially with regards to common customs tariffs, facilitation of intra-African trade, and free movement of workers, goods, and capital,” [said](#) Albert Muchanga, the AU Commissioner for Trade and Industry.

### **Free movement of people, air travel**

In another effort to strengthen continental integration, the AU Assembly [adopted](#) a protocol that provides for the progressive implementation of free movement of people, right of residence, and right of establishment on the continent, as well as a related draft implementation roadmap.

While many observers have noted that free movement of people could play a central role in unleashing the continent’s economic potential, [some](#) have also warned that implementing this policy in practice will require real commitment from member states, which could prove challenging given the [divisions](#) which have emerged during the discussions so far.

While describing the importance of having the CFTA in place, Kagame said that “freedom of movement for people in Africa is equally important,” and suggesting that in his view the goal could be reached this year.

The AU summit also [saw](#) the formal establishment and launch of the Single Market for Air Transport in Africa (SAATM), a move aimed at enhancing connectivity at a continental level and developing the aviation and tourism sectors. “This is an initiative whose execution has been long awaited,” noted AU Commission Chairperson Moussa Faki Mahamat.

So far, 23 member states have committed to the immediate implementation of the 1999 Yamassoukro [decision](#), which provides for the liberalisation of air transport services on the continent. They will be the initial members of the SAATM. This list includes Benin, Burkina Faso, Botswana, Cape Verde, Republic of Congo, Côte d’Ivoire, Egypt, Ethiopia, Gabon, Ghana, Guinea Conakry, Kenya, Liberia, Mali, Mozambique, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Swaziland, Togo, and Zimbabwe.

“The realisation of a Single African Air Transport Market is vital to the achievement of the long-term vision of an integrated, prosperous, and peaceful Africa under the AU Agenda 2063,” [said](#) an AU press release.

Like the CFTA and the free movement of people, the creation of a unified air transport market in Africa is among the flagship projects of the first ten-year implementation [plan](#) of Agenda 2063.

"By committing to break down these barriers, we will send a tremendous signal in Africa and beyond, that it is no longer business as usual," said Kagame at the AU summit.

### **UN-AU partnership**

Speaking during the AU Assembly's opening ceremony, UN Secretary-General António Guterres reaffirmed the UN's strong commitment to work towards addressing the continent's most pressing challenges.

At a time of growing debate over the benefits of multilateralism, he [said](#) that the UN and the AU "can show that multilateralism is our best and only hope."

The two intergovernmental organisations [signed](#) the AU-UN Framework for the Implementation of Agenda 2063 and the 2030 Agenda for Sustainable Development, which aims at fostering greater cooperation and ensuring that both agendas are effectively integrated into African countries' national development plans.

"Our two agendas – the 2030 Agenda and Agenda 2063 – are mutually reinforcing. Eradicating poverty in all its forms is our overarching priority," said Guterres.

Through taking a harmonised approach and using this new framework agreement to guide their shared work, the AU and the UN aim to optimise resource mobilisation and use, while avoiding duplication of efforts.

Going forward, the UN chief also identified five areas for enhanced partnership between the UN and the AU: peace and security; inclusive and sustainable development; climate change; migration; and the fight against corruption.

### **Supporting gender equality**

Another theme that received significant attention was gender equality, with the AU Assembly calling on member states to implement all the commitments made in the Solemn Declaration on Gender Equality in Africa.

Adopted in July 2004, the [declaration](#) reaffirmed African countries' "commitment to continue, expand, and accelerate efforts to promote gender equality at all levels," followed by a series of 13 specific pledges on various gender-related matters.

"For women especially, we need to unreservedly accord them their full rights and roles," said Kagame during the opening ceremony.

African Union officials at the event [said](#) that the AU has done well to ensure that its leadership roles see strong representation from women, while calling for more work to be done to address the gender leadership gap both within the organisation and at the national level.

Guterres, for his part, noted in his speech the valuable role that women and young people can play in bringing African countries' development goals to fruition.

"Women's full participation makes economies stronger and peace processes more successful," he said.

ICTSD reporting: "AU Summit Focuses on African Transformation, Coordination of Sustainable Development Agendas," IISD, 1 February 2018; "UN-AU leaders sign Framework for Implementation of Agenda 2063 and 2030 Agenda for Sustainable Development," UNECA, 27 January 2018.

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## WORLD TRADE ORGANIZATION

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### WTO Roundup: New Safeguard Consultation Requests on US Tariffs, Biodiesel Case Update

The past few weeks have seen a series of developments within WTO dispute settlement, including the filing of new cases as well as the release of a long-awaited panel report on European duties involving imported biodiesel from Indonesia.

Outside the realm of formal dispute settlement, China, Chinese Taipei, and South Korea have all tabled requests over the past week for consultations on the US' new global safeguard duties, which affect imported solar cells and modules as well as residential washing machines.

#### **Biodiesel disputes move forward**

In recent weeks, the row between the European Union and two of the world's top biodiesel exporters, namely Argentina and Indonesia, has seen some significant developments – both within WTO dispute settlement and in the EU judicial system.

The EU had begun investigating imports of biodiesel from both countries in 2012, following industry complaints which alleged that the fuel was being sold on the European market at prices below normal value – a practice known as dumping. The bloc ultimately deemed that dumping was occurring and was causing material injury to the EU's own producers, and moved to impose anti-dumping duties as a result.

The EU move prompted both Buenos Aires and Jakarta to file cases at the global trade club, challenging different aspects of the investigation and the duties, as well as the European bloc's anti-dumping regulation.

The WTO Appellate Body later issued its findings on the EU-Argentina dispute ([DS473](#)) in October 2016, largely agreeing with an earlier dispute panel which had issued a mixed ruling in the case. (See Bridges Weekly, [13 October 2016](#))

The EU subsequently adjusted the duties for Argentina downwards, but left those for Indonesia intact, according to the European Commission's [implementing regulation](#) from September 2017 in response to the WTO ruling.

More recently, a dispute panel ([DS480](#)) issued its ruling on the EU-Indonesia case in late January, largely upholding Indonesia's claims in the case, with the exception of claims involving the calculation of provisional level of dumping and the subsequent collection of duties from one of the Indonesian biodiesel producers being investigated. It also issued a mixed assessment on a separate claim involving the EU's alleged failure to determine whether "significant price undercutting" was in play.

The claims and related findings focused largely on the EU's approach to calculating production costs and how it set up the "normal value" that would be used to determine whether dumping was at work. Indonesia had also questioned whether the EU had imposed duties that were above the "dumping margin," in other words the difference between normal value and the export price used for comparison, among other concerns.

There is now a 60-day window from when the report was published for either the EU or Indonesia to appeal the dispute panel's findings, which would then lead to a review by the

WTO's Appellate Body. Otherwise, the report would be adopted by the Dispute Settlement Body.

In related news, the past month has also seen the biodiesel row enter a new chapter in the EU's judicial process. Over a year ago, the European Court of Justice (ECJ) had [moved](#) to annul the application of definitive anti-dumping duties and the collection of provisional duties from Argentina and Indonesia. The ECJ serves as the bloc's highest court.

The EU's foreign affairs council announced in late January, days before the WTO dispute panel report was released, that it would terminate its appeals at the ECJ involving six judgements involving the biodiesel duties.

"The Court had initially annulled two articles in a Council implementing regulation imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of biodiesel originating in Argentina and Indonesia," explained the 22 January Council [conclusions](#), noting that the Council had moved to appeal the ECJ judgements in November 2016.

### **South Korea, China, Chinese Taipei ask for safeguard consultations with US**

US President Donald Trump's move to impose [hefty safeguard tariffs](#) on imported solar cells or modules and washing machines, with some country exceptions, has prompted consultations requests from three WTO members in the organisation's Committee on Safeguards. (See Bridges Weekly, [25 January 2018](#))

In the case of the washing machine tariffs, the US has imposed these safeguard measures for three years. Solar cells and modules face a four-year tariff. In both cases, those tariffs decrease over time, and in case of the washing machines, the measure has been applied as a tariff-rate quota.

Under global trade rules, WTO members can temporarily curb imports in cases of import surges that either cause substantial harm to domestic industry or pose a threat of doing so. However, that same WTO member must also give affected countries who have "substantial interest" in exporting the good in question with "adequate" opportunity to hold consultations beforehand.

China submitted this week two separate consultations requests, dealing with [solar cells](#) and [washing machines](#), respectively, and citing various aspects of the WTO's Agreement on Safeguards and the General Agreement on Tariffs and Trade (GATT). It has also asked for these discussions to be held within days, suggesting the dates of 9 or 12 February.

South Korea had already tabled two consultations requests in late January, with one referring specifically to the safeguard tariffs that the US has imposed on [washing machines](#) and the other to the safeguards planned for [imported solar cells](#). The [request](#) by Chinese Taipei was circulated shortly thereafter, and involves the safeguards applied to solar cells. Neither South Korea nor Chinese Taipei have suggested specific dates for such talks, though they have called for these to happen soon.

Seoul's consultations requests alleged that the US actions are not in line with the substantive and procedural requirements set forth in WTO safeguard rules, as well as most-favoured nation treatment obligations and other related requirements under the GATT. The two South Korean consultations requests flag in particular the importance of providing a "sufficient amount of time for a meaningful exchange" in that context.

WTO members can apply safeguard measures under the organisation's rules, but in turn are usually meant to compensate the targeted exporting members. How much they would have to provide in terms of compensation would be agreed on during the consultation process, and the members involved would have approximately one month to agree on those terms.

The three requesting members each indicated that they would like to address the trade compensation issue with the US in relation to the safeguard measures.

Should a mutually acceptable arrangement not be reached in that month-long timeframe, the affected exporting members have up to three months from when the safeguards were applied to suspend "substantially equivalent concessions or other obligations," though this response could get blocked by the WTO's Goods Council and also faces other limitations, which are outlined in the organisation's safeguard rules.

### **Other cases put forward**

Returning back to formal dispute settlement, some new cases have also arrived at the WTO in recent weeks, such as a complaint ([DS538](#)) from the United Arab Emirates involving anti-dumping measures that Pakistan applies on a type of packaging used for foodstuffs, along with a consultations request from Australia on the use of various measures which it says makes it harder to sell imported wine in the supermarkets of certain Canadian provinces ([DS537](#)).

In both of those cases, the WTO members involved have a minimum period of 60 days in which to hold consultations and attempt to find a mutually agreed solution, after which the complainant can ask for a dispute panel to hear the case.

ICTSD reporting.

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## WILDLIFE TRADE

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### National Efforts Continue to Curb Ivory Trade, Protect Elephant Populations

Last week, Hong Kong lawmakers signed off on legislation which would outlaw all sales of ivory by the beginning of the year 2022. The bill, which would be implemented gradually over that timeframe, includes hefty penalties for offenders and would also require the disposal of ivory stocks, among other provisions.

The legislation marks the latest national-level effort to tamp down on ivory trade and protect elephant populations, in light of recommendations and requirements set out under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

CITES is an international accord that regulates cross-border trade in flora and fauna, and has been in force since 1975. It sets a binding international framework for its parties, though crafting laws to meet its requirements is left to national legislators.

On ivory trade, CITES has banned all commercial trade in ivory from African elephants for decades, though occasional "one-off" sales have been permitted under certain circumstances. There are also exceptions for trading ivory acquired prior to CITES taking effect, which is sometimes referred to as "antique" ivory.

#### **"Breakthrough moment," environmental advocates say**

Hong Kong is considered a major market for ivory sales, and concerns have been raised that illegal trade was still booming within the Asian economy, along with legal trade.

"Hong Kong has always been the 'heart of darkness' of the ivory trade with a 670 tonne stockpile when international trade was banned in 1989," [said](#) Alex Horfford, WildAid Hong Kong Campaigner. "We exposed how traders were using paperwork of the legal trade to launder freshly poached ivory into the system."

"The news that Hong Kong will ban the sale of ivory is a breakthrough moment in the battle to save elephants from extinction," [said](#) Erik Solheim, Executive Director of UN Environment.

The UN Environment chief praised the role of civil society and legislators in leading to this moment, while warning that more must be done to "close loopholes that still allow the illegal trade of ivory to continue" in other parts of the world.

In recent years, additional efforts have been made to close domestic ivory markets, in light of the risk that illicit trading could slip through under the guise of legal activities. In October 2016, CITES parties agreed to a recommendation involving shutting down domestic markets for legal trade should these exacerbate illegal sales or elephant poaching, though that recommendation is non-binding. (See Bridges Weekly, [13 October 2016](#))

In related news, CITES sent a [formal notification](#) last December to its parties asking for a status update on the state of their ivory markets, given this recommendation. It also asked about enforcement measures to clamp down on illegal trade or elephant poaching. It set a 15 April deadline for doing so, given the necessary preparatory time for CITES' Standing Committee meeting in the Russian city of Sochi this coming October.

The move from Hong Kong follows on many other national or regional-level developments in recent years. The US and China both announced plans in 2015 to put in place prohibitions on trading ivory, and the latter country's ban entered into full force at the beginning of this year.

Within the EU, the CITES request for a status update was up for discussion during a [meeting](#) of the Committee on Trade in Wild Fauna and Flora in Brussels on 6 February, though the results of those talks were not clear at press time.

The EU has recently moved to end raw ivory exports, with its executive arm [instituting](#) additional rules on the subject late last year. EU lawmakers have also been weighing whether to ban ivory trade fully within the bloc, given the current exceptions under CITES for trading antique ivory from before CITES took effect.

The European Commission recently held a [public consultation](#) on the state of both legal and illegal ivory trade within the 28-nation bloc, along with potential measures to take, though the results have not yet been released.

According to an October 2017 [press release](#), while poaching of African elephants has dropped and populations are moving towards more stable levels, the CITES secretariat has warned that that illegal ivory trade sales remain significant despite continued law enforcement efforts.

ICTSD reporting; "Hong Kong Moves to Ban All Ivory Sales, Closing a Loophole," THE NEW YORK TIMES, 31 January 2018; "Laos is 'world's fastest growing' ivory market," BBC NEWS, 28 September 2017; "Hong Kong Bans Trade in Elephant Ivory by 2022," ENVIRONMENT NEWS SERVICE, 5 February 2018.



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## EVENTS & RESOURCES

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# Events

### Coming Soon

11-13 February, Nairobi, Kenya. FOREIGN INVESTMENT OPPORTUNITIES FOR AGRICULTURE. This training workshop will focus on a range of tools available to facilitate sustainable, responsible investment in the farm sector, particularly in the Common Market for Eastern and Southern Africa (COMESA) and the East African Community (EAC). Additional details, including a concept note and full workshop programme, are available at the International Institute for Sustainable Development (IISD) [website](#), given IISD's role as one of the event organisers. To learn more, visit the IISD [website](#).

14-16 February, New York, US. FIRST GLOBAL CONFERENCE OF THE PLATFORM FOR COLLABORATION ON TAX - TAXATION AND THE SUSTAINABLE DEVELOPMENT GOALS. This event is being organised by the Platform for Collaboration on Tax (PCT), which is a joint initiative involving the International Monetary Fund (IMF), the Organisation for Economic Co-operation and Development (OECD), the UN, and the World Bank Group (WBG). This is the PCT's first such international conference, looking at topics such as how tax affects trade, investment, and sustainable growth, along with the societal and developmental implications of tax policy, among other subjects. The wider focus will be on the role of tax policy in meeting the Sustainable Development Goals (SDGs). More information is available on the World Bank [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 February: Dispute Settlement Body

14 + 16 February: Trade Policy Review Body – Malaysia

### Other Upcoming Events

20 February, online. GGKP WEBINAR: WIN-WIN SOLUTIONS FOR CLEAN ENERGY, SMART AGRICULTURE, SANITATION, AND RESILIENT COMMUNITIES. This webinar is being organised by the Green Growth Knowledge Platform (GGKP) and will focus on communities at risk of climate change, along with how to ensure these have access to energy, sanitation, and development opportunities. Speakers will share experiences from past projects aimed towards those ends. The webinar will be held from 10-11:30 AM CET on the announced date. To learn more and to register, visit the GGKP event [website](#).

26 February, London, UK. NEXT STEPS FOR THE INDICATORS OF ILLEGAL LOGGING. This Chatham House workshop will focus on illegal logging, looking at different efforts underway in monitoring policy directed at the forestry sector and using this monitoring information to inform future initiatives. Please note that event attendance is by invitation only. More information is available at the Chatham House [website](#).

26 February, online. CHINA'S GLOBAL GOVERNANCE AND THE ASIAN INFRASTRUCTURE INVESTMENT BANK. This Chatham house webinar will feature as its guest speaker Lee Jones, Associate Professor in International Politics, School of Politics and International Relations, Queen Mary, University of London. The webinar will focus on the Asian Infrastructure Investment Bank (AIIB) and look at Beijing's past and present history in the field of development finance. To learn more, visit the Chatham house [website](#).

26 February, Geneva, Switzerland. WHO-WIPO-WTO TECHNICAL SYMPOSIUM ON SUSTAINABLE DEVELOPMENT GOALS: INNOVATIVE TECHNOLOGIES TO PROMOTE HEALTHY LIVES AND WELL-BEING. This event will take a specific focus on health technologies, looking at issues such as global health data, the relationship between policy choices and technological innovation, and related topics. The event will be opened by the directors-general of the World Health Organization (WHO), the World Intellectual Property Organization (WIPO), and the World Trade Organization (WTO). More information is available [here](#).

27 February, London, UK. STAYING ALIGNED? THE FUTURE OF UK-EU TRADE. This Chatham House event examines the next chapter in the Brexit talks, with a specific focus on the future UK-EU trading relationship and the potential for regulatory alignment between the two sides. Please note that event attendance is by invitation only. To learn more, visit the Chatham House [website](#).

28 February, Geneva, Switzerland. PLURILATERALS, THE NEW WAY FORWARD IN GLOBAL TRADE? This roundtable discussion is being held at the Graduate Institute of International and Development Studies and will focus on the next steps for the various multi-country initiatives launched during the WTO's Eleventh Ministerial Conference (MC11) in Buenos Aires, Argentina, last December. Roundtable participants will include ambassadors, deputy ministers, and agency heads of intergovernmental organisations which work on trade. The event will be followed by a reception. To learn more and to register, please visit the Graduate Institute event [website](#).

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## Resources

TRIGGERING THE TRADE TRANSITION: THE G20's ROLE IN RECONCILING RULES FOR TRADE AND CLIMATE CHANGE. By James Bacchus for the International Centre for Trade and Sustainable Development (ICTSD) (February 2018). This new paper is part of an ICTSD series relating to the intersection of trade and climate policy, with a focus on the potential role of the G20 in this context. The paper is available for download at the ICTSD [website](#).

MULTILATERALISING TELECOMS: A STEP-CHANGE IN NEED OF A STEP? By Rohan Kariyawasam for the RTA Exchange (February 2018). This paper examines the provisions of regional trade agreements (RTAs) which related to telecommunications used in electronic commerce. It notes the importance of telecommunications infrastructure in this context, as well as harmonisation through the global trading system. This paper was produced under the RTA Exchange, which is jointly implemented by the International Centre for Trade and Sustainable Development (ICTSD) and the Inter-American Development Bank (IDB). The paper is available for download at the ICTSD [website](#).

MAKING BLENDED FINANCE WORK FOR THE SUSTAINABLE DEVELOPMENT GOALS. Published by the Organisation for Economic Co-operation and Development (OECD) (January 2018). This paper looks at the concept of "blended finance," namely on the use of development finance for leveraging greater capital and thus addressing the funding needs for meeting the Sustainable Development Goals (SDGs) and Agenda 2030 for Sustainable Development. The publication can be found at the OECD's [iLibrary](#).

INVESTMENT TRENDS MONITOR: SPECIAL EDITION. Published by the UN Conference on Trade and Development (UNCTAD) (February 2018). This special edition of UNCTAD's investment trends publication takes a specific focus on the potential implications of the US tax reform bill for global foreign direct investment (FDI). It outlines, for example, which measures within the tax reform legislation will affect the US investment climate and the international investment regime for multinational enterprises, among others. The publication is available via the UNCTAD [website](#).

THE END OF THE LINE? HOW TO SAVE OUR FISH. By Mark Halle for the International Institute for Sustainable Development (IISD) (January 2018). This commentary examines the role of the WTO fisheries negotiations in achieving target 14.6 of the Sustainable Development Goals (SDGs), which refers to the elimination of subsidies to illegal, unreported, and unregulated (IUU) fishing as well as prohibitions on subsidies which lead to overcapacity and overfishing by the year 2020, taking into account developing country considerations and special and differential treatment. The author looks at the current context as well as the road ahead for achieving this target. The paper is available at the IISD [website](#).

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