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TRADE AGREEMENTS

Questions Loom for TPP Timing
as Rhetoric Escalates on US
Campaign Trail.....1

AGRICULTURE

Farm Subsidy Data Gaps
Hampering Progress in WTO
Talks, Chair Says.....4

DISPUTES

US Challenges China
Compliance in Chicken Duties
Dispute8

CLIMATE CHANGE

Countries Begin Work on
Operationalising Paris Climate
Deal.....10

DISPUTES

Disputes Roundup: New
Compliance Panel Established
in US-Mexico Tuna Case.....12

EVENTS & RESOURCES

Events14
Resources16

TRADE AGREEMENTS

Questions Loom for TPP Timing as Rhetoric Escalates on US Campaign Trail

Two months ahead of the nominating conventions for the US' main political parties, the remaining presidential contenders continue to escalate their rhetoric on trade deals, including the Trans-Pacific Partnership Agreement (TPP).

With leading candidates from both main political parties in open opposition to the current version of the 12-country deal, the question remains as to whether current US President Barack Obama will be able to garner enough support for Congress to approve the agreement's terms while he remains in office.

However, the deep divides over trade have also put congressional lawmakers in difficult positions, given the potential risks to many of their own campaigns for re-election. This November will not just see the election of the new US president, but will also see the entire 435-member House of Representatives and 34 of the Senate's 100 seats also up for a vote.

Trump, Clinton push against TPP

Donald Trump, the presumptive nominee for the Republican Party, has pledged to "get rid of TPP," according to reports of a recent Spokane, Washington, event where he spoke to his supporters. The real estate magnate has repeatedly compared the 12-country deal to the existing North American Free Trade Agreement (NAFTA) between the US, Canada, and Mexico.

He has also pledged to end NAFTA and instead negotiate new arrangements, and has advocated for a negotiating approach that would prioritise trade deals with individual countries, rather than country groups. The latter position stands in stark contrast to the policy of the current Obama Administration, which says that negotiating with such groups is more efficient. (See Bridges Weekly, [28 April 2016](#))

Hillary Rodham Clinton, the leading Democratic Party candidate, has also expressed her opposition to the deal in its current form despite having previously touted it as a "gold standard" as Secretary of State, when the TPP was still under negotiation.

Last week, she outlined some of those views in further detail in response to [a questionnaire](#) by the Oregon Fair Trade Campaign, indicating what a deal would require to meet her approval and where she finds the Pacific Rim pact to be lacking.

"I've laid out a three-part test for any trade agreement to earn my support: it must (1) create American jobs, (2) raise wages, and (3) improve our national security," said Clinton in response to a question on how the rules of trade should be designed.

"After looking at the final terms of the Trans-Pacific Partnership agreement, including the need to do more on currency manipulation and its weak rules of origin standard for what counts as a car that can get treaty benefits, I opposed the agreement because it did not meet my test," she said.

Clinton also flagged the intellectual property rights provisions in the TPP as a reason for her opposing it, while calling the investor-state dispute settlement (ISDS) terms in the deal "flawed." The presidential candidate also cautioned that the TPP does not do enough to tackle climate change.

"As president I will ensure that our trade policy supports, rather than undermines, our policies to reduce emissions at home and encourage climate action abroad," she said. How she would do so was not immediately made clear.

She also said she would oppose the TPP deal both "before and after the election," responding to a question about whether she would be against a vote on the trade deal in the "lame duck session" after the November election but before the next president assumes office.

Obama pushes TPP, warns about RCEP

Amid the campaign trail rhetoric on trade, the White House has continued its efforts to rally support around the TPP, despite there not currently being a clear timeline for a congressional vote.

In a [2 May op-ed](#) for the Washington Post, the US President highlighted the strategic and economic importance of the TPP, while warning that another Asia-Pacific trade initiative underway would not meet the same standards.

"As we speak, China is negotiating a trade deal that would carve up some of the fastest-growing markets in the world at our expense, putting American jobs, businesses, and goods at risk," he said.

This deal – a 16-country initiative known as the Regional Comprehensive Economic Partnership (RCEP) – has been under negotiation since 2013 and would cover a population of over three billion people if completed.

Along with China, the RCEP also involves all ten members of the Association of Southeast Asian Nations (ASEAN), as well as Australia, India, Japan, Korea, and New Zealand. The group's leaders [confirmed in November](#) that they wish to conclude an agreement in 2016, having missed an earlier target to finish talks by end-2015. (See Bridges Weekly, [18 February 2016](#))

Initially launched in 2012, that initiative does include several countries that are also part of the TPP, namely Australia, Brunei, Japan, Malaysia, New Zealand, Singapore, and Vietnam. (See Bridges Weekly, [21 November 2012](#))

"[RCEP] won't prevent unfair competition among government-subsidised, state-owned enterprises. It won't protect a free and open Internet. Nor will it respect intellectual property rights in a way that ensures America's creators, artists, filmmakers, and

entrepreneurs get their due. And it certainly won't enforce high standards for our workers and our environment," said Obama.

Repeating past arguments against allowing China to write the "rules of the road" on trade, the US President argued that the TPP would meet each of the goals where RCEP is allegedly lacking.

The twelfth RCEP round was held in the Australian city of Perth last month, with another round scheduled for 12-18 June in Auckland, New Zealand.

US congressional leaders: TPP unlikely to pass in 2016

As the verbal sparring continues both between presidential candidates and with the current Obama Administration in Washington, leaders in Congress have warned that a vote on the trade deal this year is, in any case, unlikely.

"The biggest problem right now is the political environment to pass a trade bill is worse than any time I've been in the Senate because we're in the middle of this president election year, [and] the candidates are all against what the president has negotiated," said Senate Majority Leader Mitch McConnell in comments last week to Agri-Pulse.

The Republican senator, who represents the US state of Kentucky, suggested that the deal could still be revised further down the road to address some of the concerns raised by politicians. "Trade promotion authority is for six years," he noted, referring to the legislation enacted last year that set the terms for negotiating and approving international trade deals. (See Bridges Weekly, [2 July 2015](#))

New Zealand TPP bill introduced

Meanwhile, other TPP signatories are advancing their own ratification processes, with an omnibus bill [submitted](#) to New Zealand's Parliament this week on the subject, known as the Trans-Pacific Partnership Agreement Amendment Bill.

"This Bill will make all domestic legislative changes required to comply with New Zealand's obligations in TPP, with the exception for obligations related to plant variety rights, which New Zealand has a three year period following entry into force to implement," said Minister of Trade Todd McClay.

The trade official also noted that most of the country's domestic laws and policies are already in line with the obligations that New Zealand would be taking on under TPP.

Ratification efforts are also underway in fellow TPP signatories, with debate having already begun in the Japanese Diet, and a vote expected as soon as this autumn.

According to the [Office of the US Trade Representative](#), a 3 May meeting in Washington reviewing the implementation of the existing US-Australia FTA saw officials from both sides discuss progress on TPP ratification.

ICTSD reporting; "McConnell: Outlook 'bleak' for TPP this year," POLITICO, 5 May 2016; "US Presidential Candidates Sour on Free Trade," VOICE OF AMERICA, 8 May 2016; "Trump vows to 'rip up' all trade agreements," THE HILL, 3 March 2016; "Trump calls for trade deals with individual countries," REUTERS, 11 March 2016; "Oshima: Diet seen voting on TPP in fall," THE JAPAN NEWS, 1 May 2016.

AGRICULTURE

Farm Subsidy Data Gaps Hampering Progress in WTO Talks, Chair Says

"Troubling" delays in reporting farm subsidies to the WTO are holding up efforts to negotiate new trade rules, the chair of the organisation's agriculture talks said on Monday.

Around six out of seven – or 85 percent – of the trade body's 162 members are currently behind in their commitments, said New Zealand Ambassador Vangelis Vitalis, at an informal meeting of the WTO's agriculture negotiating committee that was open to the full membership.

Only two dozen countries are up-to-date in reporting domestic support levels, the chair said.

Most trade negotiators consider that better global rules on domestic support for agriculture should be a priority, reported Vitalis, with many seeing the topic as a potential outcome for the WTO's upcoming ministerial conference at the end of next year. (See Bridges Weekly, [10 March 2016](#))

At a separate informal meeting with the heads of Geneva delegations the same day, WTO Director-General Roberto Azevêdo urged countries to move quickly "towards identifying concrete outcomes" for the ministerial.

But Vitalis warned that data gaps could hamper members' efforts to do so.

"We cannot negotiate in the dark," he said.

Major economies behind

A number of major economies are among those behind in their notifications, a new document from the Cairns Group of farm exporting nations suggests.

The analysis, which was tabled as an input for the agriculture negotiating meeting on Monday, showed that Japan and the US had not reported any data for years since 2012, while the EU has most recently notified its farm support for the 2012/2013 marketing year. China and India have only reported their farm subsidy spending up to the year 2010.

Brazil and Russia have both provided data on their farm support in 2014, with Moscow doing so in recent weeks. (See Bridges Weekly, [4 May 2016](#))

The Cairns paper, a copy of which has been seen by Bridges, looks at domestic support spending among the top ten agricultural traders at the WTO, without explicitly drawing any conclusions about the trends that the subsidy notifications show.

"It's a factual document," one source familiar with the analysis said.

Fully compliant: Norway and New Zealand, Cambodia and Congo

Trade sources told Bridges that Norway and New Zealand are the only developed countries among the two dozen WTO members that have fully complied with their reporting commitments.

The other countries that are up-to-date include smaller developing countries such as Cambodia, Chad, Congo, Costa Rica, Fiji, Guatemala, and Tunisia.

One official noted that the US had also not notified its support since it enacted the 2014 Farm Bill.

"That would have added value," the source said.

However, another official said that, while tackling late notifications was important, it was not the main barrier to achieving progress in the talks.

"I don't buy into the argument that we can't do anything without proper notifications," the delegate said.

Clash of visions?

While many countries have echoed the call for an outcome on agricultural domestic support at the WTO's 2017 ministerial conference, there seems to be less consensus on what this would mean in reality.

"All major subsidisers should find ways to contribute to lessening distortions on global markets," [said](#) US Ambassador Michael Punke at the Monday meeting for heads of delegations.

However, developing countries that provide domestic support have continued to argue that they should benefit from gentler tariff and subsidy cuts in any negotiated outcome, as part of the "special and differential treatment" from which they have traditionally benefited.

EU Ambassador Marc Vanheukelen told the same meeting that agricultural domestic support talks are "closely linked" to separate talks on public stockholding for food security purposes.

WTO members agreed at last December's ministerial conference in Nairobi, Kenya, that they would find a "permanent solution" to the problems some developing countries say they face under current farm subsidy rules when buying food at government-set prices as part of their public food stockholding schemes.

At the December gathering, trade ministers [agreed](#) that these talks would take place in dedicated sessions that were "distinct from the agriculture negotiations under the Doha Development Agenda."

Vitalis called a separate meeting to discuss this issue on Tuesday morning, negotiators said, though they told Bridges that they made little headway in achieving progress.

What is practical and doable?

Vitalis told members on Monday that he had identified "a gradual but discernible shift" in what trade officials believe is practical and doable.

Many were in favour of looking into the possibility of cutting "water" – meaning the gap between, on the one hand, a given country's maximum permitted level of subsidies or tariffs at the WTO, and, on the other, the actual level applied in practice.

However, the chair also acknowledged that many negotiating groups continued to seek "real cuts" in both tariffs and subsidies in the talks.

"Others are saying 'leave us alone, this is all too difficult'," one negotiator told Bridges, suggesting that these constituted a third set of countries.

The source suggested that although both the US and China seemed reluctant to accept lower ceilings on their trade-distorting agricultural support, some recent reforms to national policies could represent an opportunity for countries to make new concessions in specific areas. (See Bridges Weekly, [4 February 2016](#))

"Members are saying domestic support is a priority, because you can't deal with it in preferential trade negotiations," one African trade official said.

Another delegate said that expectations about likely future trends that may reflect changes in domestic support meant that it was important to negotiate new disciplines now.

"It's what's coming in ten or fifteen years," the source told Bridges.

Market access: a new trade landscape

In contrast, Vitalis made clear that the rapid increase in regional trade deals outside the WTO had had consequences for negotiating dynamics in the area of market access.

Last October, twelve large and small economies concluded talks on a new Trans-Pacific Partnership (TPP), and a number of major economies have also inked bilateral trade pacts. (See Bridges Weekly, [8 October 2015](#))

Some members were now concerned that these preferential market access gains could be eroded under a multilateral trade deal, Vitalis said, while others perceived such types of deals as the best way to pursue further market access opening.

The chair said that a set of questions tabled by members of the Cairns Group could help others to reflect further on the direction of talks in this area.

The group had also put forward similar sets of questions on domestic support, public stockholding, and on a new "special safeguard mechanism" which members have agreed to negotiate, with a view to enabling developing countries protect domestic producers from sudden import surges or price depressions.

Safeguard "linkages" resurface

While the G-33 coalition pushed hard for an outcome on the special safeguard mechanism (SSM) in the run-up to the Nairobi ministerial, agricultural exporting countries insisted that they were unable to make concessions in this area in the absence of a broader deal on market access.

Trade officials told Bridges that the same "linkage" was made by negotiators in a special negotiating meeting on the topic which Vitalis convened on Wednesday morning.

"We think that talks on the SSM, even at an exploratory level, should be linked to market access," one developing country negotiator from an agricultural exporting nation said.

A G-33 official told Bridges that they did not think the discussion at the meeting had achieved much.

Export competition: unfinished business?

A negotiating submission from Canada argued that negotiators also needed to continue developing stronger disciplines on export competition.

"Nairobi introduced important new disciplines on export financing support, but more work remains to be done," the communication argued.

Ottawa used the example of US export credits provided under Washington's GSM-102 programme to make the case that current rules still allow governments to distort trade in farm goods. The programme provides credit guarantees to encourage financing of commercial exports of US agricultural products.

Vitalis told Monday's meeting that "at least two members" do not consider a focus on export competition to be helpful or fruitful at this point in the talks. Officials suggested that these countries might have been the US and China.

However, he also underscored that the Nairobi [declaration](#) included clear instructions from trade ministers to continue work in this area.

Political direction needed

One negotiator told Bridges that the talks were still "in a very embryonic process."

Another suggested that the chair of the negotiations was advancing cautiously. "He doesn't want to rush people into a polarised debate," the source said.

An African negotiator said that presidential elections in the US this November were also casting a shadow over the talks in the immediate future.

"Until you have political direction, it makes it difficult for experts here to move," the source said.

ICTSD reporting.

DISPUTES

US Challenges China Compliance in Chicken Duties Dispute

The US has moved to challenge China's claims of compliance in a WTO dispute ([DS427](#)) over duties on imported chicken, bringing the nearly five-year dispute to its next stage.

The decision, [announced](#) on Tuesday by the Office of the US Trade Representative (USTR), re-ignites a dispute which has otherwise been quiet for nearly two years, and initially began in September 2011. It also marks only the second time that China's compliance with a WTO ruling has been under formal challenge.

"Today's action holds China accountable for unfair taxes they are imposing on American exports of broiler chicken products," said US Trade Representative Michael Froman in a press statement. Along with claiming that these go against global trade rules, the Washington official said that these duties continue to make it harder for US poultry farmers to compete fairly.

"Re-investigation" findings under question

At issue in the original case were anti-dumping and countervailing duties which China had applied on imported "broiler chicken" products from the US, which include any chicken products except for live, cooked, or canned chicken.

The US is the top global producer of poultry, while exporting nearly 18 percent of such goods. According to US government statistics, there are 350,000 people employed in this industry alone, with last year's production valued at US\$28.7 billion.

Anti-dumping duties aim to address cases where goods are sold abroad at prices below their normal value – a practice known in trade jargon as "dumping" – and result in injury to the industry of the importing country. Countervailing duties, meanwhile, are geared toward tackling cases where a country is providing allegedly unfair state aid to its producers.

The duties in this case were imposed by China in 2010, with the anti-dumping duties ranging from 50.3 percent to 105.4 percent, depending on the producer involved. The countervailing duties, meanwhile, were between four and 30.3 percent.

In the dispute, Washington had cited a series of procedural concerns in the Chinese Ministry of Commerce's (MOFCOM) investigation which led to those duties, as well as some issues with the substantive analysis involved in the probe. The WTO agreements which the US cited at the time included the General Agreement on Tariffs and Trade (GATT) 1994, the Subsidies and Countervailing Measures (SCM) Agreement, and the Anti-Dumping Agreement.

In August 2013, a dispute panel circulated its findings to WTO members, upholding the bulk of the US' claims. The case did not go to the WTO's Appellate Body, with the report from the panel being adopted in September 2013. (See Bridges Weekly, [5 September 2013](#))

The following year, China notified the WTO that it had taken steps to implement the panel ruling, specifically by conducting a "re-investigation" and issuing a "redetermination" that addressed the rationale for the duties.

"In today's consultation request, the United States is making claims under numerous provisions of the WTO Antidumping Agreement and the WTO Subsidies and Countervailing Measures Agreement," said the statement from the Office of the USTR.

"Those claims include China's failure to properly calculate costs of production for a US producer, a failure to conduct a transparent re-investigation, and various failures with respect to China's finding that the Chinese industry has been injured on account of US exports," the statement continued.

Consultations window

The two trading giants already have in place an agreement on how to proceed with certain compliance-related aspects of the case. Now that the US has formally raised questions of compliance, as outlined by Article 21.5 of the Dispute Settlement Understanding (DSU), this has started the clock on a 15-day window in which they must hold consultations.

This July 2014 [agreement](#) also stipulates that after this window has passed, Washington may request the establishment of a compliance panel to hear the case. If this occurs, Beijing has agreed to accept a panel's establishment at the first meeting of the WTO's Dispute Settlement Body (DSB) following that request.

Should that occur, both sides have agreed to work together in order to help a panel circulate its findings within 90 days, and the result can later be appealed by either party. If non-compliance is found, the US can then request approval for suspending concessions on certain Chinese exports, and if China objects to the level of suspension requested the case would then go to arbitration.

Trade enforcement record

In announcing the move, US trade officials touted it as an example of Washington's record on enforcing trade rules, particularly under the administration of US President Barack Obama. The issue of enforcement has become a recurring theme in recent months both in light of the enactment of the Trade Facilitation and Trade Enforcement Act earlier this year, as well as the ongoing push for the US Congress to ratify a new trade deal, the 12-country Trans-Pacific Partnership (TPP) Agreement. (See Bridges Weekly, [25 February 2016](#))

Indeed, much of the rhetoric used by TPP proponents, including the White House, has been that the US needs to "write the rules of the road" on trade for the Asia-Pacific region before other countries, particularly China, do so. Meanwhile, the presidential election process has brought back to the fore the long-running debate over the merits and risks of trade deals, along with whether the US is "losing ground" to other economies in this area. (For more, see related story, this edition)

The US and China, while often cooperating in various trade areas, have also been frequent sparring partners on the issue in the past, with some of the most recent public disagreements involving the state of the global steel sector and competing claims as to the reasons behind the current overcapacity problem. (See Bridges Weekly, [21 April 2016](#))

The USTR statement announcing the consultations request in the chicken case made specific mention of Washington's disagreements with Beijing on steel in the WTO context, regarding a separate dispute over Chinese duties on specialty steel products used in power generation.

The statement stressed that these two cases are the only ones in which China has been challenged by a fellow WTO member – in both instances, the US – on compliance with an adverse ruling in a case at the global trade body. In the latter case, China ultimately removed the duties at issue. (See Bridges Weekly, [16 January 2014](#))

ICTSD reporting.

CLIMATE CHANGE

Countries Begin Work on Operationalising Paris Climate Deal

Representatives from over 190 nations are gearing up to address key details of a new multilateral climate pact next week, during the first round of UN climate talks since last December's high-profile meet in Paris, France, where the deal was adopted.

Consultations to align positions and talk strategy among small island states, low income economies, the 28-nation EU, and other negotiating groups have been ongoing this week ahead of Monday's formal launch of the 16-26 May session, being held in Bonn, Germany.

The Paris Agreement has been widely heralded as a major achievement, with almost all nations committing to pursue national climate action plans. However, a range of supportive frameworks, platforms, and institutional arrangements still need to be hammered out.

The Bonn gathering will also take place against a backdrop characterised both by optimism and uncertainty around international and domestic efforts to tackle climate change.

Although several significant players have signalled strong intentions to move forward with the Paris Agreement's implementation and a range of climate initiatives have been launched, an [updated synthesis report](#) on the aggregate effect of current climate plans recalls that these would fall short of keeping global average temperatures below a two degree Celsius rise from pre-industrial levels, a level that scientists say would result in dangerous climate impacts.

The May meet will also be the last for current Executive Secretary of the UN Framework Convention on Climate Change (UNFCCC) Christiana Figueres, who will step down from the post in July, to be [replaced](#) by the seasoned Mexican diplomat Patricia Espinosa Cantellano.

Bonn agenda

The current and incoming presidents of the Conference of the Parties (COP) to the UNFCCC released a [reflections note](#) last week, which outlined next steps and agenda items for the May gathering. France currently holds the presidency and is due to pass it on to Morocco later this year.

"Our challenge is now to operationalise the Paris Agreement: to turn intended nationally determined contributions into public policies and investment plans for mitigation and adaptation and to deliver on our promises," the document reads.

The note proposes that a newly-constituted Ad Hoc Working Group on the Paris Agreement (APA), tasked with preparing the deal's entry into force, address four main areas of mandated work in its forthcoming session.

This includes developing further guidance for the national climate plans, setting up an enhanced transparency framework for action and support, identifying the rules for a periodic global stocktake of collective progress starting in 2023, and establishing an implementation and compliance mechanism.

The note pledges that no item will be left behind – a nod to recurrent concerns among some parties that certain issues are deemed lower priority than others – and suggests that the APA co-chairs use the May session to consult on the organisation of work at future sessions.

The May agenda also incorporates items tasked to other existing UNFCCC subsidiary bodies by the Paris Agreement and accompanying decision. For example, parties will begin consideration next week of guidance for the voluntary international transfer of mitigation outcomes, elaboration of a technology framework, capacity-building arrangements, and defining a forum on the impact on third parties of the implementation of climate response measures stemming from the Paris Agreement.

The COP presidencies will develop a tool to track progress on all tasks. Several experts have predicted that, while the May session would see progress, the time for resolution on many items may yet prove unripe.

The successful opening of the Paris Agreement for signature last month, however, could ramp up pressure to move quickly on operationalisation. To date, 177 parties have formally signed the pact and several of the world's major emitters – including China, the US, and Australia – have indicated plans to ratify by the end of the year. The deal will come into force 30 days after 55 parties representing 55 percent of greenhouse gas emissions sign and ratify. (See Bridges Weekly, [28 April 2016](#))

According to the reflections note, consultations will be held in May to clarify how to advance outstanding agenda items in the event of the deal's rapid entry into force, in a move that appears to respond to concerns that countries still acceding will be left out of key decisions.

"We consider that no Party should be disadvantaged or excluded from the collective development of the rulebook of the Paris Agreement simply because it is still in the process of joining the Agreement," says the document.

Modelling response measures

Work will also continue on other UNFCCC items at the Bonn session. Parties [agreed](#) in Paris to continue a so-called response measures forum following the expiry of its two year mandate in 2013. The forum will continue once the Paris Agreement enters into force, though this will require developing new modalities and a work programme, along with establishing its functions. (See BioRes, [13 December 2015](#))

In Bonn, parties will discuss the modalities and terms of reference for technical work under the improved forum. The body's main work programme will focus on economic diversification and transformation, as well as a just transition of the workforce and the creation of decent work and quality jobs.

As mandated by parties, the UNFCCC secretariat has prepared a [technical paper](#) to help developing countries assess the impact of the implementation of response measures, including guidance on modelling tools. A [separate paper](#) focuses on the concept of economic diversification in the context of climate response measures.

Specific questions surrounding work on minimising the adverse economic, social, and environmental impacts from the implementation of climate action, or response measures, have proved a complex topic to address in the UNFCCC talks.

While not exclusively linked to trade, climate action in a global economy can have impacts that could affect relative prices and competitiveness, as well as altering the shape of consumption and production, demand, and supply. Questions over these implications have long sparked controversy and debate at both domestic and international levels.

ICTSD reporting.

DISPUTES

Disputes Roundup: New Compliance Panel Established in US-Mexico Tuna Case

A compliance panel has now been established to review whether the US' latest changes to its "dolphin-safe" tuna labelling regulations are in line with global trade rules, following a second request by Washington.

The panel was established during a "special" meeting of the WTO's Dispute Settlement Body (DSB) on Monday 9 May, and will address the revisions that the US announced in March. This will mark the second time that a compliance panel has reviewed changes to the US policy, which is the subject of a long-running dispute brought by Mexico.

Meanwhile, the Philippines has also requested consultations with Thailand to review the latter's implementation of DSB recommendations and rulings in July 2011 in a case involving Thai customs and fiscal measures on imported cigarettes from the Philippines.

Compliance panel established in tuna case

The compliance panel established in the tuna case ([DS381](#)) on Monday is the latest step in a long-running saga that dates back eight years. The new panel is set to review whether various steps Washington has recently taken to revise its documentation requirements regarding these "dolphin-safe" labels are enough to address both current and previous concerns over violations of WTO rules.

Mexico rejected an earlier US request for a compliance panel in April, citing concerns ranging from a lack of prior consultations, as well as the fact that arbitration proceedings are already underway to determine the level of concessions that Mexico will be able to suspend on a list of US-made goods. (See Bridges Weekly, [28 April 2016](#))

During Monday's meeting, the US [disagreed](#) with Mexico's push for the arbitration proceedings to move forward immediately.

"Mexico appears to be pursuing a course of action that would have the DSB ignore that the measure at issue is changed," the US said, adding also that Mexico went "so far" as to say during a 23 March DSB meeting that "the US compliance action was not legally pertinent for the arbitration."

Mexico, for its part, reportedly reiterated its early concern that the jurisdiction of a new compliance panel would be "deficient," given that no consultations took place ahead of the US' panel request. Furthermore, Mexico said it plans to submit its own compliance panel request, including formal consultations, to review the same March 2016 policy changes.

Mexico also noted that the WTO Director-General has appointed the third member of the arbitration panel in those proceedings, and hopes to see them advance "expeditiously."

The dispute between the two North American countries dates back to 2008, with the Appellate Body confirming in 2012 that US' "dolphin-safe" labelling policy discriminated against imported tuna and tuna products from Mexico and was thus inconsistent with global trade rules. (See Bridges Weekly, [16 May 2012](#))

The US revised its policy in 2013, however a compliance panel found that those changes were not enough to bring Washington in line with its WTO obligations, a finding ultimately confirmed by the Appellate Body in late 2015. (See Bridges [1 December 2015](#))

Philippines requests compliance review in cigarettes dispute with Thailand

On 4 May, the Philippines requested consultations with Thailand, claiming that Bangkok did not do enough to comply with a 2011 WTO ruling regarding Thai customs and fiscal measures on cigarettes imported from Philippines ([DS371](#)).

The dispute between the two Asian countries – which both have large tobacco industries – dates back to 2008, with Manila's consultations request filed in February and a panel established in November. (See Bridges Weekly, [19 November 2008](#))

The panel circulated its report in November 2010, finding that, among other issues, the Thai customs authorities improperly rejected the importer's declared transaction value and gave a different customs value to the transaction. The importer in this case was Phillip Morris (PM) Thailand, the country's branch for the tobacco giant. The company is also the top tobacco producer in the Philippines, sending the bulk of those finished tobacco exports to its Southeast Asian neighbour.

Customs valuation involves determining the customs value of imported goods, which under WTO rules is primarily based on "transaction value." This does not always apply, however, such as when buyers and the sellers "are related" and the relationship is deemed to influence the price. In those instances, due process requirements must be followed.

The panel said that Thai Customs did not examine the circumstances of sale of the allegedly "related-party transaction" between the Thai buyer and Philippine sellers, nor did it explain the decision to the importer, including why it deemed that the relationship influenced price.

The panel also found Thailand's Value Added Tax (VAT) regime violated the national treatment requirements under the General Agreement on Tariffs and Trade 1994 (GATT), by subjecting imported cigarettes to internal taxes above those applied to "like" domestic ones, and by exempting VAT-related administrative requirements for resellers of domestic cigarettes, but not for resellers of imported ones.

Thailand was also found in violation of GATT requirements on publishing and administering trade regulations in its VAT regime and customs valuation process.

Following an appeal by Thailand, the WTO's Appellate Body ultimately upheld the panel ruling in 2011. (See Bridges Weekly, [22 June 2011](#)) After an agreement between the two Asian economies on the reasonable period of time for implementing the DSB's recommendations and rulings, Thailand informed the WTO in January 2013 that it had completed this process. Since then, the Philippines has repeatedly [expressed](#) its concern over "outstanding compliance issues" in several DSB meetings.

In particular, Manila has previously taken issue with Thailand's criminal prosecution of an importer of Philippine cigarettes "for alleged under-declaration of customs value," despite the WTO panel's ruling that "no legitimate grounds" existed for rejecting such values.

Thailand, for its part, insists that it has taken all necessary actions for compliance. The full text of the compliance panel request was not yet public at the time of this writing.

According to a 2012 [agreement](#) between the Philippines and Thailand, the parties will hold consultations within 15 days from the date that the request was circulated, after which Manila may then ask that a panel be established.

ICTSD reporting.

EVENTS & RESOURCES

Events

Coming Soon

16 May, London, UK. FOSSIL FUEL EXPERT ROUNDTABLE: LEFT STRANDED? EXTRACTIVES-LED GROWTH IN A CARBON CONSTRAINED WORLD. This event, hosted by Chatham House, will focus on the findings of an upcoming research paper that puts into question some of the existing views on the role that extractives play in advancing economic development in low-income countries. The authors place this in a broader carbon-related context, analysing some of the issues which they deem are worthy for review in forthcoming policy process. More information is available [here](#).

16 May, Tokyo, Japan. COMPARING THE IMPACT OF JAPANESE ECONOMIC PARTNERSHIP AGREEMENTS. This seminar is part of a series put together by the Asian Development Bank Institute (ADBI), analysing ways to determine the level of "closeness" between trading partners, using as specific examples the deals which Japan has forged with other nations. The expected participants will likely include policymakers, academics, and other stakeholders. More information is available [here](#).

19 May, Geneva, Switzerland. FACILITATING GLOBAL INVESTMENT THROUGH POLICY COOPERATION AND COORDINATION. This event, co-organised by the International Centre for Trade and Sustainable Development (ICTSD) and the World Economic Forum, is one of a series of investment-related policy discussions involving policymakers and other key stakeholders. The goal of such events is to help advance best practices or international rulemaking in this field. Please note that this event is by invitation only. More information is available [here](#).

19 May, Washington, US. US POLICY TOWARD SOUTH ASIA: PAST, PRESENT, AND FUTURE. This panel discussion, hosted by the Brookings Institution's India Project, will review Washington's past and existing policy approach toward the South Asian region, drawing from the findings from "The South Asia Papers: A Critical Anthology of Writings," a new book by Senior Fellow Stephen Cohen. The discussion will include a question-and-answer component. To learn more, visit the Brookings [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 WTO meetings are held at the WTO, Centre William Rappard, rue de Lausanne 154, 1211 Geneva, Switzerland, and are open to WTO members and accredited observers only.

13 May: Trade Policy Review Body – Albania

20 May: Informal Trade Policy Review Body

23 May: Dispute Settlement Body

Other Upcoming Events

31 May – 1 June, Paris, France. OECD FORUM 2016. This event, organised by the Organisation for Economic Co-operation and Development (OECD), will feature leaders from government, business, and civil society to debate today's top economic and social issues. The forum will feature various types of interactive sessions, as well as a "Civil Society Day" and the OECD Ministerial Meeting. More information is available [here](#).

8 June, Geneva, Switzerland. 2016 T20 TRADE AND INVESTMENT CONFERENCE. This event is being organised by the International Centre for Trade and Sustainable Development (ICTSD), IDEAS Centre, the Institute of World Economics and Politics at Chinese Academy of Social Sciences (IWEPP, CASS), Shanghai Institute for International Studies (SIIS), Chongyang Institute for Financial Studies at Renmin University of China (RDCY), and the WTO. The conference, held under the theme "Global Trade and Investment Cooperation – Openness, Inclusiveness and Growth," will address topics such as global trade governance and growth, regional trade agreements, and inclusive global value chains, among others. More information is available [here](#).

27-29 September, Geneva, Switzerland. WTO PUBLIC FORUM: INCLUSIVE TRADE. This latest edition of this annual WTO event will focus on the theme "inclusive trade," examining ways to integrate better both small- and medium-sized businesses and individuals in the current trading system; take advantage of the opportunities afforded through digital trade; and increase the level and scope of women's participation in trade. A call for proposals is currently underway, with interested participants asked to submit these proposals by 3 June. More information is available at the WTO [website](#).

Resources

SSI REVIEW: STANDARDS AND THE BLUE ECONOMY. Published by the International Institute for Sustainable Development (IISD) (May 2016). This new report, released under IISD's State of Sustainability Initiatives, examines the nine most prevalent seafood certification schemes, specifically in the sectors of wild catch and aquaculture, with a focus on market and performance trends. The publication is geared toward policymakers, producers, and consumers alike. To access the report, click [here](#).

REGIONAL ECONOMIC OUTLOOK, ASIA AND PACIFIC: BUILDING ON ASIA'S STRENGTHS DURING TURBULENT TIMES. Published by the International Monetary Fund (IMF) (April 2016). This IMF report analyses recent economic trends across the Asia-Pacific region, with a focus on potential options for adapting to new global trends. Asia-Pacific growth is expected to slow during 2016-2017, and the report hypothesises that future growth will depend partly on increases in domestic demand. The report analyses different downside risks and upside benefits that could occur in the coming years in the region. To see the full report, click [here](#).

OVERVIEW OF CUBAN IMPORTS OF GOODS AND SERVICES AND EFFECTS OF US RESTRICTIONS. Published by the United States International Trade Commission (March 2016). This report looks at trade trends in Cuba from 2005- present, with a specific focus on US restrictions on trade and travel to the island nation. The report looks at the present possibilities for US business with Cuba, and the institutional and infrastructural barriers that could affect its potential. The report ends with an analysis of the potential bilateral trade that could occur if US restrictions are lifted, and Cuban import barriers are reduced. The full report can be accessed [here](#).

UPSCALING SOLUTIONS: THE ROLE OF CONDITIONAL TRANSFERS FOR POVERTY REDUCTION AND ECOSYSTEM MANAGEMENT. By Ina Porras, Paul Steele, and Essam Mohammed for the International Institute for Environment and Development (March 2016). This report analyses how poverty reduction and environmental protection measures can coexist in developing countries, as the Sustainable Development Goals (SDGs) push countries to pursue these two issues concurrently. The authors look at cases studies of eight countries in Africa, Asia, and Latin America to study how poverty reduction and environmental goals are being pursued together through economic programmes rather than existing separately. The challenges, opportunities, and lessons for increasing these types of policies are also examined. The full report can be accessed [here](#).

WHY EUROPE'S ENERGY POLICY HAS BEEN A STRATEGIC SUCCESS STORY. By Tim Boersma and Michael E. O'Hanlon for the Brookings Institution (May 2016). This article analyses the energy policy that has been used in the European Union over the last decade, noting challenges and successes. The authors put the energy policy used in the EU in the context of former Russian dependency on natural gas and collective EU energy security. The full article can be accessed [here](#).

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