

Trading Away Opportunity

World Trade Organization Fisheries Subsidies negotiations and the Implications for Global Sourcing under the interim Economic Partnership Agreement (iEPA).

As negotiations continue to progress in the World Trade Organization (WTO) on Fisheries Subsidies, there are real implications for the 'global sourcing' conditions which the Pacific Nations have current access under the iEPA.

Under Protocol II (Art. 6) of the iEPAs it clearly sets out the "global sourcing" exception for Rules of Origin for exports from the Pacific to Europe. The Article states "processed fishery products of headings 1604 and 1605 manufactured in on-land premises in that State from non-originating materials of Chapter 03 that have been landed in a port of that State shall be considered as sufficiently worked or processed...". These exceptions are broad in their scope and leave few restrictions on the inclusion of fish from outside Pacific parties to the iEPA.

Access to the European market is important for Papua New Guinea which, in 2016, exported US\$113million of its exports of processed fish to Europe. This accounted for 97% of PNG's exports of processed fish for the year. Solomon Islands, whom haven't signed the iEPA is also faced with a situation of how to gain market access for the US\$52million of processed fish exports to Italy which currently trade with no tariffs under the 'Everything But Arms' system but will be faced with stiff tariffs following graduation from Least Developed Country (LDC) status.

The generous provisions contained in the 'global sourcing' for canned fish from the Pacific is under threat from the negotiations on Fisheries Subsidies at the World Trade Organization (WTO). WTO negotiations provided a renewed mandate from Leaders under Sustainable Development Goal (SDG) 14.6 which aims to tackle subsidies contributing to Illegal, Unregulated and Unreported (IUU) fishing as well overcapacity and overfishing. WTO Ministers agreed to conclude negotiations by December 2019.



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Definition of Fishing critical

The current proposals however threaten the ability of the Pacific to continue to benefit from the global sourcing provision. Key to any decision on fisheries subsidies is what becomes defined as "fishing". Whilst there are many proposals that include similar activities (like "attracting, locating, catching, taking or harvesting fish") the proposal by the European Union includes "transshipping or transferring or landing fish". In addition to this the proposals from Indonesia as well as New Zealand/Iceland/Pakistan⁴ include "landing" in their proposals regarding the definition of "fishing related activities".

The inclusion of "landing" in any definition runs the risk that any conditionality attached to fishing subsidies in the WTO will bring into question where Pacific canneries are able to get their tuna sourced from – be it within national waters or elsewhere. Under such a scenario fleets providing tuna to Pacific canneries would need to meet any subsidy disciplines, including any requirements on sustainability or management measures that may be included in the WTO outcome. Currently under the iEPAs Pacific exports of canned tuna (HS1604 and HS1605) are under no additional requirements to ensure that they meet subsidy disciplines (or implied sustainability conditions) in order to qualify for global sourcing exports to the European Union. The proposals on the table at the WTO from the European Union and New Zealand will override what is seen as the only benefit from the iEPAs, forcing PNG exporters to ensure that their fish has met WTO rules on fisheries subsidies otherwise it can be challenged in the WTO or rejected at the border.

Building fisheries industries through joint ventures also under threat

Under the European Union proposal on prohibitions it states that "Parties shall not grant or maintain any of the following subsidies" including "subsidies for the transfer of fishing vessels to other countries including through the creation of joint ventures with partners of those countries."

The EU is the only country currently including the link to joint ventures within its proposals around prohibitions on fisheries subsidies. The inclusion of joint ventures would mean that any Pacific WTO Member, such as PNG or Solomon Islands, aiming to develop a fishing industry and use a joint venture with another fleet to do so, could not provide subsidies to such an initiative if they were supporting the transfer of a vessel. Under the Trade Policy Framework of the Pacific nations, fisheries are a priority sector and its development is therefore paramount. The Pacific coastal states are also holders of fish resources and therefore have the ability to expand its fisheries sector with subsidies. There are not always opportunities for domestic industries to build industrial fishing vessels so countries are reliant upon external avenues. Further though the EU proposal also includes a prohibition on subsidies "that support the construction of fishing vessels or the importation of fishing vessels", a prohibition that leaves few opportunities for Pacific governments to support the building of an industrial fishing industry.

The restriction on subsidies for transfers of vessels within joint ventures will exacerbate the impacts that WTO fisheries subsidies disciplines may have on global sourcing under the iEPAs. Joint ventures support the Pacific industries to gain the transfer of knowledge and skills as well as build the domestic capacity to fish. The global sourcing provisions under the iEPAs allow the Pacific to build an export industry of canned fish, joint ventures and the ability to subsidise the creation of

those industries will allow the Pacific to build its own fishing capacity, a capacity that will contribute to the established export industry, supplementing the fish sourced globally. Undermining the ability to develop this sector will mean that the Pacific will continue to be more reliant on the fleets of other nations to provide the fish for the canneries, lowering the value of the industries to communities in the Pacific.

EU aiming to roll-back iEPA concessions

The proposals currently being table by the EU (and in some cases other WTO members) should be seen in the following manner:

1. It is a clear strategy of the EU to roll-back the concessions on global sourcing that has been granted to the Pacific nations in the iEPA negotiations.
2. Secondly the Comprehensive EPA negotiations was suspended by the EU. One of the issues which the EU was demanding was the Pacific to adhere to certain conservation and management measures that were from the EU and unilateral in nature. Given that both parties could not agree to such a condition the negotiations failed to reach conclusion. EU and other developed Pacific countries supporting the EU proposal seem to be bringing forward the EU agenda and more so at the multilateral level. The most affected would be the Pacific region.
3. The EU's position will also be pushed in the Post-Cotonou negotiations with the EU's negotiating mandate having Parties undertake concrete measures to "conclude and/or renew sustainable fisheries partnership agreements (SFPAs), ensuring sustainability of fish resources, promotion of best practices in fisheries management, and increased capacity for the processing of fisheries products".

The Pacific region has to be vigilant and ensure that any outcomes in the Fisheries Negotiations at the WTO should not undermine the concessions on global sourcing under the i-EPA for the Pacific region.

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