

Details of TRIPS Waiver Compromise

Geneva – China, Korea and Brazil could be excluded from the tentative agreement reached among the Quad countries – the United States, the European Union, India and Brazil – for waiving-off certain compulsory licensing conditions in the World Trade Organization’s patent provisions, as well as the requirement in sharing undisclosed information, WTD has learned.

Under the eligible country criterion, which allows “any developing country Member that exported less than 10 percent of world exports of COVID-19 vaccine doses in 2021” to avail the tentative decision, China may not be able to qualify because its share of the world exports of vaccines is around 33.7 percent, according to the WTO-IMF Covid-19 Vaccine Trade Tracker’s latest figures as of January 31, 2022.

India and South Africa will benefit from the proposal. India has a global share of 2.4 percent of vaccine exports and South Africa a share of 1.5 percent, though South Africa has also benefited from the m-RNA vaccine hub set up in that country, said an analyst based in Washington.

Korea, Brazil and Kenya, which have given up their developing country status, said they may not be able to avail themselves of the compromise reached between the Quad countries.

Excludes Copyrights, Designs

The compromise finalized by the four countries also excludes copyrights and industrial designs, as demanded by the 65 co-sponsors of the revised temporary TRIPS waiver proposal submitted in May last year.

More importantly, the changes waiving the compulsory licensing conditions of diagnostics and therapeutics will be negotiated six months after the proposed decision comes into force, said a person who asked not to be quoted.

However, the proposed decision needs to be formally endorsed by all the four countries in a meeting that is likely to take place between March 18-20, said people familiar with the development.

The compromise was reached after bilateral discussions between the European Union and South Africa on one side and the United States and India on the other.

Apparently, the bilateral outcomes led to the “compromise” among the four only on vaccines, while leaving the fate of the diagnostics and therapeutics to be negotiated six months after the compromise decision comes into force, said a Western source familiar with the meeting.

“It is a quick development,” said the source, who asked not to be quoted, suggesting that if all goes well, the EU may convene a virtual meeting among the four countries to finalize the compromise.

The United States, India and South Africa also are holding internal discussions to evaluate the compromise, said people familiar with the development.

DG’s Response

“This is a major step forward and this compromise is the result of many long and difficult hours of negotiations. But we are not there yet,” WTO Director-General Ngozi Okonjo-Iweala said in a statement yesterday.

She said “we have more work to do to ensure that we have the support of the entire WTO Membership.” The DG maintained that “while the agreement between the European Union, India, South Africa and the United States is an essential element to any final deal,” she cautioned that “not all the details of the compromise have been ironed out and that internal domestic consultations within the four members are still ongoing.”

“In the WTO we decide by consensus, and this has not yet been achieved,” she said.

The DG touted the efforts made by her team saying that “my team and I have been working hard

for the past three months and we are ready to roll up our sleeves again to work together with the TRIPS Council Chair Ambassador Lansana Gberie (Sierra Leone) to bring about a full agreement as quickly as possible. We are grateful to the four Members for the difficult work they have undertaken so far.”

The EU is currently holding discussions on the proposal with its member states. It remains to be seen what Germany will have to say on the compromise agreement.

Zelensky Calls for More Sanctions

Ukraine President Zelensky called on the United States yesterday to impose even stiffer economic sanctions on Russia, including a complete trade embargo, in a video message to a joint session of Congress.

Mr. Zelensky urged all US companies to leave the Russian market immediately “because it is flooded with our blood.”

All US ports should be closed to Russian goods and all Russian politicians should be targeted with sanctions, the Ukrainian President said.

President Biden announced additional military and humanitarian aid to Ukraine yesterday, but made no mention of further sanctions.

The United States has yet to fully implement the trade sanctions it agreed to impose on Russia along with other G7 countries. Congress still needs to act on legislation to remove Permanent Normal Trade Relations from Russia.

House Majority Leader Steny Hoyer (D-Md) told reporters yesterday that Congressional lawmakers are still working out final legislation. The bill will come to floor as soon as it is finalized, he said, adding that he hopes it will be ready to pass the House this week, since the chamber is in recess next week.

The hold-up in finalizing the PNTR bill is said to be over the President’s authority to waive or lift the revocation of Russia’s trade status.

Secretary of State Anthony Blinken said yesterday in an interview with National Public Radio that sanctions on Russia only will be lifted when it fully withdraws from Ukraine.

Russia Complains to WTO

Separately, Russia complained to the World Trade Organization yesterday that efforts to remove Russia’s normal trade status and raise tariffs on Russian imports violate the trade bodies rules. Moscow called the actions “aggressive and politically-motivated.”

“Recently, the scale of reckless economic war launched by these Members has increased to the breaking point leading to collateral damage across the globe,” Russia warned. “Direct violations of the basic WTO rules by these Members have put severe pressure on global supply chains, which are still fragile after the pandemic, and jeopardizing the global food security.”

Russia said the following actions violate WTO rules:

- implementation of import tariffs above MFN rates;
- import ban on Russian oil and oil refining products, as well as intentions to curb imports of other energy resources, such as natural gas and coal;
- restrictions on export to Russia of various goods, including oil refining equipment and technologies, foodstuff and industrial consumer goods;
- blocking of Russian financial institutions, including freezing substantial part of its currency reserves, and transportation services companies;
- prohibition of new investment in the Russian Federation, including in the energy sector in the Russian Federation and
- extreme export controls or total prohibition of trade in other goods and technologies critical for economic development.

US-UK Trade Talks Next Week

US Trade Representative Katherine Tai and United Kingdom Secretary of State for International Trade Anne-Marie Trevelyan will meet next week to discuss the future of bilateral trade.

The two officials will host the joint US/UK Dialogues on the Future of Atlantic Trade in Baltimore on March 21-22.

President Biden and UK Prime Minister Boris Johnson announced the initiative last year to examine how the two countries can work together on mutual international trade strategies.

Negotiations on a bilateral free trade agreement begun under the previous Administration after the UK left the European Union have been put on hold by the current White House.

Ms. Tai said she expects the dialogue to provide “open-minded and deep discussion on how we can advance smarter and more strategic trade between our two countries.” The dialogues also will provide an opportunity to hear from stakeholders about “how an inclusive trade policy can promote equitable economic growth and prosperity for our two countries,” she added.

The dialogue will feature national and local stakeholders, according to USTR.

Bianchi Talks IPEF in Australia

Deputy US Trade Representative Sarah Bianchi emphasized the Administration’s proposal for an Indo-Pacific Economic Framework in meetings with Australian officials, USTR said yesterday.

She “highlighted USTR’s desire to work with Indo-Pacific partners to establish a high-ambition trade initiative that will advance resilience, inclusion, sustainability, and the interests of our respective middle classes,” according to a readout.

The Administration has yet to unveil the details of its IPEF proposal, but has been trying to drum up support among countries will the region.

Ms. Bianchi met yesterday with Australian Minister for Trade, Tourism, and Investment Dan Tehan and spoke with Secretary for Agriculture, Water, and Environment Andrew Metcalfe. She also co-chaired the US-Australia Free Trade Agreement Joint Committee meeting with Associate Secretary for Trade and Investment Tim Yeend.

At the joint committee meeting, Ms. Bianchi outlined the Administration’s vision for the IPEF. She also discussed with Mr. Yeend areas for potential bilateral cooperation at the World Trade Organization and Asia Pacific Economic Cooperation forum. They two officials also agreed to work on finalizing technical changes to the FTA product-specific rules of origin to reflect changes in the Harmonized System.

In her discussion with Secretary Metcalfe, Ms. Bianchi raised outstanding agricultural concerns. The two agreed to convene a meeting of the Sanitary and Phytosanitary Committee under the Free Trade Agreement later this year.

Russia Invasion’s Economic Impact

Russia’s invasion of Ukraine is creating a quickly worsening outlook for the global economy, underpinned by rising food, fuel and fertilizer prices, heightened financial volatility, sustainable development divestment, complex global supply chain reconfigurations and mounting trade costs, the United Nations Conference on Trade and Development said in a report released yesterday.

“This rapidly evolving situation is alarming for developing countries, and especially for African and least developed countries, some of which are particularly exposed to the war in Ukraine and its effect on trade costs, commodity prices and financial markets,” according to the report.

UNCTAD in particular raised concerns about the impact on food and fuels. Ukraine and Russia are global players in agri-food markets, representing 53 percent of global trade of sunflower oil and seeds and 27 percent of global trade of wheat, it noted.

“This rapidly evolving situation is especially alarming for developing nations,” according to the

report. “As many as 26 African countries, including some least developed countries, import more than one third of their wheat from the two countries at war. For 17, the share is over half.”

According to UNCTAD calculations, on average, more than 5 percent of the poorest countries’ import basket is composed of the products that are likely to face a price hike due to the war, compared to less than 1 percent for richer countries.

Rising food prices and food shortages could lead to civil unrest, the report warned. Agri-food commodity cycles have coincided with major political events, such as the 2007-2008 food riots and the 2011 Arab Spring.

In addition, restrictive measures on airspace, contractor uncertainty and security concerns are complicating all trade routes going through Russia and Ukraine. “Due to higher fuel costs, rerouting efforts and zero capacity in maritime logistics, the impact of the war in Ukraine can be expected to lead to even higher freight rates,” according to the report.

Around the Globe

- Reuters news service reported that Western sanctions and other actions to punish Russia over its invasion of Ukraine will impose costs on the United States and its allies, and policymakers needed to consider how to mitigate those impacts, U.S. Trade Representative Katherine Tai said on Wednesday.

Tai, asked about effects on U.S. automakers of revoking Russia's Permanent Normal Trade Relations status – a move that would allow higher tariffs on imports from Russia – said that the action was aimed at imposing costs on Russia. “Those consequences are intended to have a cost on Russia. But they also will require us to bear some costs,” Tai told reporters at an SK Siltron silicon wafer plant in Michigan.

“What we need to do – and this is really a key to policy making – is to figure out how to take action that maximizes the consequences for Russia while we figure out how to mitigate the impacts on our economic interests,” Tai said. She did not provide any specifics on whether certain metals imported from Russia, including palladium, rhodium and platinum used in vehicle exhaust catalytic converters and aluminum increasingly used in vehicle bodies, could be spared from higher tariffs.

She said that Russia's actions had undermined a longstanding system of global economic integration, with consequences for the global economy. “The president's been very clear that first we have a responsibility to democracy and the rule of law in the world. We also have a responsibility to thinking through and doing the best that is strategically possible,” she said.

- The European Union will increase tariffs on stainless steel products from India and Indonesia after determining they benefited from unfair subsidies, including some from China under its Belt and Road investment program, according to Reuters news service.

The European Commission, which conducted the investigation, has set the anti-subsidy duties on stainless steel cold-rolled flat products at rates of between 4.3% and 21.4%, the EU official journal said on Wednesday. They will add to anti-dumping tariffs already in place.

Indonesia's IRNC faces a new tariff of 21.4%, bringing the overall rate, including anti-dumping duties, to 30.7%. The new rates for India's Jindal Stainless Ltd and Jindal Stainless Hisar Ltd are 4.3%, taking the total tariff to 14.3%. The Commission said the subsidies took the form of preferential loans, duty exemptions and cheap provision of raw materials, partly because of export restrictions for those materials. Indonesia also benefited from subsidies to help build up its stainless steel industry from China, which in return benefited from taking up a larger share of Indonesia's nickel ore exports.

— **TRIG** —

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On the Web.....

Agriculture

Turkey. Agriculture Department Foreign Agricultural Service Global Agricultural Information Network report on Turkey imposing a temporary ban on certain agricultural exports. (Available at: https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Turkey%20Imposes%20Temporary%20Ban%20on%20Certain%20Agricultural%20Exports_Ankara_Turkey_TU2022-0013.pdf) issued: 3/16/22.

Australia

US Relations. Readout of US Trade Representative Bianchi's meetings in Australia. (Available at: <http://www.ustr.gov>) issued: 3/16/22.

European Union

Steel. European Union announcement of countervailing duties on imports of stainless steel cold-rolled flat products from Indonesia and India. (Available at: https://ec.europa.eu/commission/presscorner/detail/en/IP_22_1774) issued: 3/16/22.

Russia

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Southeast Asia

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South Korea

US Relations. Statement by US Trade Representative Tai on the 10th anniversary of the US-South Korea Free Trade Agreement. (Available at: <http://www.ustr.gov>) issued: 3/16/22.

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Report. Congressional Research Service In Focus report on background and current issues in US trade policy. (Available at: <https://crsreports.congress.gov/product/pdf/IF/IF10156>) issued: 3/16/22.

Ukraine

UNCTAD. United Nations Conference on Trade and Development report on the impact on trade and development of the war in Ukraine. (Available at: <https://unctad.org/webflyer/impact-trade-and-development-war-ukraine>) issued: 3/16/22.

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World Trade Organization

Russia. Statement by Russia to the World Trade Organization General Council on trade actions taken by other countries. (Available at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/GC/245.pdf&Open=True>) issued: 3/16/22.

TRIPS. US Chamber of Commerce statement on World Trade Organization TRIPS waiver compromise. (Available at: <http://www.uschamber.com>) issued: 3/16/22.

TRIPS. World Trade Organization Director General Okonjo-Iweala statement on the TRIPS waiver compromise. (Available at: https://www.wto.org/english/news_e/news22_e/dgno_16mar22_e.htm) issued: 3/16/22.