



Flagging Trade Talks May Hurt WTO Dispute System: Ex-Judge

By Scott Flaherty

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An impasse in the World Trade Organization's negotiating agenda may eventually undermine the body's dispute settlement system, which has been the WTO's shining light for the past several years, a former WTO appellate judge said Wednesday.

Speaking in Washington, D.C., Wednesday at an event hosted by the [Cato Institute](#), Jennifer Hillman — a partner with Cassidy Levy Kent, who formerly served as a judge on the WTO's Appellate Body and as a commissioner at the [U.S. International Trade Commission](#) — said if multilateral negotiations through the WTO continue to flag, the trade organization's dispute resolution functions could suffer as well.

Hillman described the WTO as a “three-legged stool” comprising a negotiating and rule-making arm, executive functions headed up by the body's director-general and staff, and the dispute settlement system. Because of faltering negotiations, such as the long-stalled Doha Round, and the reputation of the WTO as a premier forum for resolving global trade disputes, the balance between those three legs has been off in recent years, she said.

“This proverbial stool is listing very heavily to one side,” said Hillman.

She went on to say that the WTO dispute settlement system has had success since countries take complying with the body's rulings seriously, in part because failing to comply would make it harder to negotiate trade deals in the future.

“Countries are involved, or have been involved, in ongoing negotiations with countries they face in disputes,” Hillman explained.

Those links between the body's negotiating presence and its dispute resolution system, she added, heighten the incentive to comply with the WTO dispute body's rulings, but such an incentive may disappear if multilateral negotiations remain stuck.

“Most of these reasons for compliance are going to fade away if the WTO negotiating arm is not functioning and strong,” Hillman said.

In his early days on the job, WTO Director-General Roberto Azevedo, who officially took the post on Sept. 1, has said on multiple occasions that failing to revamp the trade body's negotiating arm could, in turn, harm the WTO's overall reputation and hamper all of the functions the trade organization serves.

“The perception in the world is that we have forgotten how to negotiate,” Azevedo said in [a Sept. 9 inaugural address](#). “Our failure to address this paralysis casts a shadow which goes well beyond the negotiating arm, and it covers every other part of our work.”

Also at Wednesday's Cato Institute event, Hillman and other panelists addressed the interaction between multilateral negotiations through the WTO and regional trade deals that involve only some of the organization's countries, such as the Trans-Pacific Partnership under negotiation between the U.S., Japan, New Zealand and nine other Pacific Rim nations.

Michael Moore, New Zealand's ambassador to the U.S. and a former WTO director-general, said that the TPP, if it is completed, could provide momentum for multilateral negotiations like the Doha Round.

“I'd like to think that if we can get this TPP right, that could assist to put more gas in the tank of the Doha Round,” said Moore.

He noted, however, that to reach a TPP agreement that deals with “new” issues like state-owned enterprises and intellectual property protections — which are of interest to the U.S. and other developed economies involved in the talks — the more developed countries would need to demonstrate a willingness to address “old issues,” such as tariffs on agricultural or textile products, that emerging economies are interested in.

“If the United States and Japan and Canada can show to the world that they are prepared to deal with some of the older issues, that will send an electrifying message back to Geneva,” Moore said.