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Facts and Figures

- With 20 percent of the global population, Chinese citizens still own only 1.5 percent of the total number of cars in the world. This stands in stark contrast with the US, where five percent of the world's population owns 25 percent of its cars.

Source: *China Environment Series No. 6*, Woodrow Wilson Center for Scholars, 2003.

- Consumers across the globe now spend an estimated US\$35 billion a year on bottled water. But one in five people in the developing world – 1.1 billion in total – did not have 'reasonable access' to safe drinking water in 2000.
- Annual expenditure on ocean cruises currently amounts to an estimated US\$14 billion. The estimate for achieving the goal of clean drinking water for all is US\$10 billion.

Source: *State of World 2004*, World Resources Institute, January 2004.

WTO Negotiations to Resume in March

As negotiators prepare to return to the grind in Geneva, the fate of the Doha Round seems to be increasingly shaped through high-profile meetings and direct contacts between key players.

On 11 February, the WTO General Council held a work-a-day meeting, during which the future of the multilateral trade negotiations was hardly mentioned. The Council approved a slate of new Chairs for the WTO's subsidiary and negotiating bodies (see page 10), but due to continued dissension among Members on how to treat the Singapore issues, no Chairs were appointed for the working groups on investment, competition policy and transparency in government procurement. In December 2003, the General Council Chair drew a tentative conclusion that negotiations might be acceptable on trade facilitation, which is the least controversial of the four Singapore issues. However, nothing has been formally agreed.

As of mid-March, negotiations are expected to resume on agriculture, services, non-agricultural market access, special and differential treatment, WTO rules, the environment, and a multilateral registry of geographical indications for wines and spirits. Formal negotiating sessions on agriculture are already scheduled for 22 and 26 March. Between those dates, Chair Timothy Groser has proposed that Members engage in direct negotiations among themselves, as they have "already made their initial positions abundantly clear and little purpose would be served by yet more extensive formal statements addressed to the Chair."

The General Council put off a decision on when to hold the next WTO Ministerial Conference. The most likely scenario at the moment is an informal ministerial gathering in Geneva in the latter half of 2004 if progress in negotiations warrants it. The postponement of a formal Ministerial until next year or later would amount to an official acknowledgement that the talks will not conclude by 1 January 2005 as mandated in the Doha Declaration.

The General Council also approved Iraq's long-standing request for observer status at the WTO, but put off consideration of a similar request from Iran largely due to continued US opposition.

Drumming up Support for the US Vision

On 11 February, US Trade Representative Robert Zoellick embarked on a whistle-stop tour of key capitals in three continents in order to engage in "strategic dialogue" with WTO Members on how to move the Doha Round forward. The exercise also served to build pressure for concessions from reluctant trading partners through creating a strong impression of broad-based and growing convergence on two main points. The first was that without a commitment to the elimination of agricultural export subsidies by a specific date, the Doha Round would continue to languish. The second was that agreement could be found on addressing trade facilitation as part of the Round, but that all other Singapore issues should be dropped.

Ambassador Zoellick also used the occasion to put forward the main goals of the US negotiating agenda. He reiterated that the US would be ready to substantially reduce domestic agricultural subsidies provided that the EU, Japan and other heavy subsidisers did the same, and both developed *and* developing countries agreed to increase market access through substantial tariff cuts. He also repeatedly called on countries to submit market-opening offers in the services negotiations, and emphasised the importance of services to developing countries. Another recurring theme was the goal of increasing market access for industrial goods.

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Bridges

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As this issue of *Bridges* went to press, Mr Zoellick had already visited China, India, Japan, Kenya, Pakistan, Singapore and South Africa (he was expected to continue to Geneva and Brussels, and later to attend a Cairns Group meeting in Costa Rica). While most host governments publicly agreed with his assessment of agricultural export subsidies and – more reluctantly – trade facilitation, they remained much more cautious about the rest of his agenda, if they commented on it at all. Tokyo was the only city where Mr Zoellick made no reference to the government's response to his message.

Together with Japan, the EU is a major target of the US PR offensive. So far, Brussels seems adamant that agricultural export subsidies can only be eliminated on certain products of particular export interest to developing countries, although Singapore's Trade Minister George Yeo said on 13 February that "on the sticky issue of the final elimination of export subsidies", EU Trade Commissioner Pascal Lamy had "recently said that he [was] prepared to consider this towards the end of negotiations." See related articles on pages 3 and 4.

Wooing Sub-Saharan Africa

On 17–18 February, Ambassador Zoellick, Commissioner Lamy, WTO Director-General Supachai Panitchpakdi and General Council Chair Shotaro Oshima attended a meeting in Mombasa, hosted by the Kenyan government and bringing together a number of trade ministers from Sub-Saharan Africa.

Few details are known of the substance of the talks, but Kenya's Trade Minister Mukhisa Kituyi said "substantial progress" had been made in "contributing to reverse the loss of Cancun." Minister Kituyi also said he had been "reassured of the centrality of our development concerns at the heart of the Doha work programme. I have a sense that, across the board, there is more positive flexibility both within the US and European negotiating positions now. And I think this can be the basis for unlocking the process in Geneva."

In related news, while in Africa, Commissioner Lamy presented a new EU action plan to help commodity-dependent developing countries, as well as reconfirmed the EU's support for the Cotton Initiative (see page 7).

EU Collective Preferences Paper Raises Questions

Amidst such development-friendly messages, a 6 February article in the *Financial Times* has alarmed some trading partners. Guy de Jonquières reported that Pascal Lamy was studying a paper advocating changes to WTO rules that would allow Members to take trade-restrictive measures on the basis of widely-held societal values or 'collective preferences' rather than just scientifically-proven health and safety risks. The paper – apparently prepared by Commissioner Lamy's staff and "outside advisors" – is not publicly available. The *Financial Times* article quoted Mr Lamy's spokeswoman Arancha González as saying that "Mr Lamy believes that 'collective preferences' will shape trade policy increasingly in the future" and that he intended to launch a debate on the subject next summer.

According to a 12 February letter from Ms González to the FT, the document described by Mr de Jonquières was a "non-paper on collective preferences used to spur an internal discussion, building on the thousands of pages written on this issue in the last decades, which has been blessed by neither the Commission nor the EU Trade Commissioner himself." She also noted that 'collective preferences' existed in all democratic societies, and that the key issue in trade terms was how to articulate them "in the most trade-friendly and WTO-compliant way possible."

D-G Evokes More Determined Role in Negotiations

In a rare comment on Member countries, WTO Director-General Supachai Panitchpakdi said on 26 January that he would take the initiative of personally proposing agreements if negotiators did not show more flexibility. He also evoked the possibility of publicly naming delegations that refused to move, and said he might deal directly with ministers if he could not get answers from their delegations in Geneva. "I may have to go on the record more often and say: 'I have posed this question and I have received no answers'," Dr Supachai said.

A Scenario for Progress in WTO Agriculture Negotiations

Alfredo Chiaradia

Five months after the WTO's Cancun Ministerial Conference, the dust has settled enough to consider a way forward with multilateral agricultural negotiations.

As Argentina played an active role in the constitution of the G-20, I would like start off with two preliminary observations before turning to the really important questions, i.e. the status of the agriculture negotiations and the possibilities of reviving the talks in the difficult context of 2004.

First, after the initial rejection and denial by some, most of the players now accept that the G-20 is not a passing phenomenon that can be quickly brushed aside. Instead, a consensus seems to have emerged that the G-20 is a positive factor in the agriculture negotiations, as it has consolidated into a common position the heterogeneous interests of many developing countries. This should simplify a complex negotiating situation.

The second – and corollary – observation is that the lack of visible results in Cancun is no longer systematically attributed to the G-20: not only those present at Cancun now know that agriculture was discussed in depth at the Ministerial and that the G-20 was seriously engaged in those discussions. If no progress was achieved at the time, the reasons for that should be looked for somewhere else (Bridges Year 8 No.1, page 4, *ed.*).

Status of Agriculture Negotiations

After a post-Cancun reflection period, WTO Members agreed in December 2003 to restart the negotiating process as soon as new chairpersons for the negotiating bodies were appointed in 2004.

With regard to agriculture, they agreed that the immediate objective of the process for 2004 was to continue work on a 'framework' text as a stepping stone for reaching a more detailed agreement with specific numbers (i.e. 'modalities'), which would in turn be necessary to conclude the negotiations.

Although with reservations as to the convenience of continuing the search for an intermediate agreement (instead of going straight to a 'modalities' negotiation) Argentina and many other WTO Members accepted to follow the 'framework' route, provided that it:

- did not erode the Doha mandate; and
- facilitated the conclusion of negotiations by the target date of 1 January 2005.

These conditions have crucial implications.

Regarding the first, one has to recall the circumstances in which the Doha Ministerial took place and how imperative it was at the time for the major players to reach a consensus on launching a new round of multilateral trade negotiations.

However, once the ink on the agreement was dry, there was no sense of urgency to follow through with the mandate. Almost two years later, many perceived in the US-EU emphasis on a 'framework' agreement¹ an interest to somehow 'redefine' the terms of what the WTO membership agreed in November 2001.

As for concluding the negotiations on schedule, time is of the essence since the status quo plays in favour of those who generate the distortions in agricultural trade, particularly after the *de facto* interruption of the "on-going [reform] process" agreed upon in the Uruguay Round.

But coming back to the present, the negotiating process remains unchanged since December 15. The clock was stopped and although some well-intended signs have surfaced since then – such as the recent letter from USTR Robert Zoellick to WTO Ministers, urging Members not

to waste 2004, and the generally positive reactions to that message from other trading partners – no concrete elements have emerged to indicate changes in positions on substantive issues.

One Hypothetical Scenario

The magnitude of the stakes in the agricultural negotiations for the world trading system is unparalleled: no other issue has such implications on poverty, hunger alleviation, development and the maintenance of a vibrant growth in world trade as solving the agriculture riddle. Moreover, such is the impact of those facts on public opinion and so clear the terms of the commitment towards fundamental reform in agriculture, that almost no Member can openly refuse to engage in the process.

But goodwill rhetoric is one thing, and taking concrete steps to set the process in motion is another. There are powerful forces dedicated to blocking any progress for as long as they can. Rich landowners and politicians in some developed countries could be the main culprits, but certainly not the only ones. No wonder that for 50 years the virtual 'apartheid' of agriculture in the world trading system could not be removed.

That is why, beyond substance, a formula has to be found to break the procedural impasse, particularly as in the present context the sheer complexity of agricultural negotiations (some of it natural, some man-made) probably requires a change in approach.

First, it should be strongly underlined that the 'single undertaking', although mandatory, is only necessary to *conclude* the negotiations.

Second, and more relevant, negotiators should consider if in the present context engineering a final package could possibly require the development of a *sequence* of commitments rather than the usual swap of *simultaneous* concessions.

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In a new context of a more balanced distribution of negotiating power, this implies the possibility that exchanges of market access concessions could only be tackled *after* assurances that unfair (and after 1 January 2004 probably illegal) export subsidies will be dismantled and domestic support substantially reduced.

One can envisage a – somewhat simplistic – scenario in which an autonomous decision by one Member has a positive knock-on effect on previously entrenched positions and creates an atmosphere of real goodwill and commitment from others. Such a decision – only to be expected from a major partner – would trigger a chain reaction in the agriculture negotiations and, in turn, permit forward movement in other areas of the Round.

Let us examine an example of such a hypothetical chain of events (other combinations are, of course, possible).

First, the EU announces it is ready to agree on an end date for all its export subsidies. The commitment is obviously conditional to the final negotiating package (the ‘single undertaking’) but no reference is made to any need to receive lists of products of interest to developing countries.

Second, as per the existing EU-US agreement with regard to ‘parallelism’ in export subsidies elimination, the US would then accept enhanced rules for existing disciplines on export credits, guarantees and insurance programmes, as well as of the phasing out of those programmes.

Third, in return for this parallel treatment of ‘other forms’ of export subsidies, other WTO Members could accept the phasing out of those export instruments with subsidy components by the US, unless those instruments had been removed before then under the Agriculture Agreement’s Article 10.1.

Fourth, in view of the above, and aware of the EU’s prior commitment to reduce domestic support by at least 60 percent; the US could then announce its readiness to *substantially* reduce its domestic support in compliance with the Doha Mandate (probably subject to a further harmonisation exercise with the EU).

Fifth, once these steps would have brought a more level playing field to agricultural trade, the whole WTO membership could engage in negotiations to effectively improve market access as per the Doha mandate. Here again, naturally, nothing would be agreed until everything is agreed.

Out of the whole sequence and in view of present internal circumstances, step number four is probably one of the most difficult to conceive, but crucial – together with the previous ones – if the enormous complexities of step number five could ever begin to be tackled.

The above is obviously a purely hypothetical exercise; in real life negotiations, many more details would have to be included in the picture. In addition, introducing the concept of sequence does not necessarily mean that real time must elapse in the process since time in this exercise could only be a virtual concept.

Even the longest journey starts with a first step.

Alfredo Chiaradia is Ambassador of Argentina to the WTO and other international organisations in Geneva.

ENDNOTE

¹ The EU-US Joint Text on an agricultural negotiating framework, issued on a 13 August 2003.

EU/G-20 Meeting Yields No Immediate Results

On 12-13 February, the G-20 and the European Union held a two-day informal consultation to explore potential for compromises that would allow the Doha Round negotiations to start again. No breakthroughs were reported, but G-20 delegates stressed that the talks had taken place in a “good atmosphere” and permitted a useful exchange of views.

Most of the meeting was devoted to agriculture, where differences between the two camps loom largest. G-20 negotiators made clear that their position had not changed on export subsidies: the Doha Round must agree on a date for their elimination. The EU was equally clear about its inability to make such a commitment¹, pointing out instead its offer to reduce export support and eliminate it entirely for certain products of export interest to developing countries. While no developing country has yet submitted a list of such products to the European Commission, a G-20 delegate said that sugar subsidies (which have already been challenged in the WTO, see page 8), would be good starting point. G-20 members also requested clarifications from the EU on the effects of its July 2003 CAP reform on domestic support, and the way the Common Agricultural Policy will be applied by member states, including the 10 new countries that will join the Union in May.

With regard to market access, the two sides discussed the ‘blended’ approach consisting of both linear tariff cuts and deeper ‘formula’ cuts. The G-20 is seeking to ensure that developing countries are not required to cut their tariffs as steeply as industrial countries.

The G-20 comprises more than half of the world’s population and nearly two-thirds of its farmers.² The alliance emerged in August 2003 as a counterweight to the joint EU-US agriculture framework proposal, which largely inspired the agricultural modalities annex proposed to ministers in Cancun. The G-20 share the objective of liberalising agricultural trade through creating fair markets for developing countries.

¹ Pascal Lamy appears to have recently indicated some flexibility on this; see page 2.

² Members currently include Argentina, Bolivia, Brazil, Chile, China, Cuba, Egypt, India, Indonesia, Mexico, Nigeria, Pakistan, Paraguay, the Philippines, South Africa, Tanzania, Thailand, Venezuela and Zimbabwe.

No Change of Heart on the Precautionary Principle: the WTO's Apples Dispute

Brendan McGivern

The WTO Appellate Body has rejected the use of the 'precautionary principle' in cases of 'unresolved scientific uncertainty'. It ruled that the objective assessment of the evidence – not deference to national authorities – will be the yardstick to determine the WTO-consistency of SPS measures. The ruling is in line with previous judgments involving precaution, all of which have upheld the complainants' arguments.

On November 27, 2003, the Appellate Body of the World Trade Organisation issued its decision in the *Apples* case – a US-Japan dispute over the WTO-consistency of certain quarantine restrictions, which Japan had defended on plant health grounds. The Appellate Body rejected Japan's argument that the restrictions could be justified as provisional, precautionary measures under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement). The Appellate Body upheld the findings of the Panel that the Japanese measure was being "maintained without sufficient scientific evidence" and was not "based on" a risk assessment.

Factual Background: measures to avoid 'fire blight'

Japan imposed certain restrictions on imports of US apples in an effort to prevent the introduction of the 'fire blight' plant disease. The measures were designed to protect plant health (human or animal health were not at issue).

The restrictions imposed by Japan included a ban on imported apples from US states other than designated areas of Washington and Oregon, a ban on imported apples from any orchard where fire blight had been detected within a 500-meter 'buffer zone', and inspection requirements for export orchards.

On July 15, 2003, a WTO Panel found that Japan's measures violated the SPS Agreement. Japan appealed the Panel's findings to the Appellate Body.

Quarantine restrictions maintained without 'sufficient scientific evidence'

The SPS Agreement provides in part that WTO Member countries must ensure that any SPS measure is "not maintained without sufficient scientific evidence."

The Panel found that there was insufficient evidence to conclude that US exports of "mature, symptomless apples" would harbour fire blight. The Panel found that there was "negligible risk", and that the Japanese measure was "clearly disproportionate to the risk."

Japan appealed on this issue, based mainly on argumentation related to the burden of proof. However, these arguments were dismissed by the Appellate Body.

No 'deference' to national authorities

Japan argued before the Appellate Body that the Panel was required to give a "certain degree of discretion" to the importing Member regarding the manner in which it selected, weighed and evaluated scientific evidence.

The Appellate Body said that it "reject[ed] the contention that...a panel is obliged to give precedence to the importing Member's approach to scientific evidence and risk when analysing and assessing scientific evidence." In the view of the Appellate Body, "total deference to the findings of national authorities" would be incompatible with the duty of WTO Panels to make "an objective assessment of the facts."

Therefore, the Appellate Body upheld the Panel's finding that the measure was maintained "without sufficient scientific evidence."

Defence of 'precaution' rejected

Japan argued, in the alternative, that its SPS measure could be upheld under the 'precaution' provision of the SPS Agreement, Article 5.7. The Panel had rejected Japan's Article 5.7 "precaution" defence, and Japan also appealed on this point.

The Appellate Body recalled its earlier jurisprudence that the successful invocation of Article 5.7 required four conditions to be met:

- the measure is imposed in respect of a situation where "relevant scientific evidence is insufficient";
- the measure is adopted "on the basis of available pertinent information";
- the Member country that adopted the measure "seek[s] to obtain the additional information necessary for a more objective assessment of risk"; and
- the Member "review[s] the...measure accordingly within a reasonable period of time."

The Appellate Body stressed that these four requirements were "clearly cumulative in nature", and that if any one of these four conditions had not been met, the measure could not be justified under Article 5.7.

Japan's defence foundered on the first element, as the Appellate Body upheld the Panel's determination that the relevant scientific evidence in this case was not 'insufficient'. The Appellate Body disagreed with Japan's argument that the phrase "where relevant scientific evidence is insufficient" should be interpreted to relate to a particular *measure* rather than to a particular *subject matter* in general.

The Appellate Body highlighted the link between Article 5.7 and the obligation to perform a risk assessment. Therefore, it found

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that “relevant scientific evidence” will be “insufficient” within the meaning of Article 5.7 if the body of available scientific evidence does not allow the performance of an adequate risk assessment.

In the present case, the Appellate Body said that the findings of fact by the Panel suggested that the body of available scientific evidence permitted, in quantitative and qualitative terms, the performance of a risk assessment regarding the risk of transmission of fire blight through apples exported from the United States to Japan.

No recourse to the ‘prism of scientific uncertainty’

Japan argued that the SPS Agreement had to distinguish between “new uncertainty”, which arises when a new risk is identified, and “unresolved uncertainty”, or uncertainty that scientific evidence was unable to resolve. In Japan’s view, recourse to Article 5.7 should still be available in cases where, despite the accumulation of scientific evidence, “unresolved uncertainty” remained.

The Appellate Body said that it was “unable to endorse Japan’s approach of interpreting Article 5.7 through the prism of ‘scientific uncertainty’.” The tribunal said that the application of Article 5.7 was triggered “not by the existence of scientific uncertainty, but rather by the insufficiency of scientific evidence.”

Therefore, since this was not a situation “where relevant scientific evidence is insufficient”, the Appellate Body found that the restrictions could not be justified as a provisional measure under Article 5.7.

The risk assessment must be ‘sufficiently specific’

The SPS Agreement provides that WTO Members must ensure that their SPS measures are “based on” a risk assessment that is “appropriate to the circumstances.” The risk assessment must evaluate “the likelihood of

entry, establishment or spread of a pest or disease...according to the sanitary or phytosanitary measures which might be applied.”

The Panel noted that the risk assessment must be “sufficiently specific to the risk at issue.” The Japanese risk assessment was conducted on the basis of a “general assessment” of possibilities of introduction of fire blight into Japan through a variety of hosts, including - but not limited exclusively to - apples. Therefore, the Panel found that it was “not sufficiently specific to the matter at issue to constitute a proper risk assessment” under the Agreement.

On appeal, Japan argued that the Panel’s reasoning on this issue related to a “matter of methodology”, which lies within the discretion of the importing Member. The Appellate Body disagreed, reasoning that “under the SPS Agreement, the obligation to conduct an assessment of ‘risk’ is not satisfied merely by a general discussion of the disease sought to be avoided” by the imposition of the measure. It said that while Members are free to choose their own methodologies, a risk assessment must nevertheless “consider a specific agent or pathway through which contamination might occur.”

Risk assessment cannot be ‘carried out for the purpose of justifying decisions ex post facto’

The Panel also found that the Japanese risk assessment failed to evaluate the “likelihood” of entry or spread of fire blight. The Appellate Body agreed with the Panel that the evaluation of the entry, establishment or spread of a disease must be conducted “according to the...measures which *might* be applied”, and not merely to measures that *are being* applied. In other words, the risk assessment should not be limited to an examination of the measure already in place or favoured by the importing Member. In the view of the Appellate Body, the evaluation “should not be distorted by preconceived views on the nature and the context of the measure to be taken; nor should it develop into an exercise tailored to and carried out for the purpose of justifying decisions *ex post facto*.”

Accordingly, Japan had not “properly evaluated the likelihood of entry according to the SPS measure that might be applied.”

Implications for the Appellate Body decision: no ‘deference’

The Appellate Body broke little new ground in this decision, although it did re-iterate a number of core principles under the SPS Agreement. While this particular decision dealt with the rather less incendiary issue of plant health, the principles enunciated by the Appellate Body apply equally to measures taken for the protection of human life or health, one of the most difficult and contentious issues in the WTO. The principles established in this case, particularly on issues like precaution, are easily transposed to the public health context.

The Appellate Body declined to read the SPS Agreement in such a way that would have granted additional flexibility to WTO Members when implementing their obligations. As noted above, it emphatically rejected the argument that WTO Panels needed to accord “deference” to national authorities with respect to the way they select and evaluate scientific evidence. Similarly, the Appellate Body dismissed Japan’s argument that recourse to the defence of “precaution” should be available in cases where, despite the accumulation of scientific evidence, there nevertheless remained “unresolved uncertainty.”

In these and other instances, the Appellate Body insisted that SPS measures be assessed principally against the yardstick of objective scientific evidence rather than the more subjective determinations of the national authorities. This is consistent with decisions made by the Appellate Body in earlier (and more controversial) cases, such as the 1998 case in which it found that the EC’s ban on imports of hormone-treated beef similarly violated the SPS Agreement.

Thus, the Appellate Body has reinforced its view that the objective assessment of the evidence – not the benefit of the doubt – will continue to be determinative in SPS disputes.

Brendan McGivern is a lawyer with White & Case in Geneva.

The Appellate Body ruled that the application of precaution was triggered “not by the existence of scientific uncertainty, but rather by the insufficiency of scientific evidence.”

Desperately Seeking Data in the Cotton Dispute

The verdict on the cotton subsidy dispute between Brazil and the United States may be further delayed if the panel grants the US the four-week extension it requested on 11 February for producing data on support programmes repeatedly requested by Brazil.

Procedural roadblocks have beset the dispute from the start. After the panel was composed in May 2003, the US insisted on a preliminary ruling on whether agricultural subsidies covered by the Peace Clause could be challenged in the WTO. The panel only decided in October to consider both procedural and substantive issues in a single report, which it said would be issued in May 2004. Earlier, the US turned down Brazil's request for a WTO-appointed facilitator to gather information on its subsidy programmes (Bridges Year 7 No.5, page 8).

Proving Causation

Brazil has to prove its claim that the effect of US cotton support measures is "significant price depression and price suppression in the markets for upland cotton". According to Brazil, such measures displaced or impeded Brazilian exports in third country markets during marketing years 1999-2002 in violation of Articles 5(c) and 6.3(b) of the Agreement on Subsidies and Countervailing Measures (SCM). Brazil also alleges that due to government-mandated conditions that encourage over-production, US upland cotton will "increase or continue to maintain high levels of exports in violation of SCM Articles 5(c) and 6.3(d) and continue to result in the United States having an inequitable share of world upland cotton export trade in violation of Article XVI.1 and 3 of GATT 1994."

Brazil has submitted to the panel an econometric analysis backing its claims, but the US has mounted a vigorous counterattack arguing that Brazil's model has "fundamental laws" that "invalidate its claims". The US continues to maintain that other factors than its subsidies are responsible for price fluctuations and the growth of US cotton exports.

The panel and Brazil are now seeking more precise data from the US, *inter alia*, with regard to farm-level support such as producer flexibility payments, market loss assistance, counter-cyclical payments and direct payments. This data will serve to establish the elements of 'serious prejudice' under SCM Article 6, i.e. the existence of a subsidy that is specific to the cotton industry, as well as to establish the value of the subsidised farms' total sales and other elements needed to analyse the adverse effects caused by the subsidised product in order to prove that it is causing serious prejudice to the interests of Brazil or another Member.

The US first claimed that it did not have the requested information on record but later submitted it in a form that still did not permit matching payments with individual farms. It has now requested a four-week extension for producing the data. The US also argues that its support payments depend on the size of the farm rather than the commodities produced, while Brazil is intent on showing that the payments are actionable commodity-specific support.

EU Issues Cotton Strategy

In related news, the European Commission on 12 February announced three initiatives aimed at assisting commodity-dependent developing countries. The first is an overarching action plan, the second a support strategy for the African cotton sector and the third a readjustment of the EU's FLEX instrument, which provides compensation for African, Caribbean and Pacific (ACP) countries affected by export earning losses.

The cotton strategy consists of support for the elimination of all forms of cotton export subsidies in the context of the WTO's agricultural negotiations; partly de-coupling EU domestic support from production; and trade-related technical assistance both for the defence of African cotton interests internationally and for producers to strengthen the supply chain.

If adopted by member countries, the readjusted FLEX mechanism could offer rapid relief to least-developed, landlocked and island developing ACP countries whose export earnings have

dropped more than two percent in three out of four previous years (for other ACP countries the threshold is maintained at 10 percent). Any ACP country would be eligible for compensation in case its programmed public deficit had worsened either for the year assistance was sought for or was forecasted to worsen in the following year.

The Commission plans to convene an international seminar on cotton in the first half of 2004, bringing together African cotton producing states, EU members, the World Bank and the IMF.

DSU Review Update

At the 26 January negotiating session, discussions remained at a conceptual level on amendments to provisions of the Dispute Settlement Understanding (DSU) related to the implementation of, and compliance with, panel and Appellate Body rulings.

To inject momentum into the negotiations, outgoing Chair Péter Balás invited Members to submit specific proposals in advance of the 24-25 February negotiating session, which was to focus on provisional measures. Malaysia tabled a proposal on this topic in January, looking into what, if any, provisional protective measures could be allowed in cases where the domestic industry in a responding party is irreversibly hurt during the time that a panel is investigating the claims.

After a post-Cancun hiatus during which discussions were held at a general level, the DSU review is now set to return to a consolidation of the dozens of amendment proposals submitted by Members. The remaining negotiating sessions will be chaired by Australia's Ambassador David Spencer. The DSU review is currently scheduled to conclude by the end of May 2004, a year later than originally agreed.

Disputes in Brief

- **EU: Sugar** On 12 February, Brazil made its first panel submission in the dispute it initiated in 2002 against the European Union's export subsidies for sugar. The EU's rebuttal is expected on 11 March and the panel's first meeting is scheduled for 31 March – 1 April. Brazil alleges that the EU's complex sugar regime allows some sugar to be sold in the world market below production cost, and that export-contingent subsidies violate the EU's commitments under the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures. The panel will hear the case jointly with similar complaints filed by Australia and Thailand (Bridges Year 7 No.7, page 13).
- **US: Byrd** Seven WTO Members, including five developing countries, submitted retaliation requests to the WTO on 26 January in the Byrd Amendment dispute. The complainants are seeking the right to impose annually-adjusted higher tariffs on selected US goods to offset the amount collected by US companies from anti-dumping duties charged on the complainants' exports the previous year (estimated at US \$293 million in 2004 and expected to rise to US \$885 million in 2005 unless Congress revokes the Amendment). In his 2005 budget proposal, President Bush proposed a repeal, but the move faces stiff resistance from Congress and industry (a similar Administration bid in the 2004 budget was eventually abandoned). Several US officials have predicted that the complainants will not be able to prove to the WTO arbitration panel that the redistribution AD duties to US companies has caused injury to their exports. The arbitration of damages should not exceed 60 days.

The US missed the 27 December implementation deadline for a WTO ruling that found the distribution of anti-dumping duties to affected industries WTO-inconsistent, as it provided petitioning industries double benefits: first the relief provided by the antidumping measure itself and then a financial reward through a share of the duties collected by customs (Bridges Year 7 No.1, page 9).

AD Injury Determinations Challenged

Methods used by WTO Members to calculate the level of anti-dumping duties are increasingly contested. Some of the latest challenges focus on 'zeroing' and 'causation' between dumping and injury to domestic industry.

In the first WTO dispute ever initiated by a least-developed country, Bangladesh on 2 February requested consultations with India regarding the basis used to impose anti-dumping duties on batteries. Bangladesh alleged, *inter alia*, that India was wrong to include imports from Bangladesh in the cumulative assessment of the effects of imports (including those from China, Japan, and Korea) when it had earlier determined that the volume of imports from Bangladesh was negligible. In addition, according to Bangladesh, India had failed "make an objective examination of any known factors other than the imports which may have been injuring the domestic industry", as well as to "make an objective examination of the causal link between the imports and the alleged injury to the domestic industry".

The EU used similar arguments in its 11 December consultations request to India over alleged violations of the Anti-dumping Agreement in 27 cases. The main claims put forward by the EU were that "the determination of the effect of the dumped imports on prices [did] not seem to be based on positive evidence and on an objective examination" and that "the Indian investigating authority did not demonstrate that dumped imports were causing the alleged injury and failed to examine other known factors and ensure that injury caused by those other factors was not attributed to dumping." See also article on the cotton dispute on page 7.

Zeroing

After having lost a case in April 2003 against practising 'zeroing' in determining dumping duties for Indian bed linen, the EU is now poised to request a panel to rule on the US use of the same methodology when calculating anti-dumping margins. The prohibition of zeroing is also one of the primary targets of a large group of WTO Members in the Doha Round negotiations on trade remedy rules.

Zeroing inflates the level of anti-dumping duties because only positive findings of goods being exported below local sales prices in the country under investigation are taken into account in final injury determinations. A 'zero' – instead of negative – value is assigned in those cases where the allegedly dumped good is sold at a lower price domestically than abroad.

The EU's consultation request alleges that the US has used the methodology in injury determination in 31 cases involving EU exports. The US is likely to defend the practice tooth and nail, particularly after the US Court of Appeals for the Federal Circuit ruled on 16 January that the WTO's condemnation of zeroing in the bed linen case was not "sufficiently persuasive" for the US International Trade Commission to abandon its use.

US Takes First Step on Anti-dumping Duties on Shrimp

On 17 February, the US International Trade Commission (ITC) determined that there was a reasonable indication of material injury/threat of material injury to a US industry "by reason of imports of certain frozen and canned warmwater shrimp and prawns from Brazil, China, Ecuador, India Thailand and Vietnam that are allegedly sold in the US at less than fair value." The ITC determination followed a petition from the American Southern Shrimp Alliance, which claimed that imports from the six developing countries had dumping margins ranging from 26 to 350 percent. The affected countries have vigorously denied this. "The reason we can sell at more competitive prices is simply because we can produce at lower cost. That's not dumping," Aluisio Lima-Campos of the Brazilian embassy in Washington said.

The preliminary injury determination paves the way for an anti-dumping investigation by the Department on Commerce, which is scheduled to issue a preliminary anti-dumping determination on or about 8 June 2004.

Members Fault Russia's Market Access Offers

The latest negotiating session on Russia's WTO accession revealed substantive gaps in market access for goods and services, although some progress was reported on technical issues such as customs procedures and taxation.

Argentina, Australia, Brazil, and Canada strenuously objected to Russia's plan to allocate to the EU and the US the lion's share of the beef, pork and poultry tariff rate quotas (TRQs) it is seeking to maintain until 2009 before replacing them with a tariff-only system. Russia's chief negotiator, Deputy Minister of Economic Development and Trade Maxim Medvedkov, defended the allocations as compatible with GATT Article XIII.2, which instructs Members to apply import restrictions so that trade distribution reflects historical market shares.

Brazil and Canada were especially incensed at the allocation of 60 percent of all Russian pork imports to European producers after the EU recently resumed the pork export subsidies it had abandoned in 2000. The EU justified the support as a temporary measure aimed at making up for loss of markets due to the appreciation of the euro.

Many WTO Members found Russia's latest services offer disappointing, citing in particular inadequate opportunities in finance, telecommunications and professional services, as well as the mining and energy sectors.

Other Issues

Beyond agriculture and services, several WTO Members raised specific issues. The US, for instance, was displeased with Russia's refusal to sign onto the plurilateral Agreement on Trade in Civil Aircraft, which requires the elimination of all import duties on aircraft and aircraft parts. It also highlighted rising concern about Russia's lack of enforcement of intellectual property protection.

Adding a further complication to the already tense relationship with its main trading partner, Russia brought up "the predicted adverse consequences" of the EU's eastward expansion. While the EU has already offered to negotiate compensation with WTO Members affected by the enlargement, it is unusual for an acceding country to take part in such talks. Current and future EU members were to review the Union's relations with Russia on 23 February, including the potential for addressing EU enlargement, WTO membership and Russia's ratification of the Kyoto Protocol together in a "grand bargain" before ten Eastern and Central European states join the EU on 1 May 2004.

The Kyoto Protocol Link

Russia's dual energy pricing – a major irritant with the EU in particular – was not discussed at the February session. However, EU Enlargement Commissioner Günther Verheugen said in January that there were "signs of a political link between finalising the WTO negotiations and Russia's ratification of the Kyoto Protocol" and that both issues could be seen "as a political package" (Bridges Year 8 No. 1, page 18).

In related news, the environmental pressure group Friends of the Earth Europe has called on EU Trade Commissioner Pascal Lamy to suspend the WTO accession talks until there is a "green light" from Russia for the Kyoto Protocol's entry into force, which – despite 117 countries having already ratified it – depends entirely on Russia after the US pulled out of the treaty in February 2001 (Bridges Year 5 No. 1-3, page 13).

Bilateral Processes

In parallel to the multilateral WTO Working Party session, Russia is negotiating bilateral agreements with individual Members on market access commitments for goods and services. According to Minister Medvedkov, deals on goods have already been concluded with 13 states and nearly a dozen others are close to completion. Services negotiations are in the final stages with more than ten out of the 26 Members who have requested bilateral talks.

Minister Medvedkov also noted that the February multilateral talks had made progress on issues such as the compatibility of Russia's system of taxation, application of export duties, and transparency of trade rules.

Although Russia has now been negotiating the terms of its membership for more than a decade, Minister Medvedkov admitted that accession would not happen this year. He did, however, hold out the possibility of concluding the negotiations in 2004. The next round of talks is to be held in Geneva in March or April.

Accession News in Brief

- **Saudi Arabia:** Saudi Arabia seems likely to wrap up its ten-year accession marathon before the end of 2004. A major obstacle was overcome when Saudi Arabia recodified its trade laws in a way that met WTO standards and yet allowed the country to uphold its import bans on pork, alcohol and pornography. Saudi Arabia has reportedly agreed to abolish its dual energy pricing system and to open up its telecommunications sector. Bilateral market access negotiations must still be concluded with Norway, Thailand, Switzerland and the US.
- **Cambodia:** One of only two least-developed countries to have completed WTO accession negotiations, Cambodia on 30 January requested the General Council to grant a six month extension to its 31 March 2004 deadline for ratifying the agreement. The request explained that after inconclusive general elections in July, a new government had yet to be established and to obtain a two-thirds majority vote of confidence in the National Assembly. Until such a time, the WTO ratification would not be possible.

The General Council granted the requested extension on 11 February (see page 1 on Iraq's observership acceptance).

Goods Council Discusses Investment Measures

At the 26 January meeting of the WTO Council for Trade in Goods, Pakistan requested a three-year extension to its transition period for phasing out trade-related investment measures (TRIMs) for its automobile industry. After many months of deliberations, WTO Members agreed on 31 July 2001 to extend specific TRIMs elimination deadlines for eight developing countries until 31 December 2003 at the latest. Although no further extensions were foreseen after that date, Pakistan's Ambassador Manzoor Ahmad called on WTO members on 26 January to give his country the flexibility to extend certain TRIMs he said were necessary due to the economic importance of the automobile industry to Pakistan's economy (the sector grew by nearly 50 per cent in 2002-2003 and provided employment to more than 115,000 persons). According to Ambassador Ahmad, Pakistan had made substantial progress in eliminating its TRIMs, including deleting 86 programmes related to machinery and domestic appliances. However, if the remaining measures could not be extended, Pakistan would have no other option than to raise tariffs on imported vehicle parts.

Brazil and India supported Pakistan's request, adding that this case showed the need for revising the TRIMs Agreement. The US said it would consider the request with "an open mind", while the EU and Japan noted that there was not enough time or sufficient information for an immediate decision. The Council will revert to the matter at its next meeting on 15 April 2004. In the meantime, the Goods Council Chair will conduct informal talks with interested parties on how to move the process forward.

During a more general review of the operation of the TRIMs Agreement, Brazil – supported by India, Colombia and Pakistan – argued that governments should be allowed to intervene and boost linkages between multinational corporations and small and medium-scale industries that are of key importance for job creation, technology transfer and poverty reduction. The US disagreed, saying that Brazil's suggestion would amount to a reopening of the TRIMs Agreement. The Chair concluded that Members' positions on the review had not changed.

Loaded Agenda for March TRIPs Council

The WTO Council for Trade-related Aspects of Intellectual Property Rights (TRIPs) will meet on 8-9 March 2004 to consider, *inter alia*, access to medicines, the patentability of plants and animals, and geographical indications.

TRIPs Article 27.3(b) on patentability or non-patentability of plant and animal inventions has been under review in the Council for several years. The Doha Declaration refers to this review, as well as the review of the overall implementation of the TRIPs Agreement under article 71.1, as outstanding implementation issues. It calls on the Council "to examine, *inter alia*, the relationship between the TRIPs Agreement and the Convention on Biological Diversity, the protection of traditional knowledge and folklore, and other relevant new developments raised by Members pursuant to Article 71.1." In undertaking this work, Members "shall take fully into account the development dimension".

Members are also to continue discussions on the bitterly divisive topic of extending to other products the higher level of protection given by TRIPs to geographical indications (GIs) on wines and spirits. 'Old world' countries are pushing for GI extension, while 'new world' countries are strongly opposed (see related article on page 17).

On 30 August 2003, WTO Members agreed on a waiver implementing paragraph 6 of the Doha Declaration on TRIPs and Public Health. The Council now has to turn this into a permanent amendment of the TRIPs Agreement within the first half of 2004. See related Bridges articles by Frederick Abbot (Year 7 No.7, page 22) and Carlos Correa (Year 8 No.1, page 21).

Chairpersons of WTO Bodies 2004

- **General Council:** Shotaro Oshima (Japan)
- **Trade Negotiations Committee:** Supachai Panitchpakdi (WTO)

Chairs of the Negotiating Bodies

- Special Sessions of the Committee on Agriculture: Timothy Groser (New Zealand)
- Negotiating Group on Non-Agricultural Market Access: Stefán Jóhannesson (Iceland)
- Negotiating Group on Rules: Eduardo Pérez Motta (Mexico)
- Special Sessions of the Council for Trade in Services: Alejandro Jara (Chile)
- Special Sessions of the Council for TRIPs: Manzoor Ahmad (Pakistan)
- Special Sessions of the Committee on Trade and Development: Faizel Ismail (S. Africa)
- Special Sessions of the Committee on Trade and Environment: Toufiq Ali (Bangladesh)
- Special Sessions of the Dispute Settlement Body: David Spencer (Australia)

Chairs of Selected Regular Bodies

- Dispute Settlement Body: Amina Chawahir Mohamed (Kenya)
- Council for TRIPs: Joshua Law (Hong Kong, China)
- Council for Trade in Goods: Alfredo Chiaradia (Argentina)
- Council for Trade in Services: Peter Brno (Slovakia)
- Committee on Trade and Development: Trevor Clarke (Barbados)
- Committee on Trade and Environment: Naéla Gabr (Egypt)
- Committee on Regional Trade Agreements: Ronald Saborío Soto (Costa Rica)
- Working Group on Trade and Transfer of Technology: Jaynarain Meetoo (Mauritius)
- Working Group on Trade Debt and Finance: Péter Balás (Hungary)

Due to continued lack of agreement among Members on how to proceed with the Singapore issues, no Chairs were appointed for the working groups dealing with investment, competition policy and transparency in government procurement (see also page 1).

Post-WTO China's Sustainable Development Challenge

Two years of WTO membership have profoundly transformed China's economy. This article provides an initial look at some economic indicators, as well as a glimpse at some of the social and environmental challenges brought on by major changes in production, consumption and employment patterns.

China became the world's sixth largest economy in 2003 with an estimated growth rate of 8.5 percent. It is now the fourth largest trading nation after the US, the EU and Japan, with a per capita GDP expected to exceed US\$1,000 in 2003. At purchasing power parity, however, this stands at only about one sixth of that of the US.¹ A surge in industrial output was the major force behind China's rapid growth in 2003. Manufacturing was fuelled by soaring domestic consumption of cars and mobile phones. During the first half of 2003, investment accounted for more than 60 percent of the overall volume of GDP, up from 26.5 percent in 1998. However, monthly data suggests that macro-economic indicators began to drop in August, partially attributed to the impact of the central bank's tight monetary policy.

The export boom: While China has replaced the UK as the world's fifth largest manufactured goods exporter, half of its total merchandise exports are produced by subsidiaries of foreign firms based in China. Additionally, most exports of domestic Chinese manufacturers are produced under original equipment manufacturing agreements with overseas companies using their brand names. This means that almost all the high- and medium-tech goods exported from China are products of foreign firms.

Surging imports: China is taking a more import-friendly path than the often criticised neo-mercantilist model adopted by Japan and South Korea: during the first three quarters of 2003, imports grew by 41 percent, leading the country to overtake Japan as the world's third largest importer behind the US and Germany. Lower tariffs (down to 11.5 percent from 12.7 percent in 2003) and reduced import licenses contributed to this trend. Imports worth US\$120 billion went to the processing trade – up 30 percent year-on-year. With the import boost, China's trade surplus dropped by 27.6 percent in the first 11 months in 2003.

China's appetite for imports is fuelling exports in many parts of the world. It is the fastest growing export market for many Asian countries, including Japan, Singapore, South Korea, and Taiwan. China currently consumes between a fifth and a third of the world's traded aluminium, iron ore, zinc, copper and stainless steel. Its demand for these minerals and agricultural products such as soybeans has also contributed to export growth in Latin America. According to an Australian government report, China's demand for farm commodities, and for minerals and energy, will grow by 15 and 14 percent a year respectively until 2010. This report also argues that China's industrial rise should be viewed as a 'positive sum game' for the region.²

FDI: Since becoming the world's largest recipient of foreign direct investment in 2002, China received US\$53.3 billion of FDI in 2003 (with an accumulated FDI stock of nearly US\$450 billion), although the rate of growth has slowed – perhaps due to the outbreak of Severe Acute Respiratory Syndrome (SARS) in 2003 and shortages of coal, electricity and other key inputs. The top two sources of funds are Hong Kong – often a conduit for investment from the rest of the world – and the Virgin Islands, used as a channel for Chinese money to 'round-trip' and qualify for various tax perks given to foreign investors. It is not clear how much 'round-trip' Chinese investment has inflated the FDI figure.

Sustainable Development Challenges Abound

China's stunning growth could be seen as proof positive of the benefits of globalisation, but this should not mask the serious effects already being felt and major hurdles still to come.

First, it is necessary to create enough jobs in the industrial and services sector to absorb the surplus labour from agriculture, which still makes up 17 percent of China's GDP and half of its employment. State funding for re-training farmers for service or manufacturing jobs will increase six-fold in 2004. This will further hasten rural-urban migration. By 2020 300 to 400

million rural dwellers will have moved to towns and cities. The Chief Economist for CSFB, an investment bank, estimated that China needs to find 22 million new jobs every year – which roughly equals all US employment growth since 1987.³ China also needs to confront the enormous challenge of reforming the network of state-owned enterprises (SOEs) and sustaining the growth climate to provide employment for some 729 million workers that will be displaced from state-funded jobs.

Second, it is critical to spread the benefits of rapid development and to avoid a widening of income differences across regions. Per capita income in the eastern region was 2.15 times that in the northwestern countryside in 2000, compared to a maximum of 1.68 times in 1978. In 2003, average rural incomes rose only 4.3 percent in comparison to urban incomes that grew 9.3 percent. Less than 50 percent of rural households had televisions and less than 20 percent had fridges.⁴ In addition to initiatives to 'develop the West', Premier Wen Jiabao also launched a campaign to reinvigorate China's North-eastern industrial rust belt, which includes using all possible measures to eradicate corruption to free the region from bribery, mafia activities and other abuses.

Third, the challenge remains on how to avoid sacrificing the environment while China's economy is undergoing rapid growth. China's desert area has been expanding at a rate of 2,460 square kilometres per year since the early 1990s, threatening the livelihood of about 400 million people, according to the Chinese Academy of Sciences.⁵ China's economic growth has spurred demand for electric power and also sharply increased the number of vehicles on the road: production of private cars surged an astounding 87 percent, while sales soared 69 percent. Demand for automobiles – and attendant air pollution – are expected to grow significantly. In order to mitigate the negative impacts, Guangdong, for one, agreed on a joint plan with Hong Kong to reduce air pollutants in

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the region, aiming to cut emissions of sulphur dioxide, nitrogen oxides, and volatile organic compounds by 20 to 55 percent by 2010. Despite such positive initiatives, China's environmental challenges loom large.

Looking Forward

In addition to the three sustainable development challenges highlighted above, capacity constraints may slow future growth. China has become the world's second largest consumer of crude oil after the US, according to figures from the International Energy Agency (IEA) and the government in Beijing. In some areas, shortages in electricity, transport capacity (such as railways), coal, grain, and other commodities are pushing up prices and restraining new investment. In the power industry, for example, electricity shortages have in part been fuelled by the shortage of coal, which supplies up to 70 percent of China's energy needs. In the next few years, China may even become a net importer of coal.

The catastrophic impact of SARS in early 2003 is likely to have taught policy-makers in China a lesson – that neglecting health and environmental issues can have enormous impacts on the pursuit of economic growth and development. There is hope that the recent emphasis by the leadership on 'balanced and sustainable growth' will provide new impetus to ensure that China's rapid growth is in line with the goal of sustainable development. The idea that growth must be 'comprehensive, co-ordinated and sustainable' encapsulates many elements – including the expansion of the social welfare network, as well as the notion of corporate responsibility and minimising environmental impacts. How China will cope with many of these serious challenges will be crucial to its sustainable development, as well as to the new world economic order.

ENDNOTES

¹ Martin Wolf, "The Long March to Prosperity", *The Financial Times*, 9 December 2003

² Department of Foreign Affairs and Trade, Canberra, Australia, *China's Industrial Rise, East Asia's Challenge*, www.dfat.gov.au

³ Robert J Samuelson, 'A China Bubble?' *The Washington Post*, 23 October 2003

⁴ James Kynge, 'Beijing Hopes to Bring Consumer Values to Rural Population', *The Financial Times*, 10 February 2004

⁵ 'Balanced Development to be Enhanced', *China Daily*, 28 October 2003

The US-Australia Free Trade Compromise

Australia and the US signed off on a free trade agreement on 8 February after Australian diplomats concluded that a thin slice of the American farm pie was better than no slice at all.

Australia's Trade Minister Mark Vaile defended the agreement as one taken in the national interest "based on the overall economic benefit that was available now and [for] many generations in the future in moving Australia into a much closer position of integration with the largest economy in the world." The manufacturing sector is the greatest beneficiary of the FTA, with the quasi-totality of both countries' industrial goods granted immediate duty-free access.

Agriculture

Until late in the talks, Australian negotiators had insisted that they would not be satisfied with less than "significant movement on agriculture" including market access for beef, dairy and – most of all – sugar. In the end, however, a deal was struck without any increase in Australia's modest sugar quota and only marginal short-term improvement in market access for dairy products and beef. For the latter, in-quota tariffs disappear from the date the FTA comes into effect, but out-of-quota tariff phase-out will only start nine years after the agreement enters into force and be completed nine years later. Even after that, two-thirds of the present tariffs can be reimposed if US beef prices fall by 6.5 percent below a two year rolling average. Some in-quota dairy imports are slated to grow, but according to the USTR the increase will not exceed 0.17 percent of US dairy production or two percent of the current value of total US dairy imports.

Both sides stressed benefits accruing from tariff elimination on other agricultural products such as lamb, oranges, cotton seeds, cut flowers, soybeans, fresh and processed fruits, vegetable and nuts, alcohol and some processed food products. The US also gave up its demands on changes in the Australian Wheat Board in exchange for Australia's promise to support WTO negotiations on new disciplines on state trading enterprises.

Public Health and Intellectual Property Rights

Australia successfully resisted demands for far-reaching changes to its Pharmaceutical Benefits Scheme (PBS), under which the government provides reasonably priced prescription drugs to citizens. The only significant concessions were the possibility for US pharmaceutical companies to appeal decisions against including their products in the PBS list and the establishment of a medical working group that could deal with pricing issues. Australia also confirmed that it will not re-export medicines included in the PBS, which in any case is already prohibited by law.

Like the CAFTA Agreement (see page 13), the US-Australia FTA protects confidential US test data for pharmaceuticals for five years (ten for agrochemicals) after the patent's expiry, although the data can be used by competitors seeking to market a product for a different use than the one originally approved.

Investment and the Audiovisual Sector

In a concession to Australia, the US agreed that only governments – and not private investors – could initiate investment disputes. Australia agreed to raise to US\$800 million (from US\$50 million) the threshold above which new US investment will be scrutinised by the Foreign Investment Review Board. However, the old limit will apply to acquisitions of Australian telecommunications firms, as well as transport and defence-related investments. All acquisitions of Australian media outlets will be screened regardless the level of investment.

Australia agreed to permanently cap its 55 percent local content requirement for radio and television programmes, and US consented to raise from ten to 20 percent the budget share that any new pay channel must devote to producing local programming.

Once the text – which reportedly runs to more than 400 pages – is available, Bridges will look into its provisions in more detail.

CAFTA Commitments Beyond Market Access

The rules of the Central American Free Trade Agreement have attracted much less attention than its market access negotiations. This article looks at some of the Agreement's substantive provisions that are of particular interest to the sustainable development community.

Bowing to pressure from the United States, Central American countries accepted a far stronger environment chapter than initially envisaged. This may improve the treaty's chances of being approved by US Congress, where strong Democratic opposition is expected due to labour provisions still considered too weak, as well as market access concessions for sugar and textiles. For the Central American CAFTA partners, however, the new commitments in these and other areas – well beyond WTO obligations – will require considerable efforts, particularly as non-compliance may ultimately lead to trade sanctions. See also news update, page 14.

Environment

Parties must uphold and enforce national legislation. Article 17.2(a) states: "A Party shall not fail to effectively enforce its environmental laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the Parties." Subparagraph 17.2(b) specifies that Parties have "the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other environmental matters determined to have higher priorities." A Party will be considered in compliance with subparagraph (a) "where a course of action or inaction reflects a reasonable exercise of such discretion, or results from a *bona fide* decision regarding the allocation of resources."

Like other US free trade agreements, the CAFTA recognises that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded in domestic environmental laws."

Citizens' Submissions

US pressure also led to the inclusion of a NAFTA-like citizens' submission procedure, which allows any resident in a CAFTA country to file a complaint about that country's failure to uphold its own environmental laws. Such complaints must first be submitted to the government in question, which must promptly make them available to the other Parties, as well as the public. If the domestic authorities fail to act, the matter can be submitted to the secretariat of the ministerial Environmental Affairs Council (ECA) – modelled after the NAFTA Commission for Environmental Co-operation – which may instruct the secretariat to develop a "factual record". Acceptable submissions must, *inter alia*, "appear to be aimed at enforcement rather than at harassing industry" and not be "frivolous" or "drawn exclusively from mass media reports."

If the secretariat does develop a "factual record", the ECA may make it available "by a vote of any Party". However, the Council's own action is limited to making recommendations "related to matters addressed in the factual record, including mechanisms related to the further development of the Party's domestic mechanisms for monitoring its environmental enforcement" to the Environmental Co-operation Commission also established under CAFTA. In other words, citizens' submissions cannot lead to trade retaliation. As under NAFTA, the main effect of the factual records – if they are made public – will be to put moral pressure on the concerned government to rectify whatever shortcomings are identified.

Labour Aspects

These provisions mirror those on the environment. Parties must comply with their national legislation and international commitments. The latter include "internationally recognised labour rights" such as freedom of association, the right to organise and bargain collectively, and a prohibition of forced labour. It also commits members to establish/enforce a minimum age for the employment of children and to eliminate the worst forms of child labour, as well as to set "acceptable conditions of work" with respect to minimum wages, working hours, and occupational safety and health.

Parties recognise that it is "inappropriate to encourage trade or investment by weakening or reducing the protections afforded in domestic labour laws." They must "strive to ensure" that they do not "offer to waive or otherwise derogate from, such laws in a manner that weakens or reduces adherence to the internationally recognised labour rights [...] as an encouragement for the establishment, acquisition, expansion, or retention of an investment in its territory."

The Agreement establishes a Labour Co-operation and Capacity-building Mechanism to promote respect for the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up*, as well as a cabinet-level Labour Affairs Council to "oversee the implementation of and review progress". Although its field of action is much more limited than that of the ECA, the Labour Council's annual meetings "shall include a session at which members [...] have an opportunity to meet with the public to discuss matters relating to the implementation of [the labour] chapter."

Environment & Labour Disputes

Non-compliance with Article 17.2(a) of the environment chapter and the corresponding Article 16.2(a) of the labour chapter – i.e. sustained or recurring failure to effectively enforce domestic environmental or labour laws "in a manner affecting trade between the Parties" – is actionable under the CAFTA's dispute settlement system.

Each CAFTA member is required to establish a roster of environmental/labour law experts who are "willing and able" to serve as panelists in disputes arising under Articles 17.2(a) or 16.2(a). Panels hearing such cases must be composed entirely of experts on the roster.

Failure to implement panel rulings can entail a maximum annual fine of US\$15 million, which will be paid into a fund to be established by the CAFTA Free Trade Commission. The money "shall be expended at

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the direction of the Commission for appropriate labour or environmental initiatives, including efforts to improve or enhance labour or environmental law enforcement, as the case may be, in the territory of the Party complained against, consistent with its law.”

If the non-compliant Party fails to pay the fine (called ‘assessment’), the complaining Party may take “other appropriate steps to collect the assessment or otherwise secure compliance”, including “suspending tariff benefits under the Agreement as necessary to collect the assessment.”

Investment

The lengthy investment chapter is largely modelled on NAFTA’s Chapter 11. It provides a high level of protection for foreign investors, including national treatment and most-favoured nation treatment, as well as an investor-state dispute settlement mechanism that allows investors to sue the host state.

The chapter also retains the controversial concept of direct or indirect ‘expropriation’ “through *measures equivalent* to expropriation or nationalisation” (editor’s italics). Similar language under NAFTA has been successfully used by companies suing host states for damages resulting from environmental or health-related regulations. The CAFTA Agreement tries to forestall such abuse through explicitly stating that expropriation-type measures can be taken “for a public purpose”. An annex specifies that “except in rare circumstances, non-discriminatory regulatory actions by a Party that are designed and applied to protect legitimate public welfare objectives, such as public health, safety and the environment, do not constitute indirect expropriations.”

Intellectual Property Rights

The Agreement specifies that intellectual property rights (IPRs) are included in the definition of ‘investment’. However, Article 10.7.5 of the investment chapter states that the expropriation and compensation provisions “*do not apply to the issuance of compulsory licenses granted in relation to intellectual property rights in accordance with the Trade-related Aspects of Intellectual Property Rights (TRIPs) Agreement*, or to the revocation, limitation, or creation of intellectual property rights” to the extent that such actions are consistent with CAFTA’s intellectual property rights chapter (editor’s italics).

The IPR chapter itself reflects US determination to include ‘TRIPs-plus’ intellectual property standards in its bilateral trade agreements. The CAFTA commits Parties to ratifying six intellectual property treaties not covered by TRIPs, as well as to make “all reasonable efforts” to accede to four others, including the International Convention for the Protection of New Varieties of Plants (UPOV1991). Copyright protection is extended well beyond WTO requirements.

Pharmaceuticals

Many of the provisions are geared toward the protection of confidential data, presumably to guarantee the patent holder’s exclusive marketing rights, as well as to discourage the manufacture and marketing of generic copies. For instance, countries must prohibit for five years the marketing of a pharmaceutical product (ten years for agrochemicals) based on undisclosed safety of efficacy data submitted by the rights holder in order to secure marketing approval.

The so-called Bolar exception is recognised in that countries are allowed to use the subject matter of a subsisting patent “to meet the requirements for approval to market the product once the patent expires.”

Protection of Plant Varieties

CAFTA countries that do not provide “effective patent protection” for plants by the time CAFTA becomes law are required join UPOV 1991. They also commit to undertake “all reasonable efforts” to make patent protection available for plants. Doing so would exceed WTO commitments, as TRIPs Article 27.3(b) allows Members to protect plant varieties either through patents or through *sui generis* systems (literally: systems of their own making). Further, any country that already allows patents on plants or animals “shall maintain such protection”.

Geographical Indications

The language on geographical indications (GIs) is quasi-identical to the US-Chile Agreement, and reflects the US preference for protecting goods through trademarks. The extent of GI protection is hotly debated at the WTO’s agriculture negotiations, as well as the TRIPs Council (see page 10). The CAFTA Agreement sidesteps the issue by stating that GI protection or registration must be refused if the GI is “confusingly similar” to a ‘good-faith’ pending application or a registered trademark. No claw-back is possible for ‘usurped’ GIs, as suggested by the EU: the CAFTA specifies that GI protection must be denied if the rights to a “confusingly similar” pre-existing trademark were “acquired in accordance with each Party’s law.”

Future issues of Bridges will offer more detailed analysis of certain CAFTA chapters.

Costa Rica, US Agree on CAFTA Deal

Costa Rica concluded its markets access negotiations with the US on 25 January with some gains in protecting sensitive agricultural products in exchange for opening its telecommunications and insurance sectors to competition.

Costa Rica will have 17 years to phase out poultry quotas, with a first year commitment of 300 tonnes. This contrasts with the 15-year phase-out period and 22,000 tonne first-year quota – shared between the four countries – agreed by El Salvador, Honduras, Guatemala and Nicaragua, which signed off on the CAFTA on 17 December (Bridges Year 8 No. 1, page 16). Costa Rica also secured more protection for its potato and onion growers, but failed to strike a significantly better deal on rice than other Central American countries. Its sugar quota will increase in line with that of other CAFTA members, although a 2000 tonne separate quota was agreed for organic sugar. Costa Rica made only modest gains on textiles market access.

In exchange, Costa Rica will open up three of its telecom services sectors starting in 2006, as well as allow US firms to sell non-compulsory insurance as of 2008. Compulsory car and occupational risk insurance will be liberalised in 2011.

The Dominican Republic is expected sign on to the CAFTA in the next couple of months.

FTAA Decisions Postponed Again

Vice trade ministers of 34 Western hemisphere countries could not agree in early February on a way forward for the Free Trade Area of the Americas. They adjourned the meeting at least until early March amid fundamental differences on how the future treaty should be structured.

The February session of the FTAA Trade Negotiations Committee (TNC) was the first since the November Miami Ministerial (Bridges Year 7 No.8, page 1). The main task before the negotiators was to flesh out the ministers' instruction to "develop a common and balanced set of rights and obligations applicable to all countries." According to the Miami Declaration, the 'common set' was to include provisions in all nine areas under negotiation, i.e. market access; agriculture; services; investment; government procurement; intellectual property; competition policy; subsidies, antidumping, and countervailing duties; and dispute settlement. In addition, interested parties could "choose to develop additional liberalisation and disciplines" on a plurilateral basis. The TNC was to establish procedures for these negotiations.

Despite initial assurances of mutual flexibility, the main point of contention soon reasserted itself: what was the relationship to be between the 'common set of rights and obligations' and the commitments taken on by countries intent on deeper economic integration?

What Level for the Set of Common Obligations?

The US and 13 other countries that have – or are slated to conclude – free trade agreements with the US sought to ensure that the level of market access for agricultural and industrial goods would reflect their higher 'second tier' commitments in other areas. According to a senior US official briefing journalists after the talks were adjourned, the US was seeking 'WTO-plus' second-tier agreements on intellectual property rights (including, *inter alia*, copyrights and biotechnology), services (telecoms, financial services and express delivery), as well as market access commitments in government procurement.

Commenting on the relationship between the 'common' and the 'second-tier' agreements, the US official said: "As high as people as willing to go, in the areas that are important to us, we're willing to go that high in market access. But then, for example if we do this plurilateral with these 13 other countries, and we have a BIT (bilateral investment treaty, *ed.*) level agreement on investment and we have a FTA level agreement on services, well then we would expect – it's only fair – that the market access part of the plurilateral would be that much better than the market access part of the common set."

This "you get what you pay for" approach was strongly resisted by the Mercosur bloc (Argentina, Brazil, Paraguay and Uruguay), which sought an ambitious common level of commitments on agricultural and industrial market access. According to the Mercosur view, all FTAA countries should commit to the elimination of agricultural export subsidies, as well as substantive reductions in domestic support, and agree to rapid tariff elimination for both industrial and agricultural goods.

Whatever more far-reaching deals would be negotiated under the FTAA umbrella between willing participants should only cover the subject area of the plurilateral in question and not have any bearing on the level of agricultural and industrial market access. Brazil in particular has signalled its strong opposition to any binding FTAA disciplines that would exceed those required from WTO Members in such areas as intellectual property rights, services, investment, competition policy or government procurement. The Caribbean countries are also weary of an all-embracing FTAA.

These fundamental differences could not be breached and few believe in a breakthrough when the TNC reconvenes in March. Meanwhile, the US continues to consolidate its network of bilateral FTAs with Latin American countries, while Brazil is reaching out to other key developing countries around the world (see page 16).

Middle East Trade News

- The US and Bahrain launched free trade area negotiations on 26 January. The talks will build on the Trade and Investment Framework Agreement (TIFA) signed by the two countries in 2002. Since signing the TIFA, Bahrain has joined the WTO's Information Technology Agreement and, according to the US Trade Representative, "taken initial steps to join and implement WIPO Internet treaties and pledged to treat agricultural biotechnology fairly." Bahrain's Minister of Finance and National Economy Abdullah Hassan Saif predicted that only four rounds of negotiations would be necessary before the agreement was signed, probably next June. The agreement will cover services, finance, market access, textiles, e-commerce, telecommunications, technical barriers to trade, customs, intellectual property rights, government procurement, the environment and labour issues. Bahrain already has 36 bilateral trade agreements with other countries.

The Bush Administration sees the Bahrain FTA as a stepping stone to a wider Middle East free trade agreement that it intends to conclude by 2013. FTAs already exist between the US and Jordan, as well as Israel, and negotiations are underway with Morocco. Yemen and Kuwait signed TIFAs on 6 February 2004.

- Morocco and the US are now expected to sign their free trade area agreement in April or May 2004. The talks were slated to conclude by the end of last year, but ran overtime partly due to Morocco's strong resistance to removing tariffs or establishing tariff-rate quotas for wheat. According to Moroccan authorities any significant increase in imports could put subsistence wheat farmers out of work. Agriculture accounts for up to 18 percent of Morocco's GDP and nearly 40 percent of the country's jobs.

Some progress was reported in early February on textiles, as well as in accommodating Morocco's subsidies to farm prices and the US system of subsidising agricultural production.

EPA Update

Regional-level negotiations were launched on 7 February between 16 members of the Common Market for Eastern and Southern Africa (COMESA) with a view to concluding an Economic Partnership Agreement (EPA) with the European Union. By next December, COMESA also plans to launch a customs union that will harmonise external tariffs.

Six COMESA members who also belong to the Southern African Development Community (SADC) will be part of the Eastern and Southern Africa (ESA)¹ regional arrangement, while seven other SADC members² will form a separate EPA with the EU. Concerned about regional fragmentation, Southern African civil society groups are urging SADC states to agree on a common bottom-line position, as well as calling for a joint SADC-COMESA ministerial meeting to hammer out an agreement between the two new negotiating blocs. The Economic Community of West African States and the Central African Economic and Monetary Union started EPA negotiations in October 2003.

Caribbean ACP countries are also slated to begin region-specific EPA negotiations in February/March, with four parallel working groups envisaged in industrial and agricultural market access; services and investment; trade-related issues; and structural support measures.

The EPA negotiations are conducted under the Cotonou Agreement. As of 2008, the unilateral trade preferences the EU has extended for several decades to more than 70 African, Caribbean and Pacific (ACP) developing countries are to be gradually replaced with WTO-compatible 'economic partnership agreements' (Bridges Year 7 No.7, page 18).

¹ESA countries include Burundi, Comoros, the Dem. Republic of Congo*, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Malawi*, Mauritius*, Rwanda, the Seychelles*, Sudan, Uganda, Zambia* and Zimbabwe* (asterisk denotes SADC members).

² Angola*, Botswana, Lesotho, Mozambique, Namibia*, Tanzania and Swaziland* (asterisk denotes COMESA members).

The South Seeks New Solutions

In recent weeks, key developing countries have taken several initiatives to strengthen South-South trade in a bid to lessen their dependence on industrialised country markets, as well as to increase their bargaining power at the WTO.

In late January, Brazil's President Luiz Inacio da Silva called for a trilateral trade pact – already dubbed by some as the 'axis of the poor' – between Brazil, India and South Africa, which would give the three "the political will at the WTO to get the flexibility we need." Brazil, India and South Africa are the leaders of the G-20 Group that defends developing country interests in WTO agricultural negotiations (see related article on page 3). According to South Africa's chief trade negotiator Xavier Carim, President da Silva's proposal enjoys high-level political support in all three countries. Both India and Brazil are also pursuing alliances with China, another G-20 member.

Brazil, India and South Africa appear to envisage a series of bilateral agreements rather than a single binding agreement for all. Steps have already been taken toward liberalising two-way trade. In late January, Mercosur (of which Brazil is the largest member) and India signed a preferential trade agreement. Mercosur and South Africa (as a member of SACU, i.e. the Southern African Customs Union, which includes Botswana, Lesotho, Namibia and Swaziland) are in the early stages of negotiating a similar arrangement. Those talks have been overshadowed by SACU's negotiations for a free trade area with the United States, but SACU and Mercosur have agreed to step up the pace and hold at least three meetings this year. Tariff reductions are initially foreseen in 'non-sensitive' sectors.

In the coming months, SACU trade and finance ministers are also to explore strengthening trade ties with China and India, as well as Kenya and Egypt. Preliminary talks between SACU and India could be launched as early as next March. Namibia is also expected to table a paper within the Southern African Development Community (SADC) on proposals by the European Union to reform its trading relations with its main development partners in the Africa, Caribbean and Pacific (ACP) Group of States (see opposite).

Despite official optimism, some analysts predict that momentum could be difficult to maintain beyond co-operation in the WTO farm negotiations. For instance, according to Gary Hufbauer, Senior Fellow at the Institute of International Economics, high tariffs and quotas for farm commodities are likely to remain a major challenge between developing countries intent on protecting domestic markets and those focused on penetrating new ones.

Japan – Mexico Talks Still Stalled

Japan and Mexico failed their January attempt to bridge differences over trade in key farm products such as oranges/orange juice, pork, chicken and beef. The two countries were slated to conclude free trade negotiations in October 2003, but similar concerns caused them to postpone the deal (Bridges Year 7 No.7, page 18). While both parties agreed to continue talks, Tokyo is reportedly not in a hurry to conclude its first trade agreement to include a significant agricultural component although members of the powerful Keidanren business federation have called on Japanese farmers to become more competitive rather than simply focus on blocking imports. Meanwhile, Japan and Malaysia have agreed on the framework and basic principles of free trade negotiations, and Japan is expected to begin talks soon with Thailand and the Philippines.

Singapore – Korea FTA Expected in 2005

Korea and Singapore have agreed to sign a free trade agreement by the end of 2004, according to a joint statement issued after their first round of trade negotiations. The negotiations will take place in nine working groups to discuss areas such as services, investment and intellectual property rights, along with five rounds of negotiations to be held within the year. The second round of talks will be held in Seoul in late March.

Geographical Indications and Biodiversity: Bridges Joining Distant Territories

Jorge Larson Guerra

Many studies show that labelling indicating geographic origin can contribute to *in situ* conservation of biological diversity and the protection of traditional knowledge and practices. This angle is worth a closer look now that geographical indications have become a major issue at the WTO and a bargaining chip in the Doha Round.

In situ conservation of biodiversity is a complex process involving the protection and restoration of the diversity of rural landscapes, the sustainable use of biological resources and the viability of traditional rural livelihoods. Not only economic, but social, cultural and environmental values are at stake and geographical indications (GIs) can offer a bridge between consumers and producers for the mutual recognition of such processes and the values they can represent.

GI labelling principles are closely related to those of trademarks: they must be non-misleading and informative, as well as allow the identification of the producer of goods and services. They are, in a sense, a “guarantee” to the consumer and they promote a corporate image that includes reputation and responsibility.

GI certification is based on a combination of first-party verification and state oversight or even direct involvement. They are a collective guarantee related to the biological identity and the quality of the product. Third party certification labelling developed in the context of eco-labelling can play a role. A strategy that combines eco-labels with GI certification could strengthen small rural producers’ development, conservation and marketing efforts. The important issue is that both eco-labels and GI certificates can be accountable if developed according to known, public and verifiable standards that contribute to consumer confidence through meaningful rules.

In many developed countries origin-related labelling has evolved slowly and now includes a complex mix of GIs and trademarks, most often protecting processed goods ranging from wines and spirits to cheeses and hams, honeys and other horticultural produce. Developing countries, however, are only at the beginning of their regulation history with regard to GIs and trademarks, as well as the basic legal requirements related to environmental and forestry regulations.

In developing countries, where the harvest and commercialisation of biological resources remains largely non-differentiated by brandnames or other consumer-oriented indications, GIs are not only a matter of market access or regional protectionism. They also serve as a tool for legally regulating harvesting practices and promoting rational land use strategies that relate directly to *in situ* conservation of biological diversity.

In this context, a broader understanding of the meaning of ‘misleading’ would be very useful, in particular to weed out labels that are deceptive because of what they do not say. Most non-timber forest products now available in the market (in Mexico as well as other countries) are ‘informal’ if not outright illegal. This is why, in particular, non-timber forest products managed collectively – or being decimated by the tragedy of the commons – are at the crossroads of *in situ* conservation and regional development.

Limited productions and sustainability

A finished product labelled by the producers retains more value in its region of origin. It should be transformed, packaged and labelled there. Limited productions are – or should I say ought to be – a necessary consequence of denominations of origin and other geographical indications. This practice has direct implications for sustainability because it sets a rational and verifiable limit to what can be produced within a certain area.

However, if markets demand more, there is a threshold beyond which a product cannot be sustained with the productivity of a region. Demand leads to pressure for imitations and foreign inputs involving complex vertical integration and the interests of a globalised industry. This process undermines ‘originality’ – and sometimes reputation – but history shows that for resources and products not yet traded internationally the potential for conflict between agro-industrial manufacturers of generics and traditional producers of ‘specifics’ is more limited.

Thoughts from Mexico

The Mexican laboratory of globalisation offers valuable lessons with regard to GIs and *in situ* biodiversity conservation. GIs do not contribute to conservation by definition; they need a policy context and much more. But they point to an interesting path of differentiation that complements other strategies.

Tequila is Mexico’s best-known AOC (appellation d’origine contrôlée). The underlying plant takes seven years to mature and market growth demands huge quantities. Producers and government have allowed the introduction of other sugars (up to 49 per cent), a risky strategy that threatens with generification. The tequila agro-industry has also promoted genetic homogeneity and intensive land use, which do not contribute to conservation.

However within *Mezcal* – tequila’s wild forefather and living cousin – there is a wealth of *Agave* species (more than ten) that are cultivated and managed as forest or wild species. It is through ‘single’ mezcals that biodiversity and rural development can be promoted in tandem. While mezcal may seem exotic to non-Mexicans, for us it is a generic, distilled *Agave*. Thus, there is ample room for further differentiation. For instance, a label and a certified GI for *Mezcal*

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Papalote del Chilapan (the product, the species *Agave cupreata* and the region North-east of Acapulco) would be a just reward for a regional peasant organisation that has been working for over a decade in using maguey and mezcal as cash crops that contribute to environmental restoration and community development.

Different perceptions and needs

Precision and confidence in geographical labels are an issue of culture and law enforcement, and the assumptions of governments, producers and consumers vary widely across regions. This is why multilateral agreements on GIs cannot impose a simple rule for all.

The perception by many developing countries of GIs as another technical barrier to trade is not helpful. In the long run, developing economies should not build their growth on replicating products from abroad, but on differentiating their own. They should use their products' identity (often biologically and culturally endemic to the country) and their efforts towards formalisation and sustainability. Competitive advantages are to be found in geographical indications and their growth – in number if not in size as for tequila – will contribute to a diversified rural landscape.

If labelling is challenging for developed economies and industries, picture the complexities of GI labelling in countries whose count of useful biological resources tied to landscape runs to the thousands. Geographical indications may underlie, much more than we think, our long-term ability to sustain viable rural and culturally diverse urban societies. A balance must be reached between the specific and the generic; rural development and access to quality food by all needs both strategies. In a sense, the trend towards the 'GI-fication' of rural products is unavoidable, not only because the exponential growth in their use in the last decade, but also because of the weight of the underlying arguments (to conserve, protect, value and inform). Eventually, GI protection will hit the ground like Newton's apple, and then its seeds will germinate and grow.

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The Crowded Trade Agenda of the Kuala Lumpur Biodiversity Meetings

When this issue of Bridges went to press, the seventh Conference of the Parties to the Convention on Biological Diversity (CBD) was about to conclude, and the first Meeting of the Parties to the Cartagena Protocol on Biosafety was due to start in Kuala Lumpur.

Out of dozens of multilateral environmental agreements, the Cartagena Protocol has the most commercially-significant trade implications. It deals with transboundary movements of genetically modified organisms (GMOs, called 'living modified organisms' in the treaty.) The most important substantive questions on the Kuala Lumpur agenda were labelling and other documentation requirements for GMO exports, compliance, and liability and redress.

While the Cartagena Protocol addresses these topics under the angle of biodiversity conservation, the very same issues pit WTO Members who export GMO products against those intent on regulating such imports. The European Union already faces a WTO dispute on its approval processes for GMOs, with a more comprehensive challenge possible on its entire regulatory framework (Bridges Year 8 No. 1, page 10).

The Conference of the Parties to the CBD (COP-7) also addressed a number of trade-related issues, including a draft decision inviting the WTO to consider the risks arising from invasive alien species. COP-6 adopted Guiding Principles for the prevention, introduction and mitigation of the impacts of alien species, but Australia lodged a formal objection motivated by trade concerns (these may include, *inter alia*, prohibiting packaging that could harbour non-native pests). The draft decision at COP-7 also requested the CBD Executive Secretary to collaborate with the WTO on integrating the issue into the WTO's training and capacity-building activities.

Other draft decisions concerned measures to support compliance with the CBD's provisions on prior informed consent of countries providing genetic resources, and the establishment of an international regime on access to genetic resources and benefit-sharing.

The latter two topics are related to – so far inconclusive – discussions at the WTO's Council for TRIPs, where several developing countries have been pressing for mechanisms to protect traditional knowledge and recognition for regimes that aim to regulate access to genetic resources in order to prevent bio-piracy, as well as to reap benefits from the use of traditional knowledge or genetic resources in patented products. CBD Parties were expected to focus on whether the access and benefit-sharing regime should also cover the *products* of genetic resources and their derivatives, as well as associated traditional knowledge, innovations and practices. Another question was how the regime would relate to and integrate existing instruments and processes, including at the WTO, the World Intellectual Property Organization (WIPO) and the International Convention for the Protection of New Varieties of Plants (UPOV).

Parties to the CBD also looked into transfer of technology, with a draft decision stressing the need to create appropriate intellectual property regimes for the transfer, absorption, adaptation and diffusion of technologies. Among suggested activities was analysis of potential benefits, risks and associated costs related to the introduction of "new technologies", obviously including – although not overtly naming – biotechnology.

A draft resolution was also put to the Parties concerning "perverse incentives" that contribute to loss of biodiversity. A CBD Secretariat study has concluded that reducing trade-distorting agricultural subsidies could help conserve and sustainably use biological diversity provided that "well-designed flanking policies" are in place in both subsidising and non-subsidising countries.

The next issue of Bridges will report on the outcome of the Kuala Lumpur meetings, which will also be covered in detail by BRIDGES BioRes available at <http://www.ictsd.org/biores/index.htm>.

The World Bank Trade Agenda and Sustainable Development

Korinna Horta

The World Bank plays a greater role in the global trade arena than is generally recognised. Its newly established Trade Department only represents the tip of the iceberg. Much of the institution's annual US\$20 billion lending portfolio promotes trade liberalisation in developing countries through quick-disbursing loans for economic policy and structural reforms.

The importance of trade in World Bank activities was further highlighted when the world's largest development agency signed a co-operation agreement with the WTO in 1997 (a similar agreement between the WTO and the International Monetary Fund was signed earlier). Together the three have embarked on a 'coherence agenda' designed to steer global economic policy-making.¹ From the Bank's perspective, one advantage of developing countries' participation in the WTO is that membership makes it difficult for their governments to reverse reforms put in place through structural adjustment programmes.² An additional advantage is that the trade agenda overlaps in part with the World Bank's private sector development work.³

How does sustainable development figure in the Bank's trade-related work? Ever since the 1992 UN Conference on Environment and Development, the Bank has emphasised that poverty alleviation and environmental stewardship are two sides of the same coin. But this close linkage is missing from the World Bank's reinvigorated work on trade. The Bank's new mantra of 'pro-poor trade' seems to have largely supplanted the concept of sustainable development and appears now to be the latest fashion in the search for a way out of the development morass.

Despite the Bank's lofty statements of 'mainstreaming' environmental concerns into all its operations as being critical to poverty alleviation, the old divide, which treats the environment as a marginal sector separate from other Bank activities, seems to be very much alive. A brief overview of some of the Bank's trade-related work provides a clearer picture about the role of environmental sustainability considerations in its activities.

The central goal of the Trade Department established in 2002 is to mainstream trade in borrowing countries' development strategies and to advance "the unfinished trade liberalisation agenda."⁴ Much of the work focuses on trade capacity building (TCB). In addition, the Bank now heads a multi-agency effort, which includes the IMF and WTO, known as the Integrated Framework, which seeks to co-ordinate TCB activities of various donors and to incorporate trade into poverty reduction strategies. There is a broad consensus that it is necessary to build least-developed countries' capacity to become stronger interlocutors in global trade talks and redress the power imbalance within the WTO. Critics, however, argue that the Bank's TCB is neither demand-driven nor independent, but – given the Bank's leverage over least-developed countries – actually provides a backdoor for obtaining concessions from developing countries which further undermines their negotiating positions in a system that is already heavily stacked against them.⁵ Indeed, the Bank has little credibility in providing disinterested technical assistance due to its unflinching dogmatism concerning issues such as the withdrawal of the state from the economy and the privatisation of essential public services such as water and energy.

Despite the growing role of the Trade Department, the Bank's Environment Department does not have a single staff person dedicated to reviewing the environmental implications of its work. Similarly, there appear to be no studies on the social impacts of the Bank's work to bring the poorer countries into the global trade regime.

Perhaps as a way to compensate for the lack of empirical evidence about the distributional impact of its trade-promotion activities, the Bank makes a point of describing itself as an advocacy organisation in defence of the world's poor vis-à-vis the OECD countries.⁶ Senior World Bank staff have repeatedly called on developed countries to reduce agricultural protectionism and subsidies and provide market access to developing countries. While well-intentioned, it appears that the Bank's demands on industrial countries largely represent an effort to regain legitimacy in international development. Many years of criticism of its structural adjustment

lending, which forced developing countries to make unilateral concessions, has left the Bank vulnerable to accusations that its activities have been mostly favourable to industrial countries. The Bank's loan conditionalities helped open developing countries' economies to imports and foreign investment without concessions from the other side. According to the Bank itself, its new positioning as an 'advocacy organisation' helps improve outside perceptions of the Bank by emphasising its commitment to 'pro-poor trade reforms.'⁷

Be that as it may, opening up industrial country markets to agricultural products from developing countries could indeed benefit some countries and certain products. However, lessons must be drawn from the collapse of world prices for tropical commodities, such as coffee, which are not faced with competition from industrial countries. An estimated 1.5 billion rural people in developing countries are engaged in relentless back breaking work to produce these export commodities, yet are forced to the edge of abject poverty. International donors, including the Bank, have played a major role in promoting the oversupply of primary commodities, since they advised almost all tropical countries simultaneously to boost their production of commodities in which they were deemed to have a comparative advantage. The ensuing price collapse has brought about untold human suffering and environmental degradation as poor farmers have been forced to cultivate more marginal land and to deforest larger areas.⁸

What kind of agricultural production does the World Bank have in mind to boost the incomes of poor farmers? Hopefully, the lending of the Bank's private sector arm, the International Finance Corporation (IFC) is not a sign of things to come. Contravening the Bank's own Livestock Strategy, the IFC is investing hundreds of millions of dollars in large-scale industrial livestock operations

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to the detriment of small farmers. These investments also generate a host of environmental problems ranging from nutrient pollution of water bodies to deforestation and biodiversity loss, which can only further impoverish affected rural communities.⁹

Despite rumours that structural adjustment lending (SAL) is a thing of the past, writing an obituary for the Washington Consensus is premature. SAL – now renamed Development Policy Lending (DPL) – consists of quick-disbursing loans in exchange for economic policy changes centred on strict budget discipline, privatisation of state-run enterprises, favourable conditions for foreign investment and labour market flexibility. DPL represents about one third of all Bank lending and is fully part of the Poverty Reduction Strategy Papers (PRSP), a three-year national development strategy required by the IMF and World Bank for countries to qualify for financing and debt relief. According to UNCTAD, the macro-economic and structural adjustment conditionalities of PRSPs represent no real departure from the Washington Consensus.¹⁰ While civil society organisations in developing countries have been invited to participate in some aspects of the PRSP discussions, public participation in the economic and structural conditionalities contained in DPL is not on the table. Decision-making in these critical areas continues to be non-transparent and far removed from democratic processes.¹¹

The October 2003 draft (O.P. 8.60) of the World Bank's new Operational Policy on Development Policy Support – replacing its past policy on structural adjustment – states that the Bank will determine whether specific policies that it supports will cause significant effects on the country's environment and natural resources. This falls far short of a requirement for environmental impact assessments (EIAs) and weakens the current standard, which requires the Bank's Sector Adjustment Loans to undergo EIAs.

Privatisation with its promises of greater efficiency is a major component of the Bank's policy-based lending. A World Bank study recommends that environmental agreements should be part of the sale contracts when state enterprises are turned into private companies and highlights how the Bank can play an important role by working with countries undertaking privatisation to en-

sure that the environment is protected.¹² As with many other well-meaning World Bank studies, it is questionable if these recommendations will be relevant to actual lending.

The Bank's new emphasis on lending for large-scale infrastructure projects is linked to its trade facilitation agenda. The Bank refers to this new approach as its 'High Risks – High Rewards' strategy but does not specify who bears the risks and who reaps the benefits of risky investments. This new approach comes at a time of weakened environmental and social safeguards. For example, the Bank's new Forest Policy has lifted the previous prohibition on direct Bank financing to large-scale industrial forestry operations in moist tropical forests. As a result of a shift from clear rules to a more "flexible value system" with regard to environmental and social safeguards, financing for large dams is once again on the agenda with fewer provisions to ensure that forcibly resettled people will be fairly compensated and able to re-establish their livelihoods.

The Bank's numerous publications on sustainable development create the impression that it has now fully integrated environmental concerns into its activities. But a review of Bank lending by its own Operations Evaluations Department comes to a different conclusion: "The current system does not provide the appropriate accountability structure to meet the Bank's commitments to incorporate environmental sustainability in its core objectives and to mainstream the environment in its operations."¹³

Similarly, a recent Bank-commissioned report concludes that Bank projects in gas, oil and mining have all too often led to great damage to local communities and the environment. The report, known as the Extractive Industries Review (EIR), calls on the Bank to fundamentally reform the composition of its lending portfolio, to strengthen its environmental and social policies and to hold Bank staff accountable for the implementation these policies.¹⁴

In conclusion, much greater public scrutiny of World Bank activities is needed as are greater efforts by governments and non-governmental organisations to hold the Bank accountable for implementing its stated commitments to poverty reduction and environmental protection. As for the WTO-IMF-World Bank Coherence Agenda, much work lies ahead to go beyond economic and trade policies and ensure the institutions' coherence with environmental agreements, human rights treaties and the goals of sustainable development more broadly.

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ENDNOTES

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Organic Agriculture – an Opportunity for Developing Countries Threatened by Market Barriers?

Nicola Borregaard

The global market for organic agriculture products was estimated at US\$20 billion in 2000, with growth rates varying between five and forty percent depending on the country and product. Organic products represent one to eight percent of total agricultural trade in industrialised countries, but less than half a percent in any developing country despite their supposed comparative advantage in this area, such as a limited use of chemical inputs.

As illustrated by Chile's access to the European market, developing countries' small participation in the organic agriculture market can be attributed to two sets of obstacles. First, markets in importing countries are largely reserved for domestic producers while developing countries face significant market access barriers or some form of discrimination. Second, developing countries face a number of constraints at the domestic level, including insufficient domestic markets for organic products and the lack of technical capacity and regulatory systems, as well as inadequate policies and institutional frameworks that have limited their expansion.

Obstacles to Market Access in the EU

Developing countries face four major difficulties in accessing the European organic agriculture market: production and marketing subsidies, certification problems, a complex system of marketing channels and a lack of systematic market information.

Subsidies: Significant subsidies remain a key obstacle. Support for organic production is based primarily on the EU's agri-environmental programmes, as well as country and state level measures, which each country implements in a different manner. Offermann and Nieberg (2000) have estimated that between 1995–1997 compensation payments accounted for 17 to 22 percent of profits from organic farming in EU member countries depending on the type of farm and product.

A complementary support structure comprises:

- payments through other EU programmes on agri-environmental measures and through national, provincial or local programmes;
- support for the marketing of organic products;
- subsidies for producer organisations to process and develop marketing concepts;
- financial support towards certification costs;
- support for advisory services by producer associations (with partial state funding), state advisors, or producer groups; and
- state- or EU-funded support for research and training.

Certification: The EU has developed a strong internal market for organic agriculture products with the direct participation of its producer associations in certification and/or sales and marketing of the final product. Under EU Directive 2092/91 – which regulates organic agriculture products – imports from 'third countries' are subject to a system of recognition or equivalence. However, obtaining an equivalent status is complicated. Chile, for instance, applied for inclusion in the third country list in 2001 and has since held many meetings with EU officials to analyse requirements and compliance methods – without success to date.

Alternatively, exporters from countries without a 'third country' status can be certified and accredited on a case-by-case basis in the importing country for each individual operation. This system is not only costly, but also very time-consuming and has many implementation problems. Since member states frequently fail to notify the Commission and other member states, producers often have to comply with a number of different certification systems and face extensive procedures to obtain certification in each member state.

The large range of national and private market labels running parallel to the EU scheme makes it difficult for developing countries' labels to be recognised by consumers facing a wide array of

other certification schemes. Exporters need to remain up to date with certification programmes and market acceptance levels, and opt for the most appropriate certification programme for any given product. They also have to accept the high costs of certification.

In any case, uncertainty surrounds the future of certification procedures for imports as EU rules with respect to the parallel importing system will be revised in 2005.

Marketing channels: The marketing of organic products in the EU is another key hurdle for developing country producers, who need to access to information on distribution channels – which differ among EU countries – in order to increase their range of products and enlarge existing channels, as well as find new ones. In Germany direct marketing/marketing via specialised shops has dominated, while supermarkets have assumed the marketing role in Britain, Denmark and Sweden. In addition to the growing involvement of supermarkets, many multinationals have entered the market to develop their own organic brands, or to acquire specialised organic produce companies.

Lack of market information: Given the sheer diversity and dynamic nature of this market, as well as the divide between producer and consumer, efficient, easy and quick access to information is fundamental. General information – on standards, trends, marketing channels – as well as specific information – on procedures, certification, costs and preferences – is of particular relevance to third country producers when opting for, or against, organic production. Even though in the past several international organisations have delivered information on organic or green markets, or on the environmental requirements for conventional markets, these systems lack sufficient continuity to be useful tools for producers.

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Domestic Constraints in Chile

In addition to barriers in export markets, organic agriculture in developing countries faces a number of obstacles at the domestic level. This section examines the challenges confronting organic farmers in Chile, where organic agriculture represents just 0.02 percent of domestic agricultural production; and exports amount to no more than 0.03 percent of total exports.

Certification Problems

After an abortive attempt to set up a voluntary national certification system in 2000, the Ministry for Agriculture is now moving towards a compulsory system covering unprocessed and processed products and applicable to both export and domestic goods. One of the routes proposed by the Ministry is a modification of the Organic Law of the Agricultural and Farming Committee (SAG), which would enable exporters to access foreign markets with certificates issued by SAG-approved companies rather than through the authorisation mechanisms of the importing countries. However, as the system still differs significantly from the European system, Chile's recognition as a third country could be somewhat difficult.

No specific government support

There is no government policy or strategy to foster development of the organic sector in Chile, and no support is exclusively directed at organic agriculture. Inadequate dissemination of information on the application of support measures available to agriculture in general and a lack of knowledge about existing instruments are additional problems. Organic agriculture organisations have called for creating an explicit and specific support mechanism for the industry.

Lack of market information and technical training

Technologies for producing quality organic agriculture products require knowledge that is not easily accessible in Chile today. Larger farms address this challenge through contracting specialised consultants. Smaller farms are dependent upon information provided by third parties, and often appeal to the universities. Information is also provided by certification companies, but these often lack specialised trained personnel and the necessary networks for technology and information transfer to members.

The Way Forward

Concerted action is needed in order to overcome obstacles at both international and domestic levels. A general strategy that involves all actors could include elements such as:

- calling for clear rules on equivalence and/or mutual recognition, especially involving important schemes such as International Foundation for Organic Agriculture (IFOAM) and the EU system for organic agriculture;
- insistence on the importance of national procedures to create certification schemes;
- support for the creation of an EU-based market information and analysis institution; and
- fostering regional co-operation and information exchange.

Considerations for the WTO

'Labelling for environmental purposes' was singled out as one of three areas of particular attention for the Committee on Trade and Environment in the Doha Ministerial Declaration. While developing countries remain wary of addressing eco-labelling at the WTO due to concerns that it might open the door to discrimination based on the way products are made (i.e. process and production methods), they should insist on including specific eco-labelling schemes in the TBT Code of Good Practice on the Elaboration and Implementation of Standards, possibly calling for an independent body to oversee its implementation; or consider other private market fora that could be appropriate for discussing these schemes (the WTO Code does not apply to voluntary certification schemes outside the domain of national standardisation bodies).

The Doha Declaration calls for negotiations on tariff reductions/elimination for environmental goods, but Members are yet to develop a WTO definition for such goods. Tariff reductions could be an interesting way to promote sustainable agriculture by giving organic products a competitive advantage over conventional ones, although caution is in order due to the institutional and technical requirements for implementing national certification schemes. The WTO should also discuss subsidies for 'environmental goods' aiming for *quid pro quo*, that is, technical assistance and market information for acceptance of subsidy programmes.

In general, developing countries need to be aware of industrialised countries' – and the EU's in particular – negotiating strategies and the actors and rationale that underpin them. It seems clear that the EU will argue that support measures for organic agriculture should be considered as 'payments' for environmental services, rather than 'subsidies'. It will also push an extension of the 'green box', which includes environmental support measures exempt from reduction requirements under the Agreement on Agriculture, while many other Members are calling for capping green box support and the development of stricter criteria for exempt measures.

Domestic Policies

At the domestic level, emphasis should be placed on exploring 'sustainable trade' and the state support required for its promotion. This should be complemented by coherent, systematic strategies for each of the products involved. Specific recommendations concerning organic agriculture include focusing on marketing, as well as technical, assistance; providing financial assistance to certification during a conversion period; calling for third country participation in the re-definition of EU access for organic products in 2005; and exploring possibilities of including EU collaboration in promoting organic agriculture in the EU-Chile Co-operation Agreement. Developing countries also need to commit to the full implementation of a certification system for organic agriculture by involving independent institutions in the development of technical regulations and undertaking conformity assessments.

There is no quick or easy way to ensure that the opportunities for the incorporation of developing countries in sustainable trade materialise. Nevertheless, the fast-expanding organic market has undisputable potential and therefore initiating a more co-ordinated management plan for sustainable products is undoubtedly a step worth taking.

Nicola Borregaard, former Executive Director of RIDES in Santiago, is currently Advisor to Chile's Minister of Economy Jorge Rodríguez Grossi. This article for BRIDGES draws on a research project entitled "Green Markets: Often A Lost Opportunity For Developing Countries", undertaken as part of the IISD-ICTSD Trade Knowledge Network and available at <http://www.tradeknowledge.net>.

Linking Trade Negotiations and Sustainable Development Policy Making: *Building the Trade and Sustainable Development Agenda*

As part of ICTSD's ongoing work to bridge the trade and sustainable development communities, we highlight below some recent events that have taken place under our *Building the Trade and Sustainable Development Agenda* (BTSDA) programme. This programme, created in 2000, aims to strengthen and support developing countries in integrating trade policy with their strategies for sustainable development – in part by promoting the engagement of negotiators, policy makers and other development concerned actors in policy dialogues and informal discussions, policy-oriented research, and other capacity building activities.

This area of work arises in many ways out of recognition of the divorce between sustainable development policy making and trade-related negotiations. Indeed, developing country negotiators are often better equipped to identify trade-off opportunities in negotiations than to really assess the potential impacts of these rules on their economies. Similarly, national policy makers struggle to understand how WTO negotiations in Geneva might affect their ability to design and implement national development strategies. The BTSDA programme thus works to promote a more integrated approach to *both* trade-related policy making and rule-making negotiations, and to address the major challenge of ensuring that the international trade architecture provides the necessary flexibility or “spaces” to foster the implementation of sustainable development policies at the domestic level. Towards this aim, the programme uses a “*Trade-supported Sustainable Development Strategy*” approach as a methodological framework for examining the relationship between international trade rules and developing countries' strategies to promote their sustainable development objectives.

Technology, Development Strategies, and International Trade Rules

In October and November 2003 – as part of the project on Technology, Development Strategies, and International Trade Rules or TEDIT – meetings were held in Geneva with a number of experts on trade policy, development strategies, and technology and innovation issues. The events brought together more than 20 experts from governments, academia, research institutes, and inter- and non-governmental organisations. Discussions stressed the importance of looking more closely at the impact of international governance regimes on the implementation and design of innovation and technology policy at the domestic level in developing countries, and delved into specific areas that were in need of more focussed research, as well as broader capacity building requirements for various stakeholders involved in both the negotiating and policy making processes.

UNU-INTECH Joins As Core Partner on Innovation and Technology

In moving towards the broader implementation of the project on innovation and technology, which is to take place during 2004 and 2005, the United Nations University Institute for New Technologies (UNU-INTECH) has joined ICTSD as a core partner – specifically in jointly implementing the capacity building component as well as advising on the research activities. As a Research and Training Centre (RTC) of the United Nations University, UNU-INTECH conducts research and policy-oriented analysis and undertakes capacity building in the area of new technologies, the opportunities they present, the vectors for their generation and diffusion and the nature of their economic and social impact, especially in relation to developing countries. For more information, visit <http://www.intech.unu.edu>.

Looking Ahead

Future work scheduled for 2004 will continue on innovation and technology issues, including the completion of various training modules on the relationship between trade and innovation policy, as well as policy-oriented research and other relevant workshops. The programme will also continue its work on considering how ‘special and differential treatment’ provisions in the WTO might best be used, and applied, as a mechanism for enhancing (and preserving) ‘spaces for sustainable development policies’ (see also the International Dialogue on *Making Special and Differential Treatment More Effective And Responsive To Development Needs*, <http://www.ictsd.org/dlogue/2003-05-06/06-05-03-desc.htm>).

The International Centre for Trade and Sustainable Development (ICTSD) is an independent non-profit organisation that aims to contribute to a better understanding of development and environmental concerns in the context of international trade.

ICTSD upholds sustainable development as the goal of international trade and promotes participatory decision-making in the design of trade policy. ICTSD implements its information, dialogue and research programmes through partnerships with institutions around the globe.

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Meetings of WTO Bodies*

March 8-10	Council for TRIPs
March 9	Sub-Committee on Least-developed Countries
March 12	Committee on Market Access
March 16-17	Committee on Trade and Environment
March 17-18	Comm. on Sanitary and Phytosanitary Measures
March 19	Dispute Settlement Body
March 22 - March 26	Agriculture Week, including Special Sessions* of the Comm. on Agriculture on 22 and 26 March
March 23	Committee on Technical Barriers to Trade
March 25 - April 2	Services Week, including Special Session* of the Council for Trade in Services on 2 April
March 19	Dispute Settlement Body, Special Session*
March 29-30	Committee on Regional Trade Agreements

* *Special Sessions denote negotiations mandated in the Doha Ministerial Declaration. Negotiations on non-agricultural market access, special and differential treatment, WTO rules, the environment, and a multilateral registry of geographical indications for wines and spirits are expected to resume in March but were not yet scheduled at press time.*

Other Meetings

Feb. 23-27	First Meeting of the Parties to the Cartagena Protocol on Biosafety http://www.biodiv.org/meetings/mop-01/
Apr. 14-30	Commission on Sustainable Development New York http://www.un.org/esa/sustdev/csd/csd12/

Selected Documents and Resources

de Jonquières, Guy. 6 February 2004. *Lamy Studies Radical Idea for Import Veto*. [Financial Times](#)

European Commission. 12 February 2004. [Agricultural Commodity Chains, Dependence and Poverty – A Proposal for an EU Action Plan](#). European Commission, Brussels

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New from the ICTSD-UNCTAD Project on IPRs and Sustainable Development

Resource Book on TRIPs and Development: A Practical Guide to the TRIPs Agreement

- Part Five: Interpretation, Dispute Prevention and Settlement, 5.2 Transparency (Draft December 2003)
- Part Six: Transitional and Institutional Arrangements, 6.1 Transitional Periods (Draft December 2003)
- Part Six: Transitional and Institutional Arrangements, 6.3 Council for TRIPs (Draft December 2003)
- Part Six: Transitional and Institutional Arrangements, 6.5 Review and Amendment (Draft December 2003)

Case Studies

Encouraging International Technology Transfer. Keith E. Maskus, Dec. 2003
Development in the Information Age: Issues in the Regulation of Intellectual Property Rights, Computer Software and Electronic Commerce. Ruth Okediji, Dec. 2003

Research Tool

Small-scale Agriculture and the Nutritional Safeguard under Article 8(1) of the Uruguay Round Agreement on Trade-Related Aspects of Intellectual Property Rights: Case Studies from Kenya and Peru. Robert J. L. Lettington, November 2003 (Draft).

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