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LEAD STORIES

BUSY AGRICULTURE WEEK FOCUSES ON MARKET ACCESS

With the end-July target for "first approximations" of an eventual agriculture deal rapidly approaching, Members spent the latest week of agriculture talks focusing principally on market access issues, the area in which it is proving toughest to forge agreement. The Committee on Agriculture (CoA) Special (negotiating) Session met from 30 May - 3 June, mainly in informal meetings chaired by Tim Groser.

Groser, who continues to head the CoA Special Session despite having resigned as New Zealand's WTO Ambassador (see BRIDGES Weekly, 22 May 2005, <http://www.ictsd.org/weekly/05-05-25/story3.htm>), said that the week of talks had seen intense work, though much remained to be done. Members tabled some new ideas about the controversial tariff reduction formula, and developing countries expressed several key concerns related to special products and declining commodity prices. In addition, the G-20 tabled a new paper on the 'Green Box,' i.e., permissible farm subsidies that are at least in theory not trade-distorting.

At the end of the week, Groser said that the July approximations would likely not include an actual tariff reduction formula. Instead, the big political issues would be left for the December WTO Ministerial Conference in Hong Kong, and the first approximations are to take the form of something resembling an expanded version of the compromise in the 2004 July Package (WT/L/579, http://www.wto.org/english/tratop_e/dda_e/draft_text_gc_dg_31july04_e.htm), including further convergence among Members in all three pillars of the negotiations (domestic support, export competition and market access). Other issues, such as the extension of geographic indications beyond wines and spirits, would be dealt with later, as Members' views on them have not yet begun to converge.

Alternatives to Swiss, Uruguay Round formula discussed

Following a preliminary compromise on the process for converting 'specific' agricultural tariffs based on

quantities imported into price-based 'ad valorem' equivalents (AVEs) in early May (see BRIDGES Weekly, 11 May 2005, <http://www.ictsd.org/weekly/05-05-11/story1.htm>), Members have finally been able to produce AVEs for their various tariff lines (with sugar as the only exception), and therefore to proceed to discussions on the tariff reduction formula. The July Package states that tariff reductions will be made based on a tiered formula, with items falling in different tiers being treated differently. It does not, however, specify how reductions would be made within the different tiers.

In their first full discussion of the tariff reduction formula since the 2004 discussions that led to the July Package, Members remained in their old camps, with the US in particular preferring the Swiss formula, which has a strong harmonising effect -- higher tariffs are cut proportionally more than lower ones -- over the Uruguay Round (UR) formula, which gives Members more flexibility with regard to higher tariffs. The EU and G-10 countries (mainly developed country net food importers, such as Switzerland and Japan) prefer the latter. The Cairns group of agricultural exporters and a number of G-20 countries wanted to see a formula with a strong harmonising element. Canada, Japan and China presented new ideas for tariff reduction, in an attempt to spur the talks forward.

Canada proposed a formula similar to that used in progressive income tax systems. In this case products in the lowest tier would undergo a fairly low tariff cut. Products in the next tiers would go through different tariff cuts for different portions of the tariff: the first portion of each tariff, corresponding to that of the lowest tier, would go through a low cut. The second, third and following portions of each tariffs would go through progressively steeper cuts, corresponding to the cuts specified for the second, third and possibly fourth tier. This would allow for a harmonising effect -- but one that would be less strong than what would result from the Swiss formula.

China suggested that within each tier, some products could be subject to the Swiss formula and others to the UR formula. Brazil called for a middle ground saying that if the formula were very tough, then a number of countries would seek to take the use of sensitive products to the utmost.

In terms of how to structure the actual tiers themselves, most countries preferred three to four different ones, although there also was a call for more tiers to ensure harmonisation, or a special tier for developing countries. Kenya pointed out that a number of developing countries actually have a very small range of tariffs because they agreed to a (high) ceiling binding instead of tariffication under the Uruguay Round as part of special and differential treatment, and said they

should not be penalised for this by now having to make steep cuts. Israel pointed out that high tariffs do not necessarily mean that market access is blocked, arguing that access depends on the product and situation. As a G-10 country, it argued that the burden of market opening should not fall disproportionately on a small number of countries with high tariffs that actually are importing a significant portion of their food already.

Sensitive and special products

Both developing and developed countries would be allowed to designate certain 'sensitive products' for relatively lower levels of tariff reduction. The countries most keen to make use of sensitive products, mainly the G-10 and EU, wanted to negotiate these in parallel with the tariff reduction formula. They also said that there should be a trade off between the level of reduction and the expansion of tariff rate quotas (TRQs), which would let a higher quantity of imports in at lower tariff levels. Countries seeking market expansion, such as the Cairns group, said that only products currently under TRQs should be considered as possible sensitive products. In contrast, the EU and G-10 countries, as well as India, said other products could be, or become, sensitive as well. The African, Caribbean, and Pacific countries stressed the need to keep in mind that sensitive products will be of importance to developing countries with preferential access to developed country markets, which would suffer if preferences were withdrawn. Costa Rica and others argued, however, that the interests of different developing countries need to be balanced, and some are will rely heavily on new market access.

According to the July Package, developing countries alone can designate special products (SPs) for food security, livelihood and rural development reasons; these products are to receive "more flexible treatment" in the agriculture negotiations. The G-33 countries, which came together around their common interests in SPs and a special safeguard mechanism (SSM) to protect against import surges, made informal submissions on each (JOB(05)91 and 92, respectively), detailing what such treatment would entail.

The paper on SPs argued that they should be "exempt from tariff reductions and any commitment on TRQ." It also said that developing countries must be afforded "maximum flexibility" when making such designations, since widely varying circumstances across the developing world made the creation of a common set of indicators very difficult. Speaking for the group during the meeting Kenya echoed the views in the paper, arguing that several issues should be considered, including the importance of the products to subsistence farmers; their importance for livelihoods, both nationally

and regionally; the role of the products in consumption terms (also considering import substitution) and their wider developmental role. Kenya also repeated that SPs should be eligible for the SSM.

The SSM paper outlined parameters for the negotiating such a mechanism, arguing that Members should consider both price- and volume-based thresholds to allow countries to protect themselves from import surges and international price fluctuation. It also specified that the safeguard measures, which could take the form of additional duties as well as quantitative restrictions, should be automatically triggered.

In the ensuing discussion, China, Nicaragua and Cuba said that SPs should be limited to a certain percentage of tariff lines. India and Mauritius countered that there should be no limits on the number of SPs. Peru said Members should not be allowed to designate tropical products as SPs, prompting a debate on the role of such products in South-South trade. Malaysia and Thailand said exporting to other developing countries was a very important instrument for achieving development goals, and should not be unduly hindered. Barbados tried to find some middle ground, recognising these concerns but also stressing that SPs can help address pressing development needs among vulnerable populations in many other developing countries. Colombia said export products should not be eligible as SPs as they do not meet the food security criteria. Chile pointed out that there are many forms of special and differential treatment to which countries have recourse in addition to SP exemptions, including the SSM.

The US said the demand for an SSM was duplicating the SP issue, arguing that both instruments were used for the same purpose. The G33 countered that the latter was a longer-term exemption, for rural development, food security, whereas the SSM was a short-term mechanism to help developing countries cope with fluctuations in the prices of products and resulting import surges.

Other issues

In addition to discussions on market access, Members considered issues related to the Green Box, and how to ensure that such subsidies are not trade distorting, especially when combined with other forms of support. On 3 June, Cote d'Ivoire, Kenya, Rwanda, Tanzania and Zimbabwe tabled a proposal on declining commodity prices and the crisis this has spawned in African countries. These countries wanted to see discussion of possible special market access provisions, supply management systems and price stabilisation schemes for commodities such as tea, coffee, palm oil etc. They called for a consultation

process under the WTO that would also involve the private sector. Groser said he would organise consultations on the proposal.

The next agriculture week is scheduled for 4-8 July.

ICTSD reporting.

BIOSAFETY PROTOCOL: LABELLING TALKS BREAK DOWN OVER TRADE CONCERNS

After long and difficult discussions, negotiations on documentation requirements for shipments of living modified organisms for use as food, feed, or for processing (LMO-FFPs) finally broke down on the last day of the second Meeting of the Parties to the Cartagena Protocol on Biosafety (MOP-2), gathering from 30 May - 3 June in Montreal, Canada. The more hard-line positions were clearly based on concerns about the impacts of such requirements on international trade.

Parties were mandated by Article 18.2(a) of the Protocol to finalise the documentation requirements for trade in LMO commodities within two years of its September 2003 entry into force, thus effectively by MOP-2 (see BRIDGES Weekly, 3 March 2004, <http://www.ictsd.org/weekly/04-03-03/inbrief.htm>). The Protocol currently requires LMO-FFPs labels to say that they "may contain" LMOs. Mirroring debates during the Protocol's negotiations, it was again the use of "may" that deeply divided Parties. Several late-night sessions and a last-ditch attempt by Switzerland to put forward a compromise text on the final day failed to bridge the differences between the Parties and the decision was postponed to MOP-3.

The African countries, led by Ethiopia, fought hard to eliminate the "may contain" language, insisting that any shipment should be clearly labelled as "contains" LMOs and list all the LMOs that are or may be contained. Given the limited regulatory and monitoring capacities in many African countries, they would like to see the onus of assessing the LMO content of a shipment placed on the exporter.

The EU took a somewhat more flexible stance on the "may contain" language, provided that the potentially present LMOs were clearly specified. The EU, however, insisted on references to thresholds that may be adopted on a national basis for the adventitious or technically unavoidable presence of LMOs (such thresholds are already in place in the EU under their traceability and labelling regulations).

The strongest resistance came from New Zealand and Brazil, and to a lesser extent from Peru. They stressed that the trigger for documentation requirements should be the intended content of the shipment rather than the content itself, which would exclude accidental presence. Brazil, a staunch proponent of agricultural trade liberalisation in the WTO, has long been struggling with illegal plantings of LMOs there. While New Zealand does not export any LMOs at present, they also sought to defend their economic interests as an agricultural exporter (and a member of the Cairns Group in the WTO).

Many delegates expressed their disappointment with the failure to reach agreement. During the final Plenary, Tewolde Egziabher of Ethiopia invited developing country delegates not to give into the pressures "that want to cause global genetic pollution and escape unnoticed and unscathed". "Let us go back to our respective countries and thwart their design through national legislation," he urged.

The EU lamented that proposals had been rejected without explanations as to why they were unacceptable, and expressed fear that the failure may impede the achievement of the objectives of the Protocol.

Brazil also expressed its regret at the lack of agreement, but indicated good progress had been made that could be built on at the next MOP. It would like to see a realistic, step-by-step approach, taking into account the wide variety of views. New Zealand rejected accusations that it was undermining the Biosafety Protocol. Environment Minister Marian Hobbs stressed the need for a labelling regime that was realistic and did not impose an unreasonable burden on exporters.

Environmental groups laid the blame for the failure squarely on the shoulders of Brazil and New Zealand. "The actions of Brazil and New Zealand are shameless," said Doreen Stabinsky of Greenpeace. "They have prevented the vast majority from bringing in rules that will protect the environment," she added. Juan Lopez, GM Co-ordinator of Friends of the Earth International accused the two countries of "hypocrisy and untruthfulness," and of serving the interests of the biotechnology industry and biotech exporting non-Parties. He also pointed to the more than 100 countries that had expressed their commitment to implementing strong requirements.

Despite this setback, Parties did manage to make a number of important decisions, on issues including public awareness, capacity building, the Biosafety Clearing House and risk assessment. Participants could not, however, on the voting rules of the committee that

determines whether Parties are in compliance with the Protocol.

MOP-3 will be held in Curitiba, Brazil, from 13-17 March 2006, back-to-back with the 8th Conference of the Parties to the Convention on Biological Diversity. As of 8 June 2005, 119 Parties have ratified or acceded to the Protocol.

For daily coverage of MOP-2, see IISD Linkages, <http://www.iisd.ca/biodiv/bs-copmop2>.

ICTSD reporting; ENB Summary, Vol. 9 No. 320, 6 June 2005; "Greens and NGOs distort NZ approach," NEW ZEALAND GOVERNMENT PRESS RELEASE, 3 June 2005.

NAMA WEEK: APEC DECLARATION SAID TO INDICATE "SOME CONVERGENCE"

A small degree of convergence started to become evident in several Members' negotiating positions during the first two days of a week of talks on non-agricultural market-access (NAMA) at the WTO, according to Geneva-based sources. A recent joint statement on the WTO NAMA negotiations by Asia-Pacific Economic Cooperation (APEC) countries (see related story, this issue) featured prominently during the discussions, with many delegations welcoming it as a useful boost to the faltering talks.

The 6-10 June session of the Negotiating Group on NAMA is divided among plenary sessions, smaller so-called 'Room D' meetings to which delegations may send a maximum of three representatives, and various small informal consultations with Chair Ambassador Stefan Johannesson of Iceland, in addition to bilateral and plurilateral meetings.

APEC countries collectively endorse Swiss formula

At a 2-3 June summit in Jeju, Korea, ministers from the 21 APEC member countries -- Pacific Rim states including China, Indonesia, Japan, Thailand, and the US -- endorsed the goal of a "Swiss" formula for calculating NAMA tariff reductions in the Doha Round negotiations. Such an approach would see higher tariffs cut more steeply than low ones, and would 'harmonise' tariffs by bringing them sharply closer to a particular level. They also called for binding caps to be established for all tariff lines, with currently unbound tariffs to be subject to the reduction formula. The statement also encouraged a critical mass approach to developing sectoral liberalisation initiatives "on a voluntary basis." The ministers instructed their representatives in Geneva to pursue these aims in order to achieve "substantial progress" by the end-July

target date for "first approximations" of an eventual accord to be adopted at the December WTO Ministerial Conference in Hong Kong.

The US has long espoused a similar approach, accompanied by differentiated coefficients -- and hence weaker reduction commitments -- as the only form of more favourable treatment accorded to developing countries (see BRIDGES Weekly, 16 March 2005, <http://www.ictsd.org/weekly/05-03-16/story5.htm>). The recent statement was significant because it was signed by representatives from countries such as Malaysia, Thailand and Peru, which had not explicitly advocated using the Swiss formula in the past. Also notable was its assertion that the outcome on NAMA would be "commensurate with agriculture."

Senior trade officials from the US and Australia had welcomed the agreement, with Australian Trade Minister Mark Vaile saying that it would "inject new momentum" into the talks at the WTO. Their sentiments were echoed by US manufacturers, who said that only a Swiss formula approach would reduce developing countries' generally higher levels of tariffs on industrial goods.

Four of the five proposals for cutting tariffs are based on the Swiss formula. The fifth, a formula put forward jointly by Argentina, Brazil, and India (the ABI proposal; TN/MA/W/54, available online at <http://docsonline.wto.org>), would also cut higher tariffs more substantially than lower ones, but since it links tariff reduction to a country's average tariff level, would have countries with high overall tariffs make cuts less steep than those required by the other proposed formulae (see BRIDGES Weekly, 20 April 2005, <http://www.ictsd.org/weekly/05-04-20/story2.htm>).

In response to the APEC declaration, Brazilian Foreign Minister Celso Amorim, a major critic of the Swiss formula approach, told the Financial Times that he was prepared to negotiate, but only in return for more concessions from rich countries on agricultural trade. Dissent was also voiced within APEC itself: Philippines Trade Secretary Juan Santos expressed disagreement with the aims of both binding unbound tariff lines and making them subject to the tariff reduction formula. "The very act of binding tariffs is already a concession," he told the Manila Times, "it would therefore be unfair that the Philippines and other developing countries, having just newly bound their tariffs, should immediately be asked to concede an actual reduction."

Geneva discussions "move beyond concept to substance"

Negotiators described the first two days' work of the NAMA week as "intense" and "productive." A brief

plenary session was followed by a day and a half of smaller 'Room D' discussions on the tariff reduction formula and the treatment of unbound tariff lines.

The US, Japan, and the sponsors of the ABI proposal made presentations on what the different proposed formulae would deliver in terms of tariff reduction and market access. Sources report that the presentations indicated that the Swiss-formula approaches were demonstrably more effective at lowering tariff peaks. Some delegations expressed the concern that the ABI proposal only benefited countries with high tariff averages such as India.

Both APEC and non-APEC countries welcomed the APEC statement, with particular reference to the tariff reduction formula, the binding of all tariff lines, and the link to the agriculture negotiations. A Geneva-based trade diplomat said that the APEC declaration was very important because it contained information about the hitherto unknown specific views of governments such as the Philippines, Thailand, and Malaysia, particularly with respect to the treatment of their many unbound tariffs.

The delegation from one Asian APEC member state reportedly expressed the view that it now felt more positive about the Swiss formula coupled with special and differential treatment provisions than the ABI's proposed approach.

The APEC declaration leaves Brazil and India as the two largest countries that oppose a Swiss formula-based approach for the tariff reduction formula. In addition to Argentina, they are said to have the support of Jamaica and some Caribbean and North African Members.

One developed country source pointed to the APEC statement -- which had several developing countries committing to both a Swiss formula approach and binding all of their tariff lines -- as an example of "some convergence" among Members' positions, saying that "many countries are looking at solutions other than [those in the] ABI proposal on unbound tariffs. We are not [at convergence] yet, but are making progress towards having fewer options on the table."

The remainder of the NAMA week will see more informal consultations with the Chair, bilateral and plurilateral meetings, and a 'Room D' session on non-tariff barriers.

ICTSD reporting; "APEC breakthrough in nonfarm trade expected to spur WTO," KYODO NEWS, 3 June 2005; "US manufacturers cheer 'breakthrough' for WTO talks," REUTERS, 3 June 2005; ; "Manila shuns APEC lobby for reduction in global tariffs," THE MANILA

TIMES, 6 June 2005; "APEC Trade Ministers Boost WTO Talks," WTO REPORTER, 6 June 2005; "Ministerial Statement on Doha Development Agenda Negotiations," APEC PRESS RELEASE, 3 June 2005; "Meeting of APEC Ministers Responsible for Trade: Statement of the Chair," APEC PRESS RELEASE, 3 June 2005; "APEC agrees formula for cuts in tariffs," FINANCIAL TIMES, 3 June 2005.

RULES GROUP TAKES SMALL STEPS TOWARDS JULY

A week of discussions in the WTO Negotiating Group on Rules came to a close on 3 June. The talks consisted largely of formal and informal meetings on aspects of the antidumping agreement and fisheries subsidies, but the closing session saw Members calling for speedier progress in the run-up towards a July target for coming up with "first approximations" of an eventual deal to be reached at December's Ministerial Conference in Hong Kong.

Heads of Delegations call for acceleration...

Ambassadors and senior officials from several countries attended the negotiations in an attempt to generate some momentum in the group's work towards the December . Although Members largely agreed about the need for acceleration in the talks, opinions diverged as to how this could be best achieved.

Ambassador Alejandro Jara of Chile stressed the importance of getting things down on paper, stating that sooner or later the Negotiating Group would have start drafting texts. He also called for informal meetings prior to the mini-ministerial meeting scheduled to take place in China on 12-13 July.

Mexico suggested that the WTO Secretariat update the compendium of proposals in order to facilitate the negotiations. Several members were sceptical about this, pointing out that the proposals submitted represented different levels of maturity in the debates and thus did not constitute a real basis for a legal text. Several Members including the EU, the US, Brazil and India, suggested that instead of helping the talks, such a compilation might backfire and unintentionally lead to polarised and hardened positions.

The debate also illustrated the sheer number and diversity of modalities the group is dealing with. While Jara was calling for written proposals on clarifying specific parts of the Anti-dumping Agreement, some Members said that it may be too early to expect written proposals in other areas, such as fisheries subsidies disciplines.

The meeting had no definitive outcome, but Chair Ambassador Guillermo Valles Galmés of Uruguay described it as a good first step. He will now start crafting his report for the Trade Negotiations Committee meeting in July. In order for the document to reflect Members' ambitions in the lead up to Hong Kong, Valles Galmés said that delegations must provide explicit signals about their positions. This will also be crucial for determining how the group's work should proceed after the summer break.

...But slow progress in technical talks

In informal sessions earlier in the week, the Negotiating Group discussed two papers submitted by the 'Friends' of anti-dumping negotiations (FAN*; TN/RL/GEN/44 and TN/RL/GEN/43, available online at <http://docsonline.wto.org>) as well as a paper from Japan on potential ways to determine whether 'material injury' to domestic industries is occurring as a result of dumping (TN/RL/GEN/42).

A 15 February 2005 statement (TN/RL/W/171) from the FAN, a group of countries seeking to tighten rules on the application of anti-dumping measures, identified "preventing AD measures from becoming 'permanent'" as one of the group's six broad objectives (see BRIDGES Weekly, 2 March 2005, <http://www.ictsd.org/weekly/05-03-02/story5.htm>). It said reviews of such measures were crucial to their eventual withdrawal, but that existing disciplines on such reviews were "unclear and deficient." In order to improve clarity on how to review imposed AD measures, the FAN submitted a paper on Article 9 of the AD Agreement, which deals with the imposition and collection of AD duties. The paper also aims to avoid an "arbitrary application of rules, procedures, and methodologies in reviews that differ substantially from those in original investigations."

The debate on these issues, described by delegates as substantive and very technical, revealed that Members lacked a common understanding with regards to what the paper tried to achieve. Several parts of the Agreement refer to review procedures, but Members are not clear on how these would apply to different situations. Some of the debate was undertaken in plurilateral mode among the active players in the AD negotiations to allow for substantive discussions. However, no agreement was reached.

In a short formal session the Norwegian delegate presented a submission (TN/RL/W/181) on behalf of the FAN on the investigation procedure to be employed when the number of companies involved in a dumping allegation is too large for authorities to investigate them all individually. The paper illustrated two ways in which sampling could be done: statistically and

representatively. For the latter, it suggested, the sample should include at least two-thirds of the imports under investigation. Drawing on previous jurisprudence, the paper states that for all companies not investigated individually a single rate of AD duties -- equal to the weighted average of the dumping margins for all the investigated actors -- should be applied. The US said that the two-thirds threshold was too high. The EU, for its part, called for a clearer distinction between co-operating and non co-operating actors. The paper will be further discussed when the group meets next to discuss AD matters on 11-12 July.

Enforcement and decommissioning in fisheries discussions

The US presented a paper on government support for decommissioning vessels that it considers a candidate for the "green-box," i.e., permitted subsidies (TN/RL/TEN/41). The EU, in its submission, continued to focus on transparency and enforcement (TN/RL/GEN/39).

ICTSD will provide more detailed coverage of the debate on fisheries subsidies in the forthcoming issue of BRIDGES Trade BioRes.

*The friends of anti-dumping include Chile, Costa Rica, Hong Kong China, Japan, The republic of Korea, Norway, Switzerland, the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu, Thailand and Turkey.

ICTSD reporting.

WIPO MEMBERS FAIL TO REACH AGREEMENT AT PATENT HARMONISATION MEETING

Differences between developed and developing countries on how to multilaterally harmonise patent law and procedures widened at the recent meeting of the World Intellectual Property Organisation's (WIPO) Standing Committee on the Law of Patents (SCP). The two camps are proposing conflicting strategies on how to proceed with patent harmonisation.

No agreement was reached during the 1-3 June meeting, making it effectively a success for the group of mostly developing countries that oppose the creation of a separate negotiating track to move ahead on a limited selection of issues related to patent harmonisation.

Fiery debate at SCP meeting

The SCP, WIPO's committee on patent harmonisation, meets once or twice annually. During the last couple of years this committee has attempted to negotiate a draft 'Substantive Patent Law Treaty' (SPLT), albeit without much success. Such a treaty would govern 'substantive patent law,' i.e. patentability criteria, examination process, granting and recognition or rights, etc.

The recent meeting went one day longer than the scheduled two days due to large differences over the scope of such a future treaty. One of the groups comprised largely of developed countries, wants to move ahead on a 'priority list' of selected issues that would serve as the base of an SPLT. The other favours a more inclusive approach that takes into account broader development concerns.

Casablanca process dismantled

The 'priority list' issues identified by the developed country-dominated bloc include prior art examination, grace period, novelty and inventive step within the SCP. Sufficiency of disclosure and genetic resources would remain the purview of a different WIPO committee on intellectual property and genetic resources. The approach is based on the countries' views as well as on the statement adopted at the end of the informal consultations on patent harmonisation held in February by WIPO Director-General Kamal Idris in Casablanca, Morocco (SCP/11/3). This informal process had been heavily criticised by developing countries (see BRIDGES Weekly, 23 February 2005, <http://www.ictsd.org/weekly/05-02-23/story5.htm>), especially by a group of 14 developing countries which have been calling for a holistic 'development agenda' in WIPO, for excluding several members of the organisation, particularly developing countries (the group is known as the 'Friends of Development'; see BRIDGES Weekly 13 April 2005 <http://www.ictsd.com/weekly/05-04-13/story1.htm>). Following the February meeting, Brazil distanced itself from the outcome of the 'Casablanca Process,' as did Chile and India soon after.

Toward an inclusive approach

An alternative approach was put forward by some developing countries, which argued that additional issues such as patent exceptions, patent quality, disclosure requirements, and incorporation of the WTO's Doha Mandate must be also addressed in any process leading to further patent harmonisation.

Brazil submitted a statement to the meeting on behalf of the Friends of Development in which it specifically called for an "inclusive approach" to patent

harmonisation. It stated that negotiations on the SPLT should be held "...on the basis of the draft treaty as a whole, including all the amendments that had been tabled by Member States to ensure a balanced treaty on the substantive harmonisation of patent law that will address the concerns of all parties to the negotiations..."

The fact that the meeting did not move the harmonisation process forward by articulating specific recommendations for WIPO's September General Assembly amounts to a success for the countries that reject the Casablanca Process. Since a separate negotiating track has not been created, further talks will have to address all the issue areas involved in the SPLT, including those of particular interest developing countries. However, no further meetings of the SCP have been scheduled.

Some sources reported concern that the developed countries that had sought to pursue their own 'priority list' of interests might now try to move ahead with patent harmonisation outside WIPO. If this happened, not only could developing countries end up with less influence over the process (calling into question the role of WIPO), but also it would also raise serious concerns about the transparency of patent policy processes in the future.

ICTSD reporting; "Agreement Out Of Reach in WIPO Patent Harmonisation Talks," IP WATCH 3 June 2005.

APEC TRADE MINISTERS DISCUSS WTO, REGIONAL TRADE

Trade ministers from the 21 members of the Asia Pacific Economic Cooperation (APEC) forum jointly expressed their "grave concern" with the slow progress of the Doha Round trade negotiations at a 2-3 June meeting in Jeju, Korea (see BRIDGES Weekly, 1 June 2005, <http://www.ictsd.org/weekly/05-06-01/inbrief.htm>). A ministerial statement issued at the end of the meeting expressed their commitment to work "with a sense of utmost urgency" to move the talks forward.

Most significantly, the ministers from the diverse group of Pacific Rim countries, which account for nearly half of both the global population and world trade, agreed that the "Swiss formula" approach should be used in the Doha negotiations for calculating tariff reductions in non-agricultural market access (NAMA; see related story, same issue). In their declaration, they also called for a critical mass of market-opening offers in the services negotiations; and within agriculture, the development of a common understanding of the "core elements of the modalities." Additionally, the group urged work on trade facilitation to identify possible

elements of a final outcome, thereby, enabling members to "expedite the movement, release and clearance of goods."

During the two-day trade minister meeting, delegates also looked at the progress of APEC's "Bogor Goals" of free trade and investment flows in the region by 2010 for industrialised economies and 2020 for developing economies. In a statement at the conclusion of the forum, Chair Hyun Chong Kim, Korea's trade minister, noted that APEC economies had made "huge strides in opening and liberalising their economies," but the Pacific Rim community will need new midterm goals if it wants to "keep pace with the rapidly evolving trade and investment agenda."

Kim also noted the rapid spread of regional and bilateral trade agreements in the APEC region. He said that participants agreed that "high quality" trade pacts promoted the Bogor Goals. They also concurred that applying a set of 'best practices' for such deals agreed to by APEC members last year would improve the quality of future accords.

Speaking at a press conference at the close of the meeting, US Trade Representative Rob Portman was particularly pleased with ministers' agreement on parameters for the WTO NAMA negotiations, which have been stalled due to differences of opinion on how to proceed. There is now a "group of 21 economies representing most of the world's trade..." he said, "agreeing on a specific formula to be able to address one of the toughest issues in the WTO... By adopting the Swiss formula, we have provided important encouragement to the [Doha] talks in Geneva."

ICTSD reporting; "Manila shuns APEC lobby for reduction in global tariffs," THE MANILA TIMES, 6 June 2005; "APEC Trade Ministers Boost WTO Talks," WTO REPORTER, 6 June 2005; "Ministerial Statement on Doha Development Agenda Negotiations," APEC PRESS RELEASE, 3 June 2005; "Meeting of APEC Ministers Responsible for Trade: Statement of the Chair," APEC PRESS RELEASE, 3 June 2005; "APEC agrees formula for cuts in tariffs," FINANCIAL TIMES, 3 June 2005.

IN BRIEF

BRAZIL MOVES TO BREAK AIDS DRUG PATENTS; ANALYSTS MOOT PATENT-BREAKING AS WTO RETALIATION

On 1 June 2005 the Justice and Constitution Commission in Brazil's lower house of Congress unanimously voted to disregard product and process patents on drugs used to treat HIV/AIDS. The draft legislation requires approval from the upper chamber before the president can sign it into law. While Brazil has threatened to break patents in recent years, it has yet to issue a compulsory license authorising domestic companies to copy the drugs without the patent-holders' permission. The threat alone has induced companies to lower their prices for drugs used in the country's celebrated AIDS treatment programme. This time the intention to move further seems real, especially as the draft law calls not only for disregarding individual drug patents, but for generally excluding HIV/AIDS drugs from patentability.

In related news, some Brazilian trade analysts at the University of Sao Paulo have suggested that Brazil could consider breaking patents as a possible cross-retaliatory mechanism if the US fails to change its cotton subsidisation policy in accordance with the demands of the WTO dispute settlement body. The ruling agreed with Brazil that US subsidies to its cotton farmers distorted international prices, and gave the US until 1 July 2005 to remedy the situation (see BRIDGES Weekly, 9 March 2005, <http://www.ictsd.org/weekly/05-03-09/story1.htm>).

The scholars contend that developing countries, with their smaller economies, have a tremendous disadvantage in retaliation against industrialised countries, since retaliatory tariff increases on, say, US imports will scarcely be felt. Hence, they argue that in light of the US' history of non-compliance with certain WTO rulings, governments like Brazil's could threaten to disregard intellectual property rights (IPRs) within their national markets. This would make their threats of retaliation more credible, since actually doing so would inflict palpable damages upon US industries, while also benefiting domestic consumers and producers.

ICTSD reporting; "CCJ aprova quebra de patente de drogas da Aids," O GLOBO, 2 June 2005; "Câmara aprova projeto de lei contra patente de anti-retroviral," JORNAL DO BRASIL ONLINE, 1 June 2005.

UNESCO AGREES ON DRAFT CONVENTION ON CULTURAL, ARTISTIC DIVERSITY

Members of the United Nations Economic, Social and Cultural Organisation (UNESCO) agreed 4 June to forward a draft Convention on the Protection of the Diversity of Cultural Contents and Artistic Expressions to an upcoming UNESCO General Conference in October 2005 for approval. The third session of the intergovernmental meeting of experts, meeting from 25 May - 4 June, reviewed a "clean" version of the draft produced in April by Chair Kader Asmal based upon the group's second session in February (see BRIDGES Trade BioRes, 4 March 2005, <http://www.ictsd.org/biores/05-03-04/inbrief.htm#1>).

While welcoming the chair's compromise solution on the relationship of the Convention to other international instruments such as the WTO, as outlined in the draft's new Article 20, some countries said that they had yet to check with their capitals on the proposed wording. The Article in its current form recognises that all international agreements are complementary and mutually supportive, and that rights and obligations arising from different conventions should not affect each other.

Article 6 of the draft recognises the rights of each party to "adopt measures aimed at protecting and promoting the diversity of cultural expressions within its territory," potentially including subsidies to promote cultural activities, goods and services as defined in Article 4. This led to questions regarding the Convention's potential for conflict with the WTO Agreement on Subsidies and Countervailing Measures. The draft's Article 25 a dispute settlement mechanism that includes a conciliation procedure but eliminates a proposed option to submit a dispute to arbitration or the International Court of Justice in the Hague.

The negotiations were not without controversy. While the EU, Canada and some African countries have been calling for a strong Convention, other countries including the US, the UK and Japan have expressed concerns about its potential implications.

ICTSD reporting; "Where's Our Culture Headed? Not Overseas, That's for Sure," EPOCH TIMES, 31 May 2005; "Cultural diversity: a major step towards the adoption of a UNESCO Convention," EU PRESS RELEASE, 6 June 2005.

WORLD DEVELOPMENT REPORT TO FOCUS ON EQUITY AND DEVELOPMENT

The World Bank's upcoming "World Development Report 2006" will explore the role of equity in development. The new report, which argues asymmetries in the global market contribute to global inequality, will examine changes that would make the markets for goods, labor, and capital work for the greater benefit of poor countries.

In a 3 June presentation in Geneva regarding the new report, François Bourguignon, Chief Economist of the World Bank, noted "access is at stake in the Doha Round." A draft version of the report notes agriculture liberalisation would account for more than 60 percent of the potential global and country gains available from trade reforms. It also finds that for most developing countries -- but, notably, not the poorest ones -- the overall gains from trade reforms are likely to exceed any gains from aid. The draft report also suggests that countries develop assistance programs to compensate individuals who experience losses resulting from trade liberalisation in the short- and medium-run.

With regards to international property rights, the draft report suggests wherever rich country markets already support the cost of pharmaceutical research, poor countries could be allowed to produce or import generic drugs, at no significant efficiency loss to either rich countries or the firms that carry out research. The final report will be released by the World Bank in September 2005.

ICTSD reporting.

WTO IN BRIEF

LDCs SAY MORE TIME NEEDED FOR S&D PROPOSALS

An informal consultation on special and differential treatment (S&D) at the WTO on 3 June failed to make substantive progress after least developed countries (LDCs) said they were not yet ready to discuss redrafting their S&D proposals.

At the last meeting of the Committee on Trade and Development Special Session (CTD-SS) on 10 and 12 May, WTO Member delegations considered five agreement-specific proposals for enhanced S&D that the LDCs had put forward earlier. At the time, Members

suggested that the LDCs redraft the proposals, updating them to better address their concerns and needs (see BRIDGES Weekly, 18 May 2005, <http://www.ictsd.org/weekly/05-05-18/story2.htm>). At the consultation, the LDCs said that they needed more time to examine possible new language. Chair Faizel Ismail urged the delegates to prepare material for the committee's upcoming 16-17 June meeting, saying that if new material on the LDC proposals was not available at that time, the negotiations would continue on S&D proposals from other countries.

ICTSD reporting.

EVENTS & RESOURCES

VACANCIES

The Sustainable Development Programme at Chatham House seeks a Senior Research Fellow focused on Climate Change, Trade and Competitiveness. The researcher will have sufficient experience to take overall responsibility for developing, fundraising and overseeing cutting-edge research on climate change. The research will place particular emphasis on the economic and business aspects of the climate change agenda, including competition and trade policy. The researcher will also produce reports and publications, organise meetings, and raise project funding. Successful candidates will have a background in economics, politics, law or other related field. The position will be for an initial two-year period with potential for renewal. Interested applicants should email their CV and the names of three referees to Julie Martin at jmartin@chathamhouse.org.uk.

EVENTS

For a more comprehensive list of events in trade and sustainable development, please refer to ICTSD's web calendar at: <http://www.ictsd.org/cal/index.htm>. If you would like to submit an event, please email events@ictsd.ch.

Coming Up: 9-15 June

9-11 June, Lübeck, Germany. 8TH ANNUAL CONFERENCE ON GLOBAL ECONOMIC ANALYSIS. This conference is organised by the Institute of Market Analysis and Agricultural Trade Policy (FAL), in conjunction with the Center for Global Trade Analysis at Purdue University. The goal of the conference is to

promote the exchange of ideas among economists conducting quantitative analysis of global economic issues. For further information contact Ulrike Bachmann, tel: (+49 531) 596 5302; fax: 596 5399; email: gta2005@fal.de; Internet: <http://www.gtap.agecon.purdue.edu/events/Conference/2005/default.asp>.

14-17 June, Lisbon, Portugal: 6TH INTERNATIONAL CONFERENCE OF THE EUROPEAN SOCIETY FOR ECOLOGICAL ECONOMICS. The themes to be addressed at the conference relate to sustainable development and current research in environmental policy. For further information contact the Conference Secretary, Renata Cardoso, e-mail: esee2005@fct.unl.pt; Internet: <http://www.esee2005.org>.

15-16 June, Hong Kong, China: RENEWABLE ENERGY FINANCE ASIA FORUM. This forum aims to provide an opportunity for the financial community to learn about renewable energy issues. For further information contact: Sarah Ellis, Green Power Conferences; tel: (+44 870) 758 7808; e-mail: sarah.ellis@greenpowerconferences.com; Internet: <http://www.greenpowerconferences.com/events/RenewableFinanceAsia.htm>.

WTO Events

An updated list of forthcoming WTO meetings is posted at: http://www.wto.org/english/news_e/meets.pdf. Please bear in mind that dates and times of WTO meetings are often changed, and that the WTO does not always announce the important informal meetings of the different bodies. Unless otherwise indicated, all WTO meetings are held at the WTO, Centre William Rappard, rue de Lausanne 154, 1211 Geneva, Switzerland, and are open to WTO Members and accredited observers only.

10 June: NEGOTIATING GROUP ON MARKET ACCESS

13-14 June: NEGOTIATING GROUP ON RULES - REGIONAL TRADE AGREEMENTS

13-14 June: NEGOTIATING GROUP ON TRADE FACILITATION

14-15 June: COUNCIL FOR TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

15 June: COMMITTEE ON IMPORT LICENSING

Other Upcoming Events

17 June, Hong Kong, China: CARBON MARKETS ASIA. This event is an executive networking forum following the two-day Renewable Energy Finance Asia Forum. For further information please contact Matthew Probyn, email: matthew.probyn@greenpowerconferences.com; Internet: <http://www.greenpowerconferences.com/events/CarbonMarketsAsia.htm>.

21-23 June, Quebec City, Canada: TWELFTH REGULAR SESSION OF THE COUNCIL OF THE COMMISSION FOR ENVIRONMENT COOPERATION. The Council, which is composed of environment ministers of Canada, Mexico and the United States, will consider a programme of action to address environmental issues facing North America. For more information contact Nathalie Daoust, tel: (+1 514) 350-4310; fax: 350-4314; e-mail: ndaoust@cec.org; Internet: <http://www.cec.org/calendar/details/index.cfm?varlan=english&ID=1963>.

22-25 June, Rome, Italy: 31ST SESSION OF THE COMMITTEE ON WORLD FOOD SECURITY. This working group will meet during the 128th Session of the UN Food and Agriculture Organisation (FAO) Council. For further information contact FAO, tel: (+39) 06 57051; fax: 06 570 53152; Internet: http://www.fao.org/unfao/bodies/cfs/cfs31/cfs2005_en.htm.

23-25 June, Livingstone, Zambia: PRE-HONG KONG LDC CIVIL SOCIETY CONSULTATIVE FORUM. This event, organized by the Consumer Unity and Trust Society-Africa Resource Centre (CUTS-ARC), is a part of the ongoing constructive dialogue for promoting, supporting and advancing the interests of the LDCs in global trade. The forum will examine the role trade can play in enhancing development and reducing poverty in LDCs. For further information contact the Forum Co-coordinator: tel: (+260 1) 224992; fax: 225220; email: cutsarc@zamnet.zm; Internet: <http://www.cuts-international.org/forthcoming-events.htm#hong23jun05>.

23-25 June, Dublin, Ireland: WHAT WILL WE EAT AS THE OIL RUNS OUT? FOOD SECURITY IN AN ENERGY-SCARCE WORLD. This conference will explore threats to world food security, examine global food supply systems, and seek to answer the crucial question: how can we feed the world population without extensive reliance on fossil fuels? For further information contact Feasta, the Foundation for the Economics of Sustainability, tel: (+353 0)1 4053615;

email: food@feasta.org; Internet:
http://www.feasta.org/events/foodconf/food_conference.htm.

23-25 September, Berlin, Germany: 3RD INTERNATIONAL ASSOCIATION FOR THE PROTECTION OF INTELLECTUAL PROPERTY (AIPPI) FORUM. This forum will present a wide range of topics relating to IP-rights which will appeal to representatives in industry and commerce as well as AIPPI members. For further information contact the General Secretariat of AIPPI, tel: (+41 1) 280 58 80; Fax: 280 58 85; email: mail@aippi.org; Internet: http://www.aippi.net/welcome_forum.htm.

RESOURCES

THE REGULATION OF INTERNATIONAL TRADE (3RD EDITION). By Robert Howse and Michael Trebilcock. Routledge, 2005. Drawing on prior highly-praised editions, this comprehensive text is an invaluable guide to individuals involved in economics, law, politics and international relations. Fully updated, this new edition includes full coverage of new developments including the Doha Round and the growing body of WTO dispute resolution case law.

ANTI-DUMPING POLICIES AND SAFEGUARD MEASURES IN THE CONTEXT OF COSTA RICA'S ECONOMIC LIBERALIZATION. By Ricardo Monge-González and Francisco Monge-Ariño. World Bank, May 2005. Costa Rica's legal framework against unfair trade practices emerged when the country adopted WTO rules on antidumping policies and safeguard measures. This paper reviews the important changes, both in the economy and in the legal and institutional framework, which Costa Rica has experienced during its trade liberalisation process. It also evaluates whether impacted sectors have faced increased foreign competition and whether they may have attempted to use the WTO rules as a protectionist instrument. Available online at http://wdsbeta.worldbank.org/external/default/WDSEntServer/IW3P/IB/2005/05/15/000090341_20050515134757/Rendered/PDF/wps3591.pdf.

FORTHCOMING CHANGES IN THE EU BANANA/SUGAR MARKETS: A MENU OF OPTIONS FOR AN EFFECTIVE EU TRANSITIONAL PACKAGE. By Ian Gillson, Adrian Hewitt and Sheila Page. Overseas Development Institute, May 2005. Preferential market access under the EU's Sugar and Banana Protocols has afforded large income transfers to a number of African, Caribbean, and Pacific countries. These transfers would be reduced under proposed EU banana and sugar market reforms. This study identifies a number of options for an effective EU

transitional assistance package to support sugar- and banana-dependent ACP countries. Available online at http://www.odi.org.uk/iedg/projects/EU_banana_sugar_markets/SUGARreport.pdf.

TRADING DOWN: AFRICA, VALUE CHAINS AND THE GLOBAL ECONOMY. By Peter Gibbon and Stefano Ponte. Temple University Press, May 2005. Africa's role in the global economy is evolving as a result of new corporate strategies, changing trade regulations, and innovative ways of overseeing the globalised production and distribution of goods. This book describes the central processes integrating some African firms into the global economy while at the same time marginalising others. It uses a combination of global value chain analysis and convention theory to present a timely overview of the economic challenges facing Africa.

DECENTRALIZATION AND SERVICE DELIVERY. By Junaid Ahmad, Shantayanan Devarajan, Stuti Khemani and Shekhar Shah. World Bank, May 2005. Dissatisfied with centralised approaches to delivering local public services, a large number of countries are decentralising responsibility for these services to lower-level, locally-elected governments. The results have been mixed. This work provides a framework for evaluating the benefits and costs, in terms of service delivery, of different approaches to decentralisation, based on relationships of accountability between different actors in the delivery chain. Available online at http://wdsbeta.worldbank.org/external/default/WDSEntServer/IW3P/IB/2005/05/12/000011823_20050512104803/Rendered/PDF/wps3603.pdf.

TOWARDS A FUNCTIONAL COMPETITION POLICY IN INDIA: AN OVERVIEW. By Pradeep S. Mehta. Consumer Utility and Trust Society (CUTS) and the Centre for Competition, Investment & Economic Regulation, 2005. As India is poised to implement a new competition law, this study helps to gain a better understanding of competition and economic regulations in India. The report tracks the evolution of India's competition policy and law, discusses the interface of competition policy with government policies and consumer welfare, and identifies competition and economic regulation issues in agriculture, manufacturing and services. It is being published as two separate volumes. The first volume is the overview, which carries all papers in a précis form. It may be purchased from CUTS at <http://www.cuts-international.org/Policy%20Briefs.htm>.

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