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### NOTE TO SUBSCRIBERS

BRIDGES Weekly will not be published during the WTO August recess. The next issue, Vol. 9, No. 29, will be published on 7 September, barring any unforeseen developments. We thank you for your continued support and welcome your comments on how we can improve our publication.

### LEAD STORIES

#### WTO ARBITRATOR RULES AGAINST NEW EU TARIFF RATES FOR BANANAS

On 1 August, a WTO arbitrator ruled against the EU's proposed most-favoured nation (MFN) tariff rates for banana imports, the latest episode in a longstanding trade dispute on bananas between the EU and five Latin American countries (see BRIDGES Weekly, 6 April 2005, <http://www.ictsd.org/weekly/05-04-06/wtoinbrief.htm#2>).

The arbitrator found that the EU's proposed tariff of 230 euros per tonne "would not preserve, at a minimum," the current market access opportunities afforded to MFN suppliers -- mostly in Latin America -- by the EU's existing banana tariff quota regime. The arbitrator also found that the proposed tariff level would actually expand the margin of preferential market access enjoyed by exports from the African, Caribbean and Pacific (ACP) countries at the expense of MFN banana suppliers.

However, the arbitrator did not indicate what would constitute a reasonable tariff rate for MFN suppliers.

In arriving at its ruling, the arbitrator found fault with the methodology and price data used by the EU to arrive at the new tariff rates. In particular, the arbitrator agreed with the Latin American countries that the EU should have taken into account the advantage that the new tariffs would give ACP suppliers over their MFN country counterparts.

#### Background to the arbitration

On 31 January, the EU notified the WTO of its proposed new tariff of 230 euros for MFN banana

imports that is supposed to replace the current tariff quota system while maintaining a preference for ACP countries, and is to come into effect on 1 January 2006. Latin American banana exporting countries immediately rejected this tariff rate. ACP countries, on the other hand, pushed for the EU to raise banana tariffs even higher -- from the current base level of 75 euros to 275 euros per tonne -- to protect their preferential access to the EU market. Negotiations between the Latin American countries and the EU to resolve this difference failed to yield a compromise, leading to the Latin American countries' request for WTO arbitration.

The arbitration option is a result of waiver granted to the EU by WTO Members on the sidelines of the WTO's Doha Ministerial Conference in November 2001. The waiver allowed the EU to give preferential market access to banana exports from ACP countries -- with the proviso that third parties, such as Latin and Central American banana exporting countries, would have the right to request arbitration before future EU banana tariffs replacing the quota system went into effect (see BRIDGES Weekly, 2 February 2005, <http://www.ictsd.org/weekly/05-02-02/WTOinbrief.htm>).

### **Latin American countries welcome decision, ACP express disappointment**

Latin American banana exporters have expressed their satisfaction with the arbitrator's award. Ecuadorean Trade Minister Oswaldo Molestina noted that the Latin Americans were hoping for a tariff as low as 33 euros per tonne. He said "Ecuador and the other Latin American exporters hold that [the tariff] cannot exceed 75 euros and according to our sums with the correct methodology it should not be more than 33 euros." The ACP banana exporting countries, on the other hand, have voiced their disappointment with this ruling. Marshall Hall, chairman of the Jamaican Banana Exporters simply stated that the ruling "is not at all in our favour and we are not happy." Hall also noted that banana farmers would be "virtually devastated."

Prior to the release of this award, Cameroonian and Ivory Coast banana exporters also issued a declaration on 26 July highlighting the importance of their banana industries to poverty reduction and the sustainable development of their economies. According to the statement, a tariff rate of 75 euros or less as advocated by the Latin American exporters would "wipe out ACP exports to the EU."

### **The Next Steps**

As per the terms of the waiver, the EU has to rectify the proposed tariff regime in accordance with the arbitration award. It must now enter into new consultations with the Latin American countries. If they cannot reach a

mutually satisfactory agreement, the same arbitrator will have to determine "whether the EU has rectified the matter." The second arbitration award will be notified to the WTO General Council, and should the EU once again fail to comply with it, the waiver will "cease to apply to bananas upon entry into the new EU tariff regime."

The EU noted in a 1 August press release that it would "study carefully the arbitrator's report and examine available options for taking this process forward." The EU also reiterated its intention to have a tariff-only system in place on 1 January 2006, as agreed at the Doha Ministerial Conference. The EU's executive European Commission said that it would shortly initiate consultations with the countries concerned and "expects their constructive engagement."

The five Latin American countries which requested the arbitration are Colombia, Costa Rica, Ecuador, Guatemala, Honduras and Panama.

The Arbitrator's award, WT/L/616, is available at <http://docsonline.wto.org>

The EU's press release is available here: <http://www.europa.eu.int/rapid/pressReleasesAction.do?reference=IP/05/1030&format=HTML&aged=0&language=en&guiLanguage=en>

ICTSD reporting; "Banana blues - Revised EU tariff ruled illegal - Hall predicts devastation for Jamaica," JAMAICA GLEANER, 2 August 2, 2005; "WTO rejects EU tariff plan on bananas," FINANCIAL TIMES, 1 August 2005; "WTO backs Latin America in EU banana trade row," REUTERS, 1 August 2005.

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## **CAFTA-DR NARROWLY WINS HOUSE VOTE, SIGNED INTO LAW**

The Central America Free Trade Agreement-Dominican Republic (CAFTA-DR) was signed into law by US President George W. Bush on 2 August. The signature concludes months of intense lobbying and a narrow 217 to 215 vote of approval in the US House of Representatives on 28 June. The Bush Administration sees the passage of CAFTA-DR as a much-needed political victory in its pursuit of further trade pacts.

CAFTA-DR locks in and expands existing preferential duty-free access to US markets for Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and the Dominican Republic. The agreement also eliminates tariffs on most US exports to those Central American countries.

## **Last minute deal secures House approval**

Before CAFTA-DR could receive presidential approval, the controversial agreement first had to win the support of the House of Representatives. Throughout the months of lobbying and horse-trading, the Bush Administration had offered many concessions, such as promising to limit sugar imports until the end of 2007, in hopes of garnering support for the deal. On 27 July, Bush and Vice President Dick Cheney made a rare joint visit to the Capitol to lobby for the bill. During the unusually long voting session, House leaders continued to attempt to persuade several of their fellow Republicans to support the agreement.

In the early morning hours of 28 June, Representative Robin Hayes (Republican-North Carolina) switched his vote, thereby securing the agreement's passage CAFTA-DR. For weeks, Hayes -- whose district has lost thousands of textiles jobs over the last four years -- had staunchly opposed the bill. He changed his vote after House Speaker Dennis Hastert (R - Illinois) promised to support whatever measures Hayes thought were necessary to protect textile jobs from the recent growth in imports from China.

The accord is expected to have a modest impact on the US economy. US exports in goods and services to CAFTA-DR countries account for only USD 15 billion of the country's USD 1 trillion worth of exports. The agriculture sector is expected to benefit as the pact is estimated to boost US farm exports to the region by USD 1.5 billion annually.

Beyond the economic gains, supporters touted the agreement as a means of promoting security in Central America. "CAFTA-DR is more than a trade bill -- it is a commitment among freedom-loving nations to advance peace and prosperity throughout the region. By strengthening the democracies in the region, [this agreement] will enhance our nation's security," Bush said at a White House signing ceremony.

## **Central American leaders embrace US approval, but others worry**

Leaders of the Central American nations welcomed the news, saying the pact will bring more foreign investment and much-needed jobs to the region. Tony Saca, El Salvador's president and an outspoken supporter of CAFTA-DR, said "we woke up today with the certainty of a free trade agreement that has been a dream for the country for many years."

Central American governments hope to emulate what they see as a positive Mexican experience with the North American Free Trade Agreement (NAFTA), that country's 1994 comprehensive trade and investment

pact with the US and Canada. NAFTA boosted investment in Mexico and diversified the country's market and economy. However, the Washington-based Carnegie Endowment for International Peace argues that NAFTA created a "disappointingly small net gain" of jobs in Mexico. A study conducted by the think tank noted the agriculture sector experienced a sharp decline in employment.

Similar concerns exist among Central American agriculture producers, who fear the elimination of tariffs on US exports will create a flood of new imports, driving small-scale rice, bean and corn farmers out of business. Farmers also worry that they will not be able to compete against heavily subsidised US agriculture goods. To address these concerns, CAFTA-DR exempts several sensitive crops -- such as white corn and Costa Rican potatoes and onions -- from liberalisation commitments. It also permits extended implementation periods of up to 20 years for some goods, such as dairy products.

Prior to the vote in the House, international charity group Oxfam urged the lawmakers to oppose the trade agreement. In addition to agriculture-related concerns, the organisation argued that CAFTA-DR would reduce the availability of generic medicines. The international medical humanitarian organisation Médecins Sans Frontières contends the accord goes beyond TRIPS agreed standards by extending data protection for clinical trials -- which generic drug makers conduct to prove that their products are safe as well as biologically equivalent to the brand-name originals -- for an additional five years once a drug is registered in a new country.

Oxfam trade policy advisor Stephanie Weinberg said the pact will have "serious repercussions for those who are already disadvantaged in these highly unequal societies where most of the poor live in rural areas, rely on income from agriculture, and must pay for medicines out-of-pocket."

## **Trade pact will enter into force for four countries**

El Salvador, Guatemala and Honduras have already approved CAFTA-DR legislation. The agreement will go into effect as soon as they agree on a date with the US. Costa Rica, Nicaragua and the Dominican Republic still have two years to approve the accord, though the agreement has been held up in the Dominican Republic by concerns it may hurt the sugar industry.

The biggest hurdle, however, may be Costa Rica, where President Abel Pacheco hopes to pass fiscal reform packages before addressing the trade deal. In response to the US vote, Pacheco stated "we Costa

Ricans have a reputation for taking things slowly, and this has worked for us down through history."

### **US can now shift its focus to Doha negotiations**

The success of CAFTA-DR was an important victory for US trade policy. US Trade Representative Rob Portman stated the passage of CAFTA-DR "sends a powerful signal to the region and the world that the United States will continue to lead in opening markets and levelling the playing field." A vote against CAFTA-DR would have made it more difficult for the administration to negotiate and gain Congressional approval for future agreements. The US has concluded trade negotiations with Bahrain and FTA talks continue with Thailand, Panama, the Andean countries and South Africa.

The conclusion of CAFTA-DR allows the US to shift its attention to the sluggish Doha negotiations at the WTO. Trade analysts have suggested that the US' distraction with CAFTA-DR has contributed to the slow progress of the talks. Portman, who flew to Geneva immediately following the House vote, attended the 29 July General Council meeting "to take stock of where we go from here." Regarding CAFTA-DR, Portman said it provided "a little more momentum on the American side to be able to knock down barriers to trade globally through the Doha Round."

"President Signs CAFTA-DR", WHITE HOUSE, 2 August 2005; "Signing Ceremony for Trade Bill Arrives," WASHINGTON POST, 2 August 2005; "Transcript of Press Briefing by USTR Rob Portman", USTR PRESS RELEASE, 29 July 2005; "CAFTA Vote Switch an Issue for Democrats", WASHINGTON POST, 29 July 2005; "Pleas and Promises by G.O.P. as Cafta Wins by 2 Votes", NEW YORK TIMES, 29 July 2005; "CAFTA win sends mixed signals on US govt-analysts," REUTERS, 28 July; "Backroom Deals Enable DR-CAFTA to Pass", OXFAM, 28 July 2005; "A small victory for free trade as CAFTA passes", ECONOMIST, 28 July 2005; "Central American Exporters Upbeat Over Trade", WASHINGTON POST, 28 July 2005; "Central American leaders laud CAFTA, farmers worry", REUTERS, 28 July 2005; "Testimony of MSF on IP Provisions in DR-CAFTA & Consequences For Access to Essential Medicines", MÉDECINS SANS FRONTIÈRES, April 2005; "Mexican Employment, Productivity and Income a Decade after NAFTA", CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE, 25 February 2005.

## **WTO MEMBERS LOOK TO AUTUMN AFTER FAILURE TO REACH PRELIMINARY ACCORDS**

WTO Members have failed to meet an end-July target date for interim agreements in key negotiating areas of the stalled Doha Round trade talks. A 28 July meeting of the Trade Negotiations Committee (TNC) followed by a General Council (GC) meeting the next day confirmed that a series of last-minute intensive consultations and meetings failed to produce any major breakthroughs in farm trade liberalisation, the issue which many countries feel is blocking progress in the rest of the talks. The eleventh-hour appearance in Geneva of several ministers had little effect. Delegations played down the importance of the July meetings, and focused instead on what they could do after the August-long holiday to increase their chances of reaching agreement at the WTO's Hong Kong Ministerial Conference in December. A number of Members complained that developmental concerns had been marginalised in the "Doha Development Round" negotiations.

The lack of agreement is unsurprising, in light of fact that the chairs of three key negotiating groups had previously indicated that Members were unable to come to any substantive agreement during the intensive consultations they held prior to the 27 July meeting of the GC (see BRIDGES Weekly, 27 July 2005, <http://www.ictsd.org/weekly/05-07-27/index.html>).

Addressing the TNC, WTO Director-General Supachai Panitchpakdi characterised the state of the talks as "disappointing but not disastrous." In the report to the GC that he prepared in his capacity as TNC Chair (TN/C/5, available online at <http://docsonline.wto.org>), Supachai said that Members' progress since July 2004 has been "insufficient." However, he did say that as a result of the "useful work [that] has been done to clarify options and build understanding," the "political choices" that Members will have to make in areas such as agriculture and non-agricultural market access (NAMA) have become clearer. Some thirteen-odd weeks separate the resumption of formal WTO talks in September from the Ministerial Conference, scheduled for 13-18 December.

### **Supachai outlines gaps in negotiations, suggests procedure for autumn**

Supachai told the 29 July GC that Members urgently needed "not just a change of gear... [but] a change of attitude and approach." He said that "the time for identifying options is gone... the time for choosing them is here." With this in mind, he reminded Members of the goals they had set out in February for the Hong Kong

meeting: modalities in agriculture and NAMA, a "critical mass" of market-opening offers in the services talks, significant progress on WTO rules and trade facilitation, and a "proper reflection" of the developmental aspects of the talks. Members remain divided on virtually all of these issues, with the possible exception of trade facilitation.

Drawing from the assessments provided by the chairs of the relevant negotiating groups, Supachai identified key problems in each of these areas that he said that Members must urgently solve upon their return.

With regard to agriculture, Supachai's report urged Members to agree on the structure of the tiered formula for cutting tariffs on farm products, as well as on how to go about reducing trade-distorting domestic subsidies (see related articles, this issue). He also called for commitments on food aid and cotton.

On NAMA, Supachai's report echoed the comments made by NAMA Chair Ambassador Stefan Johannesson of Iceland at the 28 July TNC. He said that Members should move beyond simply debating the structure of the tariff-reduction formula, and discuss actual numbers in order to assess how they might strike an "acceptable balance between ambition and flexibility."

Repeating the issues raised by services Chair Ambassador Alejandro Jara of Chile in his announcement of a post-summer work programme for the services talks (see related story, this issue), Supachai asked Members to agree by Hong Kong on what must be done in order to promote deeper liberalisation in services trade.

Supachai urged Members to make progress on special and differential treatment (S&D) for developing countries, especially with regard to the proposals from least-developed countries for greater flexibility, market access, and capacity building.

His report also said that greater convergence was needed in the discussions on WTO rules in order for Members to assess how those negotiations were fitting into the overall balance of the talks.

In his last address to the GC -- he will leave the WTO at the end of August -- Supachai made some suggestions about how Members should organise their work after talks resume in September. He asked them to institute "a close and continuing review of progress and rapid corrective action where necessary." He proposed the mid-October for the first such "checkpoint." This roughly coincides with a GC meeting scheduled for 19-20 October. Supachai also called for all remaining preparatory work for Hong Kong to take place in

Geneva, with greater involvement by and informal contact among ministers and senior capital-based trade officials.

### **Members turn focus to September**

In their interventions at the TNC meeting, numerous delegations reiterated their commitment to reaching agreement by Hong Kong, and stressed their willingness to continue the talks. They generally downplayed the importance of the now-missed July benchmark and focused on getting the negotiations started again in September on the basis of what they have learned about each other's positions over the past month. Some Members did not hesitate to criticise those they saw as principally responsible for the lack of progress.

Ambassador Ransford Smith of Jamaica was highly critical in his assessment of the negotiations, saying that the development dimension was "sadly lacking." The US countered that the opening of new markets was one way to development.

The Africa Group (which includes 41 African WTO Members) observed that developed countries were not matching the pragmatism shown by developing countries. They also expressed concerns about transparency, especially recently, as most discussions have taken place in informal meetings to which not all WTO Members are invited.

Kenyan Trade Minister Mukhisa Kituyi told Reuters on 29 July that India, Brazil, and China should do more to push forward the Doha Round negotiations, saying that "developing countries should not always automatically assume that a shoe which fits the foot of India, China, and Brazil will fit the foot of Kenya, Burundi, and all." Some trade observers have questioned whether developed countries might try to exploit this potential fault line among different developing countries at the WTO.

### **Calls for a shift in the pattern of negotiations**

As in the wake of the collapse of the September 2003 Ministerial Conference in Cancun, there were several calls for changes to the way in which WTO negotiations are conducted. EU Trade Commissioner Peter Mandelson, in Geneva for the meetings, told the press that a "paradigm shift" was necessary, and that "instead of negotiating piecemeal, attempting to negotiate one incremental step at a time, we need to lift a series of difficult logs at the same time."

Supachai, for his part, called for an end to the brinkmanship that has marked WTO negotiations in the past, in which governments have tended to announce



concessions only at the last minute, such as during Ministerial Conferences. He said that the WTO's Membership was too large, and the issues too complex, for negotiations to be successfully driven by last-minute bargaining. Pointing to the urgent need to move to "text-based discussions," he asked Members to dedicate themselves "to a politically engaged, results oriented, decision making mode of operation immediately after the recess."

ICTSD reporting; "WTO Envoys Rethink Deal Strategies," WALL STREET JOURNAL EUROPE, 1 August 2005; "Kenya wants special trade deal for poorest states," REUTERS, 29 July 2005; "Hope for farm deal fades as WTO talks break up," THE TIMES, 30 July 2005; "WTO Doha Round Now 'Disappointing But Not Disastrous,' Supachai Says," WTO REPORTER, 29 July 2005; "WTO's General Council Meeting Concludes Without Outcome; 4 Deputy DGs Announced," THIRD WORLD NETWORK, 29 July 2005.

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### AGRICULTURE: FOLLOWING JULY STALEMATE, INTENSE NEGOTIATIONS EXPECTED IN LEAD-UP TO HONG KONG

Despite intense negotiations in different formats -- many of which relied on a group of 14 key countries including the EU, US, Brazil, India -- WTO Members did not reach a concrete outcome on agriculture at the end of July. As a result, delegates now have just three months to arrive at agreement on agriculture modalities (the formulas, percentages and timeframes for tariff and subsidy cuts) at the WTO's Hong Kong Ministerial Conference in December -- a goal they have set for themselves in order to complete the Doha Round in 2006.

Trade delegates had hoped to agree on "first approximations" for a Hong Kong agriculture deal at the end of July (see BRIDGES Weekly, 27 July 2005, <http://www.ictsd.org/weekly/05-07-27/story1.htm>).

However, despite the last-minute presence of trade ministers in Geneva, delegates were unable to forge any further agreement. Tim Groser, the former New Zealand ambassador who has been chairing the agriculture talks, instead delivered an assessment of the agriculture negotiations at the Trade Negotiations Committee (TNC) on 28 July. He stressed that "The agriculture negotiations are stalled -- there is no way to conceal that reality. But a set of clear political decisions -- none of them easy, but at least we can now more readily identify the essential decisions -- can restart this negotiation and still pave the way for a successful Ministerial meeting in December." Several trade

delegates noted that the outcome was no surprise, considering the state of the talks.

Outgoing WTO Director-General Supachai Panitchpakdi, in his last statement to the TNC, which he chaired, emphasised that "what has been hampering our work in Geneva is not so much a dearth of ideas but a certain reluctance on the part of key players to engage in real negotiations on the proposals put on the table. This must change and it must change immediately." He repeated his assessment at a closing meeting of the General Council on 29 July.

### Supachai stresses the need to focus on substance

In his statement to the TNC, Supachai stressed the huge amount of work in the area of agriculture that lay ahead on the road to Hong Kong, as well as the importance of actually agreeing on modalities at the summit. He lamented the amount of time negotiators had spent on the technical issue of how to convert 'specific' agricultural tariffs based on quantities imported into 'ad valorem' equivalents (AVEs), i.e., tariffs based on the price of the product (see BRIDGES Weekly, 11 May 2005, <http://www.ictsd.org/weekly/05-05-11/story1.htm>), and said this gateway issue had held up overall progress in the negotiations for months

He pinpointed the structure of a tiered formula for market access as the key issue for which a solution was needed, since delays on the formula inevitably cause all other issues to remain on hold as well. The formula for cutting domestic subsidies also requires urgent resolution. After highlighting issues in all three pillars of the agriculture talks that delegates must resolve as quickly as possible, Supachai turned to the issue of cotton, noting that there was little hope for movement on cotton in the absence of progress in the overall agriculture negotiations. He also called for development assistance to developing country producers, given the current fall in global cotton prices.

### State of play in the three agriculture pillars

Tim Groser, speaking to the TNC on 28 August, delivered an assessment of the state of the negotiations, pointing to issues that are currently posing difficulties in the talks and are likely to be the focus of Members' attention. Given that no new text was agreed, the negotiations will be firmly anchored in the Doha Declaration itself, as well as in last year's July Package.

On market access -- the most challenging area of the talks -- chasms remain between high-tariff countries and agriculture exporters. Before being able to move to other issues, such as tariff escalation or preference erosion, delegates have to agree on the basic structure of the formula -- the number of tiers tariffs will be

divided into, and how the cuts will be made within each tier. Future work will be based on a G-20 proposal on market access, tabled as a compromise at the Dalian mini-ministerial in mid-July (see BRIDGES Weekly, 13 July 2005, <http://www.ictsd.org/weekly/05-07-13/story2.htm>). Although not all delegations agree with all elements of it, they are willing to base further talks on it. Members' disagreement on the issue of tariff caps came out strongly in the latest rounds of talks, however, with G-10 countries, the EU and the African, Caribbean and Pacific (ACP) countries reluctant to accept caps on their tariff peaks. ACP countries have also made the point that the tariff ceilings they agreed to in the Uruguay round under special and differential treatment should be given special consideration, so as not to all be automatically slated for tough reduction. In general, Members differed on whether flexibility (for sensitive products) should be built directly into the tariff reduction formula, or treated outside of it.

In the area of domestic support, the main subsidisers still disagree on the structure of the tiered formula for making cuts to trade distorting support. The EU supports a three-tier formula that would have it make the largest cuts percentage-wise, with the US and Japan falling into the second category. The US prefers a formula in which Japan would fall into a higher tier than the US. They also have to make progress on Blue Box (partially decoupled farm payments under production-limiting programmes) criteria and on the review and clarification of the Green Box (minimally distorting subsidies). On the Blue Box, the US is planning to shelter its counter-cyclical payments -- subsidies to farmers that increase with a fall in the value of season-average market prices for commodities -- and is linking tightening criteria to concessions by others in the market access pillar. Regarding the Green Box, Groser noted that those countries making most use of it would need to seriously consider proposals by others on the tightening the criteria. Meanwhile, some new provisions focusing on the needs in developing countries (for example, land reform) would need to be included.

Under export competition, WTO Members largely agree on the changes needed to phase out regular export subsidies (although they have yet to set the final end date). However, they have still to agree on new disciplines on state trading enterprises and food aid.

### **On the road to Hong Kong**

In the absence of a July agreement, the pressure on negotiators will be immense in the lead-up to the Hong Kong Ministerial Conference, with Geneva delegates doing the groundwork for a political deal. While saying that the outcome was by no means unexpected, some delegates expressed concern at the amount of work

ahead. One trade source noted that many issues of importance to developing countries, such as the special safeguard mechanism to protect against import surges or preference erosion, would need sufficient elaboration -- and time will be difficult to come by, given that key issues such as the market access formula needed to be resolved first. However, the situation was by no means hopeless, speculated one delegate, who felt some of the important actors had been disengaged over the last months, and if they managed to forge some key compromises that could help unblock the situation this could even lead to rapid progress. Others, however, raised concerns over the negotiating format, and the fact that many smaller countries had been out of the loop. In the end, their concerns would have to be taken on board in order for the Membership to reach a deal. The last two weeks had, in some way, been indicative of the problem of lack of information and communication, which had contributed to the modest outcome.

Commenting on the situation, EU Trade Commissioner Peter Mandelson said "We cannot go on as we are with any reasonable chance of success." US Trade Representative Rob Portman remained optimistic, saying "I see the will to succeed and I see progress -- slow but sure..." Australian Deputy Prime Minister Mark Vaile, however, commented that "The failure to make progress on agriculture, and particularly agricultural market access, has again proved the critical stumbling block... We now face a major challenge if we are to lay the basis at the WTO Ministerial Meeting in Hong Kong in December for completing the Doha Round."

The G-20 is planning on meeting at the ministerial level in September in Pakistan to co-ordinate positions, possibly along with the G-33. According to trade sources, a mini-ministerial may take place in Geneva in early October, once Pascal Lamy has taken the helm at the WTO.

Following the August recess at the WTO, Groser will be replaced by his compatriot Crawford Falconer, the newly-installed New Zealand Ambassador to the WTO. The first agriculture week is currently scheduled to begin on 26 September.

ICTSD reporting; "New WTO Farm Head Says It's Time For Tough Decisions," NEW ZEALAND HERALD, 3 August 2005; "WTO Chief Says Trade Deal Still Possible By Year End," REUTERS, 28 July 2005; "Impatience Up on Stalled WTO Trade Talks," ASSOCIATED PRESS, 28 July 2005; "Australia slams WTO failure to meet negotiations deadline," AGENCE FRANCE PRESSE, 29 July 2005.

## SERVICES CHAIR ANNOUNCES WORK PROGRAMME FOR AUTUMN

Services negotiators from some 14 WTO Member states including the EU, the US, Japan, Canada, Hong Kong, Chile, Mexico, India, and Australia met behind the scenes during the week of WTO meetings at the end of the July to hammer out a work programme for the services talks leading up to the Hong Kong Ministerial Conference in December. They came up with a comprehensive schedule for weekly informal consultations to be hosted by the Chair of the Council for Trade in Services Special Session starting from 5 September. The current Chair, Ambassador Alejandro Jara of Chile, announced the plan in a 27 July 2005 note.

The meetings were, as one delegate described them, partly a reaction to the negotiations of July 2004, in which services remained largely neglected until the very last minute, when Members agreed on a May 2005 benchmark for the submission of revised market-opening offers.

### Technical talks demand intensive work

Delegates involved in the initiative point out that the services negotiations will require consistently intensive work and engagement until the very end of the Doha Round. This is in part due to the sheer number of services sectors involved and the highly technical and resource-intensive nature of the bilateral request-offer process through which market access is extended. Moreover, the services negotiations would actually require continuous revisions of these requests and offers, if Members' common objective is to attain deeper and broader levels of specific commitments.

This task would appear to be particularly relevant given the widely-held perception that even though the 'critical mass' of initial -- thought not revised -- offers appears to have been reached, (with more than 70 offers representing nearly 100 Members already on the table), the quality of offers is generally regarded as quite low and unresponsive to the respective needs of trading partners on both sides of the fence.

To this end, the consultations will focus on issues identified in the CTS-SS Chair's 11 July report to the Trade Negotiations Committee (TN/S/20, available online at <http://docsonline.wto.org>), including further identification of expectations by Members in all areas of negotiations; means of intensifying the request-offer process; the use of complementary approaches as proposed by Members within the parameters of the WTO rules and existing guidelines for the services negotiations; the implementation of agreed modalities

for special and differential treatment (S&D) for LDCs in the negotiations; consideration of relevant S&D proposals; and targeted technical assistance.

### Developing countries: offers linked to agriculture, mode 4, rules

Many developing country delegates emphasise that the quality of offers is inextricably linked to the lack of progress in the other critical negotiating issues of the round, specifically agriculture. Furthermore, they maintain that for the current offers on market access commitments to improve substantially, developed trading partners must lead by example and offer commercially meaningful offers in mode 4 (which covers the cross-border movement of individuals to provide services), particularly of the type relevant to developing countries' needs.

The negotiators also insist that deepened market access offers would also require equal progress in the rules aspect of the services negotiations, where a number of developing countries appear to be the primary "demandeurs." The rules talks cover disciplines on domestic regulation, subsidies to the services sector, and a possible safeguard mechanism to protect domestic services providers in emergency situations. These delegates have indicated that they will ensure that their concerns are taken into account in the consultations under the post-summer work programme.

### Chair Jara appointed to be WTO Deputy Director-General

Lending further complication to the services negotiations is Chair Jara's appointment as one of the new Deputy Directors-General of the WTO (see "In Brief," this issue). Jara is expected to sit as CTS-SS Chair in the upcoming services cluster in September and to oversee the work programme until he assumes his new responsibilities in October. However, given the critical phase of negotiations in the run-up to Hong Kong, some concerns have been raised about the wisdom of adopting a new Chair so close to the Ministerial Conference, notwithstanding the qualifications of two potential successors, Tony Miller of Hong Kong-China and Ambassador Fernando de Mateo of Mexico.

Trade sources say that some influential delegations have indicated preliminary interest about whether Jara could actually remain CTS-SS Chair while serving as the WTO Deputy Director-General until December. They suggest that this would be akin to the accommodation made with Mr. Stuart Harbinson, who previously chaired the agriculture negotiations while serving as chef de cabinet to outgoing WTO Director-General Supachai Panitchpakdi.



ICTSD reporting.

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## TRADE FACILITATION TALKS FOCUS ON CO-OPERATION AND TECHNICAL ASSISTANCE

WTO Members focused on technical assistance and the exchange of customs information at the 25-26 July meeting of the Negotiating Group on Trade Facilitation. Japan and Singapore shared their experiences with custom practices, and the meeting saw an unprecedented joint submission from India and the US, two countries that have often found themselves on the opposite of trade debates. With the Doha Round talks on agriculture and non-agricultural market access at an impasse, and progress on services well behind schedule, trade facilitation is one of the few areas in which the negotiations are proceeding on track.

### US And India In Joint Call Better For Customs Cooperation

In their first joint proposal in the history of the multilateral trading system, India and the US (TN/TF/W/57, available online at <http://docsonline.wto.org>) call for the establishment of a multilateral mechanism through which Members could exchange information related to customs and other trade-related procedures, in order to improve border regime efficiency. The paper, cosponsored by South Africa, responds to the negotiating mandate to "further aim at provisions for effective co-operation between customs or any other appropriate authorities on trade facilitation and customs compliance issues."

The proposal notes that customs-related documentation requirements and the procedures related to the trans-border movement of goods could pose impediments for traders as well as for governments. The US and India urge Members to develop an effective information sharing mechanism based on a "defined universe of trade transaction information," suggesting that they broadly base it on the World Customs Organisation's Customs Data Model, a framework for standardising and harmonising information requirements and procedures. They argue that streamlining information requirements would facilitate trade, since it would be an improvement upon existing ad hoc co-operation. The paper also recognises the importance of taking into account developing countries' needs and priorities related to implementation, and to address technical assistance.

Some developed countries expressed concerns about confidentiality in the handling of the information provided, suggesting that there was a risk that business

secrets would be revealed. South Africa pointed out that an effective information exchange mechanism could reduce transit times while minimising any potential for increased criminal activity.

### The African Group Operationalises Technical Assistance

The trade facilitation negotiating mandate links developing country Members' obligation to comply with any eventual disciplines to the successful delivery of technical assistance. On behalf of the African Group (which comprises 41 African WTO Members), Egypt presented a paper (TN/TF/W/56 available online on <http://docsonline.wto.org>) that outlined means of operationalising the mandate's support for technical assistance and capacity building. At the current stage of negotiations, it would have the WTO Secretariat compile information regarding individual Members' needs and priorities in this area. The Secretariat would assist Members having difficulties identifying their needs and provide precise, continually-updated information to donors willing to provide assistance.

The submission also calls on "relevant international agencies and donors" to establish a permanent co-ordination/collaborative mechanism in order to promote the efficient use of resources.

Most Members welcomed the group's submission although some expressed concerns regarding the bureaucratic implications of creating a permanent co-ordination mechanism.

### Japan, Singapore and Korea share experiences

The meeting also heard a presentation from Japan (TN/TF/W/53) on pre-arrival documentary examination in trade procedures. Korea spoke about how it has expedited customs clearance by allowing goods to enter upon the presentation of certain documents and only later auditing them for the purpose of taxes and duties (TN/TF/W/55).

Singapore discussed how its 'single window' customs procedure system, i.e., the creation of a single agency through which traders fulfil all import and export related requirements, has both increased customs control and reduced the bureaucratic burden that traders face. Some developing country delegates felt that Singapore's system, which is based upon the use of electronic data handling, might not be directly applicable to the problems they face.

To allow Members to discuss the issues more substantively Chair Ambassador Muhamad Noor Yacob of Malaysia indicated that some of the group's work would be in informal mode when it next meets in

September. Furthermore, in an attempt to establish common ground, the talks will focus on topics and themes such as transparency, technical assistance, or specific articles rather than on specific submissions.

## Background

Members formally launched negotiations on trade facilitation in the 2004 July Package (WT/L/579, [http://www.wto.org/english/tratop\\_e/dda\\_e/draft\\_text\\_gc\\_dg\\_31july04\\_e.htm](http://www.wto.org/english/tratop_e/dda_e/draft_text_gc_dg_31july04_e.htm)). According to the negotiating modalities, they are mandated to "clarify and improve relevant aspects" of General Agreement on Tariffs and Trade (GATT) 1994 Articles dealing with freedom of transit for goods from other Member states (Article V), trade-related fees and formalities (Article VIII), and transparency in the regulation and administration of trade regulations (Article X). The negotiating mandate also specifies that "where required support and assistance for such infrastructure is not forthcoming, and where a developing or least-developed Member continues to lack the necessary capacity, implementation will not be required."

ICTSD reporting.

## IN BRIEF

### US CONSIDERS BROAD TEXTILE AGREEMENT TO LIMIT CHINESE TEXTILE IMPORTS

On 28 June, Republican leaders promised to protect US-based textile jobs from rising Chinese competition in order to secure the support of Representative Robin Hayes (Republican-North Carolina) for the Central America Free Trade Agreement-Dominican Republic (CAFTA-DR). The promise allowed the accord to pass in US House of Representatives by a 217-215 margin (see related story, this issue).

Later that day, Hayes asked the National Council of Textile Organizations to outline their top priority. In its response the textile lobby group called for a comprehensive agreement to curb Chinese textile imports. The request was forwarded to US Trade Representative Rob Portman on 29 July.

On 1 August, the US Commerce Department announced it would delay a decision on whether to impose a new round of quotas on Chinese clothing and fabric imports in order to consider the possibility of a

single comprehensive plan to limit such imports. At the moment, the US is examining Chinese textile imports on a case-by-case basis. It currently has import restrictions in place on seven types of products, and is considering further restrictions (see BRIDGES Weekly, 1 June 2005, <http://www.ictsd.org/weekly/05-06-01/story1.htm>). This is the first time the US has indicated an interest in a comprehensive accord.

A US Commerce Department spokesman denied any explicit connection between CAFTA-DR and the China decision.

"China appreciates US decision on textile imports", XINHUA, 3 August 2005; "US to Consider Broad Accord on China Textile Trade", BLOOMBERG, 1 August 2005; "Pleas and Promises by G.O.P. as Cafta Wins by 2 Votes", NEW YORK TIMES, 29 July 2005.

## WTO IN BRIEF

### URUGUAY TO CHALLENGE US RICE SUBSIDIES

On 26 July, the government of Uruguay confirmed that it had taken the political decision to challenge US rice subsidies in the WTO. Although it is yet to file a formal complaint at the WTO, the government indicated that it had accepted a petition from domestic rice farmers claiming that the US is illegally subsidising its rice growers with direct payments, countercyclical payments and marketing loans. Uruguayan rice producer groups claim that US subsidies depress international rice prices and make it impossible for farmers elsewhere to compete fairly on the global market.

Uruguayan WTO Ambassador Guillermo Valles Galmes said that no timeline had been established for filing the complaint. As per WTO rules, his government would first have to seek consultations with the US.

Trade observers have noted that the decision comes at a time when the Doha Round agriculture negotiations -- which could potentially lead to disciplines on such subsidies -- are proceeding slowly. Valles Galmes has denied that it is an attempt to inject momentum into the faltering talks. Nonetheless, Pedro Camargo Neto, the Brazilian lawyer and former senior government official who engineered his country's successful cotton and sugar disputes against the US and the EU respectively, said that the timing of this potential WTO dispute could help spur progress in the negotiations, since the US

has not moved on the issue of domestic agricultural subsidies.

Brazil, the traditional destination for the bulk of Uruguayan rice exports, has become increasingly self-sufficient in rice production, driving the smaller country to seek out new markets.

Not surprisingly, US rice growers did not welcome Uruguay's announcement, warning that a reduction in government payments would eventually lead to "higher food prices at the grocery store."

The US is the third largest rice producer in the world and Uruguay the seventh.

ICTSD Reporting; "Uruguay to Take Rice Case to WTO," *Latimes.com* 28 July 2005; "US faces fresh challenge on farm subsidies," *Financial Times* 28 July 2005; "Uruguay to file case against US rice subsidies at WTO" *Yahoo Singapore Finance* 27 July 2005; "Taking Brazil's Lead, Uruguay Prepares WTO Complaint Against U.S. Rice Subsidies," *WTO Reporter*, 26 July 2005.

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### DATA CITED AS BIOTECH CASE DELAYED AGAIN

The WTO panel considering the complaint brought by the US, Canada and Argentina against what they allege is a de facto EU moratorium on granting approval to new genetically modified organisms (GMOs) has once again postponed its ruling on the controversial case. The panel's chair, Christian Haberli, announced in a letter to the parties on 28 July that it would not deliver its preliminary report to the parties until early October. This additional delay means that the final ruling will not be available to WTO Members until the end of December 2005, more than two years after the panel was created.

Although the letter did not explicitly state the reasons for the delay, sources suggested that the reasons cited when the report was last pushed back -- the enormous volume of material to be considered, the complex nature of the product applications that have been challenged, and new issues raised by parties and the experts commenting on the case -- were once again to blame for the postponement (see *BRIDGES Weekly*, 1 June 2005, <http://www.ictsd.org/weekly/05-06-01/wtoinbrief.htm>). The final ruling will, according to the timeline presented in the statement, be delivered at approximately the same time as the WTO's December Ministerial Conference in Hong Kong, which could give a high profile to the panel's decision on the legality of EU GMO regulations.

Greenpeace activists in Geneva on 28 July warned that the decision could potentially impact consumers' right "to say 'no' to genetically modified (GM) food." "Governments must not let the WTO overrule public opinion, environmental concerns, national or international laws," said Daniel Mittler, the environmental group's trade policy advisor.

ICTSD Reporting; "Flooded With Data, WTO Panel Delays EU GMO Moratorium Ruling Until End '05," *WTO REPORTER*, 28 July 2005; "The right of consumers to say 'no' to genetically modified (GM) food," *GREENPEACE PRESS RELEASE*, 28 July 2005.

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### GC: INCOMING D-G LAMY ANNOUNCES TEAM OF FOUR DEPUTIES

Incoming WTO Director-General Pascal Lamy made his first formal appearance in his new role at a 29 July meeting of the General Council. The Frenchman, who will formally start his new job on 1 September, asked Members for their help in bringing the Doha Round negotiations to a successful close.

At the gathering, Lamy named his team of four Deputy Directors-General: Chilean WTO Ambassador Alejandro Jara, Rwandan WTO Ambassador Valentine Sendanyoye-Rugwabiza, Harsha Vardhana Singh of India, and current Deputy Director-General Rufus Yerxa of the US. Singh is a former advisor to the Office of the WTO Director-General and currently a senior official with India's telecom regulatory authority. They will start their terms of office on 1 October.

Ambassador Jara is currently the chair of the Doha Round services negotiations. His potential successors in this capacity are said to include Tony Miller, head of Hong Kong's WTO delegation, and Ambassador Fernando de Mateo of Mexico.

Lamy met informally with trade ministers including India's Kamal Nath and the EU's Peter Mandelson during the week of WTO meetings that finished on 29 July. During the General Council meeting, he also announced that Arancha Gonzales, his spokesperson in his former role as EU Trade Commissioner, would serve as his chef de cabinet.

The General Council meeting also formally approved Hong Kong Commerce Secretary John Tsang as Chair of the Ministerial Conference in December, and confirmed that New Zealand's new WTO Ambassador, Crawford Falconer, would replace his compatriot Tim Groser as Chair of the WTO agriculture negotiations.

ICTSD reporting; "Lamy announces his four Deputy Directors-General," WTO PRESS RELEASE, 29 July 2005; "Impatience Up on Stalled WTO Trade Talks," ASSOCIATED PRESS, 28 July 2005; "Hong Kong Commerce Secretary elected chair of the Sixth Ministerial Conference," WTO NEWS, 29 July 2005.

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## EVENTS & RESOURCES

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### 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](mailto:events@ictsd.ch).

#### Coming Up: 4 August - 7 September

4-5 August, Bangkok, Thailand: APEC WORKSHOP ON SUPPLY CHAIN MANAGEMENT OF AGRIFOODS FOR BETTER MARKET ACCESS BY SMEs. This event is being hosted by the Asia-Pacific Economic Cooperation. For further information contact APEC Secretariat, tel: (+65) 6775 6012; fax: (+65) 6775 6013, email: [info@apec.org](mailto:info@apec.org); Internet: <http://www.apec.org>.

10-13 August, Kottayam, India: INTERNATIONAL CONFERENCE ON SCIENCE AND TECHNOLOGY FOR SUSTAINABLE DEVELOPMENT. Organised by St Berchman's College at Mahatma Gandhi University, this conference will be a forum for meaningful exchange of views and formulation of new ideas for interdisciplinary, multicultural, and multicriteria-based evaluation of the challenges of globalisation. For further information contact the General Coordinator, tel: (+91 481) 242-0025; fax: 240-1472; email: [mail@conferencesbc.org](mailto:mail@conferencesbc.org); Internet: <http://www.conferencesbc.org>.

11 August, Washington, DC, USA: US & CHINA INVESTMENT PROGRAM. This meeting, organised by the Global Business Dialogue (GBD), will examine the cross investment relationship between the United States and China. For further information contact GBD, tel: (+1 202) 463 5074; fax: (+1 202) 463 7075; email: [rkmorris@gbdinc.org](mailto:rkmorris@gbdinc.org); Internet: [http://www.gbdinc.org/main\\_html/events.htm](http://www.gbdinc.org/main_html/events.htm).

22-27 August, St. Catharines, Canada: THIRD INTERNATIONAL CONFERENCE ON SUSTAINABLE AGRICULTURE FOR FOOD, ENERGY AND

INDUSTRY. This conference will convene under the theme of "Food, Feed, Fiber, Water, Energy: Science, Technologies, and Global Strategies" and will focus on issues of security, safety, frugality, and conservation. For more information contact the International Council for Sustainable Agriculture, fax: +905-688-0748; e-mail: [conference@icsagr-fei.org](mailto:conference@icsagr-fei.org); Internet: <http://www.icsagr-fei.org/conference>.

#### WTO Events

An updated list of forthcoming WTO meetings is posted at: [http://www.wto.org/english/news\\_e/meets.pdf](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.

31 August: DISPUTE SETTLEMENT BODY

#### Other Upcoming Events

3-7 October, Nairobi, Kenya: THIRD WORLD CONGRESS ON CONSERVATION AGRICULTURE. Organised by the African Conservation Tillage Network, this conference aims to share experiences on the role of conservation agriculture in enhancing rural livelihoods in diverse environments. For further information contact Martin Bwalya, tel: (+263 4) 882107; fax: (+263 4) 885596 email: [actnetwork@africaonline.co.zw](mailto:actnetwork@africaonline.co.zw); Internet: <http://www.act.org.zw/congress/index.htm>.

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### RESOURCES

DEVELOPING COUNTRY COORDINATION IN INTERNATIONAL INTELLECTUAL PROPERTY STANDARD-SETTING. By Ahmed Abdel Latif. South Centre, June 2005. This working paper focuses on developing country co-ordination in international intellectual property (IP) standard-setting. It underlines the need for developing countries to prioritise co-ordination when participating in international IP rule-making. The paper contends that both national level and international co-ordination in IP standard-setting are inextricably linked, as sustainable coalitions of developing countries are most likely to emerge only among countries that have a coherent and co-ordinated approach to IP policy making at the national level. Available online at [http://www.southcentre.org/tadp\\_webpage/research\\_papers/ipr\\_project/trade\\_wp24\\_jun05.pdf](http://www.southcentre.org/tadp_webpage/research_papers/ipr_project/trade_wp24_jun05.pdf).



**FROM DEVELOPMENT TO NAKED SELF-INTEREST: THE DOHA DEVELOPMENT ROUND HAS LOST ITS WAY.** By Oxfam International, July 2005. With the recent General Council meeting in the WTO, this policy brief argues the Doha Development Round negotiations have drifted off course. Instead of promoting the integration of developing countries in the world trading system, the 'Development Round' has been turned on its head: the focus has shifted from the development of poor countries to the pursuit by rich countries of their own self-interest. The EU, the US, and other developed countries want a 'round for free' for themselves, and are expecting developing countries to foot the bill. As a result, the deadline for agreeing a first blueprint in July will most probably be missed, and the would-be "Doha Development Round" will move a step closer to failure. Available online at [http://www.oxfam.org/eng/pdfs/bn050727\\_wto\\_development.pdf](http://www.oxfam.org/eng/pdfs/bn050727_wto_development.pdf).

**VOICES OF THE LEAST DEVELOPED COUNTRIES OF ASIA AND THE PACIFIC: ACHIEVING THE MILLENNIUM DEVELOPMENT GOALS THROUGH A GLOBAL PARTNERSHIP.** By the United Nations Development Programme (UNDP), 2005. This report reviews progress towards the MDGs among the 14 least developed countries (LDCs) of Asia and the Pacific. It argues that the dynamism of Asia represents both a challenge and an opportunity. On the one hand, it could increase inequalities that contribute to growing tensions; on the other, it could also generate resources and new paths for development. Some of the report's recommendations include mainstreaming trade into overall development plans and extending a preferential scheme similar to the African Growth and Opportunity Act (AGOA) to the LDCs in the Asia-Pacific region. Available online at <http://www.undp.org/mdg/asia/LDC-MDGAsiaP.pdf>.

**IDEAS FOR DEVELOPMENT.** By Robert Chambers. EarthScan, 2005. With much of our world dominated by increasing extremes of power, inequality and injustice, and with a litany of development problems that includes conflict and insecurity, debt, corporate irresponsibility, unfair trade and climate change, it is tempting to be a pessimist. In this book, the author argues that practical potential for improvement can be found in ideas and aspects of development that have previously been overlooked, undervalued or misunderstood. Each chapter presents and reviews one of his earlier writings, examines subsequent and contemporary experience, and then derives a wealth of conclusions and implications for the future. The many ideas and opportunities include: narrowing the gaps between words and actions; reducing demands on administrative capacity; using minimum rules, non-negotiables and downward accountability to transform power relations; finding new potentials for participation; improving

scaling up; critical reflection and experiential learning; complementing rights-based with obligations-based approaches; pro-poor realism; and responsible well-being.

"Not totally naked: textiles and clothing trade in a quota-free environment" by Jorg Mayer in the JOURNAL OF WORLD TRADE 39 (3), 2005. This article argues that the impact of the recent rise in China's market share in global textiles and clothing trade is likely to be lower than often suggested by computable general equilibrium (CGE) models because the models (i) neglect the industry structure and sourcing strategies of buyers; (ii) take insufficient account of current patterns of tariff protection, preference schemes, and rules-of-origin regulations that allow managing textiles and clothing trade after the expiry of quotas on textile trade; (iii) assume smooth and overly rapid responses to changes in the trading environment particularly in quota-imposing developed countries; and (iv) ignore that achieving China's development objectives require structural change towards production and exports of manufactures that are more skill-intensive than clothing.

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