



INTERNATIONAL CENTRE FOR
TRADE AND SUSTAINABLE
DEVELOPMENT

Bridges

Weekly Trade News Digest

5 October 2005

Volume 9 Number 33

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LEAD STORIES

AGRICULTURE: GENEVA NEGOTIATIONS TURN TO CONCRETE NUMBERS

During the week and a half since high-level talks among key WTO Members in Paris from 22-23 October (see BRIDGES Weekly, 28 September 2005, <http://www.ictsd.org/weekly/05-09-28/story1.htm>), Geneva-based agriculture delegates, joined by capital-based officials, have been engaged in intense negotiations on different 'scenarios' for cuts in tariffs and domestic support. The EU and the US tabled ideas for these reductions during their bilateral meeting in Paris; these were now expanded upon and circulated to WTO delegations in Geneva.

The Chair of the WTO farm negotiations, New Zealand Ambassador Crawford Falconer, has welcomed the fact that Members are now engaged in real negotiations. He has, however, warned that it is late in the game and that much work remains to be done before the Hong Kong Ministerial Conference in December. On 30 September and 4 October, Falconer convened informal meetings -- which he termed 'clinics' -- as transparency exercises to discuss new developments with the WTO's broader Membership.

New market access proposals get mixed reviews

Both the EU and the US have tabled market access scenarios based on the approach put forward by the G-20 at a mini-ministerial in Dalian, China in July this year (see BRIDGES Weekly, 13 July 2005, <http://www.ictsd.org/weekly/05-07-13/story2.htm>). The EU's scenarios would divide countries' tariffs into four bands, and allow developing countries to make cuts two-thirds the size of those made by developed countries in equivalent bands. Its four scenarios varied in ambition: the average reductions ranged from 24.5 to 36.4 percent, with tariffs in the highest bands to be cut most steeply. The US, on the other hand, presented a single scenario with significantly steeper cuts, ranging between 55 and 85 percent depending on the level of the current tariff.

In addition to differences in the overall level of ambition, the EU provided for additional flexibility in making tariff

cuts, while the US put forward measures for increased harmonisation. The EU proposed adding "pivots" to the formula, meaning tariffs on some products could be reduced by less than the standard percentage cut within a band if this was compensated by a higher-percentage cut for other products within the same band. The US, on the other hand, proposed a harmonising element that would see progressively increasing tariff cuts on products from the low to the high end of each band.

At Falconer's 'clinics,' both the G-10 (agricultural importers mainly from developed countries) and the EU criticised the US approach as too radical, arguing that it could lead to cuts at least as deep as those under earlier US proposals based on the harmonising 'Swiss' formula (which cuts higher tariffs more steeply). A number of developing country groupings, including the G-20 and the G-33 countries (which support allowing developing countries to designate Special Products for lower tariff cuts based on food security, livelihood security and rural development criteria), said the US proposal on market access failed to adequately take into account special and differential treatment (S&D) for developing countries. Developed country members of the Cairns Group of agricultural exporters, on the other hand, supported the US proposal.

Members also disagreed on if, or how, to cap tariffs. While the EU has accepted the G-20 proposal to cap developed country tariff lines at 100 percent and those of developing countries at 150 percent, the US suggested capping them at 75 percent and 100 percent, respectively. The G-10 and African, Caribbean and Pacific (ACP) countries expressed discomfort about tariff ceilings in general.

Sensitive products a sensitive issue

The EU saw a trade-off between the extent of flexibility built directly into the formula in the form of pivots and the number of items it would seek to designate as 'sensitive products,' which would be subject to tariff cuts smaller than those required by the formula. The US, Australia and New Zealand expressed doubts about the EU's approach, arguing that it would give countries double flexibility, both within the tariff reduction formula and outside it.

The US proposed that in the case of sensitive products with existing tariff rate quotas (TRQs), the quotas should be expanded, in-quota tariffs brought down to zero, and tariffs outside the quotas halved. The US would like to see potential sensitive products without TRQs remain that way, and suggested other options to provide a measure of protection, such as longer phase-in periods for tariff cuts.

Developing country issues, Zurich mini-ministerial next

As negotiations continue to take place in smaller meetings between influential Members, others have complained that they are being left outside the process, unable to properly follow and influence it. The G-33 Chair, Indonesia, made this position clear during the agriculture 'clinic' on 4 October. Several countries also said they wanted more attention paid to the development dimension of the talks. Falconer is planning consultations on developing country issues such as Special Products and the Special Safeguard Mechanism during the course of this week.

There are also some rifts among developing countries, specifically between those for which preference erosion is a high priority and those seeking expanded market access, especially with regard to tropical products and products to substitute the cultivation of illegal drugs.

Geneva delegates are permanently 'on call' during the period left before Hong Kong, and continue to hold discussions amongst themselves in different configurations. Falconer has said he will hold an informal 'clinic' for information sharing on the agriculture negotiations on 7 October. Next week, US Trade Representative Robert Portman has called a mini-ministerial meeting in Zurich, encouraging high-level engagement in the lead-up to the WTO 'agriculture week' scheduled to kick off on 17 October.

ICTSD reporting; "WTO farm talks show deep divisions persist," REUTERS, 4 October 2005; "U.S. proposes 75% cap on farm product tariffs," KYODO NEWS, 7 October 2005.

WIPO MEMBERS CREATE NEW FORUM TO DISCUSS DEVELOPMENT AGENDA

Members of the World Intellectual Property Organization (WIPO) have agreed to establish a "Provisional Committee" to continue discussions on proposals to mainstream a 'development agenda' into all of WIPO's work. The WIPO General Assembly (GA) specified that this committee would hold two one-week sessions and report any recommendations to the next GA in September 2006. The new forum's ability to influence WIPO policy, however, is yet to be determined.

The 26 September - 5 October GA also decided to continue discussions on the draft Substantive Patent Law Treaty (SPLT) and a basic proposal for a treaty on the protection of the rights of broadcasting organisations.

Initial discussions focus on copyrights

The GA decided to keep the ongoing consultations on the protection of audiovisual performances under review in 2006. Proponents of a treaty in this area argue that performers in the audiovisual industry need a clearer legal basis for the international use of their works, particularly with respect to protection against unauthorised use and the transfer of their rights to producers.

Discussions became more controversial when the GA turned its attention to the protection of the rights of broadcasting organisations. Existing international instruments such as the WTO Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) and the Berne Convention allow states to limit the protection of broadcasts to the authors of copyrighted subject matter. This has motivated broadcasters to lobby for an additional layer of protection to be granted specifically to them, independent of existing copyrights. Critics of such protection warn that it might make it harder to digitise and redistribute broadcast materials. The issue before the assembly was whether and when a diplomatic conference for the adoption of a broadcasting treaty should be scheduled.

Most WIPO member states resisted a US-backed initiative to include the protection of webcasts in any broadcasting treaty, since doing so would have serious implications for the availability of internet-based materials.

Following closed informal discussions, countries finally came to a carefully-worded compromise. They agreed to hold two additional meetings of the Standing Committee on Copyright and Related Rights (SCCR) that "shall aim to agree and finalise a basic proposal for a treaty on the protection of the rights of broadcasting organisations in order to enable the 2006 WIPO General Assembly to recommend the convening of a Diplomatic Conference in December 2006 or at an appropriate date in 2007." These meetings will discuss a revised consolidated draft text (SCCR/12/2 Rev. 2) and working paper (SCCR/12/5 Prov.). Some delegations have interpreted the phrase "aim to" to mean that WIPO members will have to agree on a draft treaty text before a diplomatic conference can be held.

'Development agenda,' patent treaty saved for last

The GA then turned to the three interrelated items that had raised the most interest prior to the meeting: the proposed 'development agenda for WIPO,' the organisation's Permanent Committee on Cooperation for Development Related to Intellectual Property (PCIPD), and the future of the draft Substantive Patent Law Treaty (SPLT).

Since the September 2004 GA, a fourteen-country group known as the 'Friends of Development' (FoD) has been calling for a pro-development agenda to be entrenched in all WIPO bodies. Argentina, Bolivia, Brazil, Cuba, Dominican Republic, Ecuador, Egypt, Iran, Kenya, Peru, Sierra Leone, South Africa, Tanzania and Venezuela convinced the WIPO membership to hold a series of 'inter-sessional inter-governmental meetings' (IIMs) to discuss the proposal's call for wide-ranging changes to the mandate and functioning of the organisation (see BRIDGES Weekly, 6 October 2004, <http://www.ictsd.org/weekly/04-10-06/story1.htm>; and 13 April 2005, <http://www.ictsd.org/weekly/05-04-13/story1.htm>). Following IIMs in April and July, WIPO members had to decide if, where, and how to continue talks on the development agenda.

In closed informal meetings, delegations disagreed on whether to continue the discussions in the high-level IIM that reports directly to the GA, or to confine them to the PCIPD, a body of minor importance. For the first time, the FoD group, led by Brazil, expressly linked the development agenda to the SPLT process, refusing to discuss the latter in the absence of progress on the former.

Negotiators eventually reached a last-minute compromise, drawing on submissions from India and the group of industrialised country WIPO members. In essence, they will create a new "Provisional Committee" to continue, in two one-week sessions, discussions on the development agenda. In the interim, the PCIPD will cease to exist. Delegates differ in their interpretations of the significance of the new committee, particularly as to whether it will enjoy the high status of the IIM.

On the SPLT, delegations focused particular attention on how developing country concerns would be reflected in the discussions, especially with regard to issues such as public interest flexibilities, genetic resources, traditional knowledge, and competition. In an effort to address these concerns, the GA agreed to hold, in early 2006, a three-day, informal open forum in Geneva on all issues related to the SPLT. The open forum will be followed by a three-day, informal session of the WIPO Standing Committee on the Law of Patents (SCP) to agree on an agenda for a five-day formal meeting later in the year, which will in turn report to the 2006 GA.

WIPO Members also discussed several other issues. They accepted Singapore's offer to host a diplomatic conference in March 2006 on a revised treaty on trademark law. Notably, they extended the mandate for the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), and admitted a wide range of new civil society observers, such as the

International Centre for Trade and Sustainable Development, Third World Network, and Consumers International.

ICTSD reporting; "New Committee For WIPO Development Agenda; Patents Reinvigorated," INTELLECTUAL PROPERTY WATCH, 3 October 2005; WIPO "Negotiators Agree On Way Forward For Broadcasting Treaty," INTELLECTUAL PROPERTY WATCH, 3 October 2005; "WIPO General Assembly Calls For Action On Financial, Personnel Concerns," INTELLECTUAL PROPERTY WATCH, 2 October 2005.

RULES: ANTI-DUMPING, FISHERIES DISCUSSED; STILL NO CLARITY ON HK EXPECTATIONS

WTO Members focused on anti-dumping (AD) and fisheries subsidies during meetings of the Negotiating Group on Rules from 26-30 September.

Delegations considered several new submissions on AD, spending most of their time discussing a proposal that would require Member governments to consult with potentially-affected sectors of their economies before imposing AD duties. They also debated submissions addressing the issue of when such measures must be phased out. Fisheries subsidies discussions centred on a submission from a group of small coastal states calling for special and differential treatment (S&D).

Anti-dumping proposals focus on introduction, phase-out of measures

Some Members expressed strong objections to the new submission from some of the 'Friends of Anti-Dumping Negotiations' (FAN, TN/RL/GEN/53), a group of countries that supports tightening the rules under which Members can impose anti-dumping measures. The joint submission by Hong Kong, Israel, Japan, Korea, Norway, Singapore, Switzerland, Taiwan and Thailand elaborates on an earlier proposal to describe how Member government authorities could be required to provide "full opportunity for persons who may be affected by the [AD] measure to comment on the matter." Members raised questions about how governments would identify relevant 'persons,' how domestic interests were to be balanced among each other, and whether domestic decisions would be subject to overturning by the Appellate Body. While the FAN, Canada and the EU support including such a 'public interest' clause in the AD Agreement, many Members counter that it would be intrusive.

A new submission from Brazil, Chile, Israel, Japan, Korea, Singapore, Switzerland and Thailand (TN/RL/GEN/52) outlined possible rules and procedures for the review of AD procedures mandated by Article 11.2 of the AD Agreement. The review is intended to fill a current lack of explicit rules in AD regulation that leaves governments with a high degree of discretion with regard to when to phase out AD measures, even though they are supposed to "remain in force only as long as and to the extent necessary." The proposal provided a framework for examining what would happen if the AD duty were removed or varied. Members discussed technical difficulties involved with determining how the removal of AD measures would affect the domestic industry.

The AD Agreement and the Agreement on Subsidies and Countervailing Measures (SCM) require authorities that adopt AD measures to demonstrate a causal relationship between the dumped or subsidised imports and injury to the domestic industry, and to establish that the injury cannot be attributed to factors other than the dumped imports. However, neither agreement provides detailed instructions for how to conduct this exercise, termed 'non-attribution analysis.' Several Members including India and the FAN have argued that it needs to be clarified. A US paper (TN/RL/GEN/59) argued that such analysis is very complicated, making the case that it should be possible for domestic industries to obtain relief from dumping even when it is not the exclusive cause of their injury. This point proved to be particularly contentious; the FAN argued that it would weaken the AD Agreement.

Fisheries subsidies: small islands voice concerns

On 30 September, Members turned to fisheries subsidies. The presentation of a wide-ranging joint proposal on fisheries subsidies disciplines from Antigua and Barbuda, Barbados, Dominican Republic, Fiji, Grenada, Guyana, Jamaica, Papua New Guinea, St. Kitts and Nevis, St. Lucia, Solomon Islands, and Trinidad and Tobago (TN/RL/GEN/57/Rev.2) stimulated vigorous discussions. The proposal was a revised version of one that was originally submitted by some of them to the July Rules meeting, which was not discussed due to time constraints. The paper's sponsors argued that a 'traffic-light approach' (classifying subsidies as prohibited, actionable, and unchallengeable) may be inadequate for addressing issues surrounding the conservation of fish stock, suggesting that multilateral environmental agreements (MEAs) and the UN Food and Agriculture Organisation (FAO) might be more suited to the task. They also expressed the fear that such an approach might let Members initiate disputes against subsidies that "directly promote overcapacity and overfishing" without having to directly link them to their trade effects, and

argued that this would go beyond the technical competence of the WTO. Stressing the economic importance of fisheries to small vulnerable coastal states, the proposal called for S&D exempting the following from any disciplines: development assistance; assistance to artisanal or small-scale fisheries; access fees in fisheries access agreements; and fiscal incentives to facilitate the development of fisheries capacity in vulnerable coastal states.

A large number of delegations -- including some that had not previously intervened in the discussions -- responded to the proposal, hailing it as a fresh contribution to the negotiations. The EU and Australia declared themselves open to giving S&D to developing countries, pending more clarity about the future system of fisheries subsidies and the exact meaning of S&D. New Zealand voiced concerns about completely exempting entire categories of subsidies from disciplines, instead suggesting that a "de minimis" level of permissible subsidisation could be established to address development issues. It will spell this out in greater detail during the group's next meeting.

The proposal to exempt fiscal incentives in particular raised questions and requests for clarification. Chile, Peru, Brazil and China, objected to its implicit differentiation between small vulnerable coastal states and other developing countries. The "Friends of Fish" -- a loosely defined group of countries, including Australia, Argentina, Chile, Ecuador, New Zealand, Philippines, Peru, Norway, Iceland and the US, that supports a broad ban of fisheries subsidies with certain exemptions -- stressed the importance of taking into account overfishing and overcapacity, as opposed to only the trade effects of fisheries subsidies.

Japan reiterated its standard position, that it would prefer to ban fisheries subsidies on a case-by-case rather than a blanket basis. One Member suggested that further clarification would be necessary, since the document attempted to address too many issues.

Members also continued discussions on an earlier proposal from Australia, Ecuador and New Zealand (TN/RL/GEN/54) calling for disciplines on aquaculture, which argued that without them, countries might use aquaculture to circumvent new rules on the capture of wild fish (see BRIDGES Trade BioRes, 22 July 2005, <http://www.ictsd.org/biores/05-07-22/story1.htm>).

Members generally expressed the view that aquaculture was already covered by existing disciplines, and that new disciplines should only cover wild capture. In light of their lack of enthusiasm, no further investigations of the issue are expected for the moment.

At the end of the meeting, the Chair announced that he wanted to reserve some time at the next session, scheduled to start on 24 October, for a general discussion about delegates' expectations from the Hong Kong Ministerial Conference in December.

ICTSD reporting.

IFIs DESCRIBE TEXTILES ASSISTANCE AND COUNTRY CONDITIONS AT WTO

The fallout in least-developed countries (LDCs) resulting from the elimination of quotas on textiles and clothing trade might not have been as severe as originally anticipated, according to presentations made to the 29 September meeting of the WTO Sub-Committee on LDCs. Attempting to address concerns raised in a 28 June WTO Secretariat report on least-developed country (LDC) competitiveness in the sector (WT/COMTD/LDC/W/37, available at <http://docsonline.wto.org>), representatives from the International Monetary Fund (IMF), International Trade Centre (ITC) and World Bank spoke to Members about their organisations' work and analysis regarding the end of the trade quotas. (see BRIDGES Weekly, 13 July 2005, <http://www.ictsd.org/weekly/05-07-13/WTOinbrief.htm#2>).

Members commissioned the Secretariat report, entitled "Options for LDCs to improve their competitiveness in the textiles and clothing business," in October 2004, at the urging of LDCs concerned about the impact of the 31 December 2004 phase-out of trade quotas in the textile and clothing sector (see BRIDGES Weekly, 3 November 2004, <http://www.ictsd.org/weekly/04-11-03/story2.htm>). One of the report's suggestions was that international financial institutions could provide trade-related technical assistance and capacity building to help LDCs adjust to the post-quota environment.

The IMF pointed out that its Trade Integration Mechanism (TIM) can deliver such assistance to the textile and clothing sector in needy countries, and has for Bangladesh (July 2005) and the Dominican Republic (January 2005). However, the terms of the programme mean that it can only do so in cases where there is a direct link between the sector and a serious balance of payments problem. Delegates recognised that the IMF's mission is to assist countries that are most vulnerable to balance of payments problems. However, some LDCs questioned whether the TIM's requirement that a country have a balance-of-payments problem made it a suitable tool for helping most LDCs deal with diminished market shares.

The ITC encouraged developing countries to refer to its work on value chain analysis; product and market

development, including product diversification; and ideas for the development of South-South trade, including regional value chain cooperation.

The World Bank reported on the state of textile and clothing sectors in LDCs. It said that Bangladesh, which had been expected to lose market share to bigger players such as India or China, has not been as adversely affected as once feared. The Bank suggested that the efforts of Bangladeshi firms and policy makers to anticipate market trends had paid off. The representative from Bangladesh, however, pointed out that some sub-sectors within the industry had nonetheless been hit hard.

At the same time, the World Bank research indicated that other countries, particularly Lesotho, Malawi and Nepal, have not been coping well with the expiry of the quotas that used to guarantee them a certain share in European and US markets. It indicated that the competitiveness of LDC textile and clothing firms was strongly affected by regulatory processes, infrastructure and trade facilitation measures such as customs procedures.

The Sub-Committee decided to invite external organisations, including the UN Industrial Development Organization (UNIDO), to contribute to the discussion at its next meeting, at which diversification strategies, the conditionalities of the TIM and the preference schemes of major developed economies are likely to feature on the agenda.

Expansion of Integrated Framework

The Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries (IF) recently received a boost from the IMF and World Bank Development Committee, which endorsed the proposal to expand the IF's resources and functioning at their 25 September meeting in Washington. Danish Ambassador Henrik Rée Iversen, who chairs the joint initiative between the IMF, ITC, UN Conference on Trade and Development (UNCTAD), UN Development Programme (UNDP), World Bank and the WTO, reported to the meeting that pledges to the IF have already seen an expansion in recent years, growing from USD 13.7 million in 2001 to USD 30.2 million in May 2005. Sixteen countries have finished their analytical studies on competitiveness and another five are nearing completion.

Members also noted that ten LDCs are currently negotiating their way into the WTO, a procedure that has been criticised for requiring concessions that go beyond WTO rules and for its heavy strain on national policy-makers (see BRIDGES Weekly, 21 September 2005, [http://www.ictsd.org/weekly/05-09-](http://www.ictsd.org/weekly/05-09-21/WTOinbrief.htm)

[21/WTOinbrief.htm](http://www.ictsd.org/weekly/05-09-21/WTOinbrief.htm)). Afghanistan, Bhutan, Cape Verde, Ethiopia, Laos, Samoa, Sao Tome and Principe, Sudan, and Yemen are all in the midst of the accession process, which includes a requirement to negotiate bilateral market access deals with any countries that request them.

A new International Labour Organization report entitled "Promoting fair globalisation in textiles and clothing in post-MFA environment," is available at <http://www.ilo.org/public/english/dialogue/sector/techme/et/tmtc-pmfa05/tmtc-pmfa-r.pdf>.

ICTSD reporting.

WORKING GROUP ON TRADE, DEBT, FINANCE TO SIMPLY RENEW DOHA MANDATE?

Chair Ambassador Kweronda Ruhemba of Uganda suspended the 3-4 October formal session of the WTO Working Group on Trade, Debt and Finance (WGTDf) on its second day, after the group was unable to reach consensus on the language of the draft text of the report that it is supposed to submit to the General Council later this month. However, trade sources report that Members managed to bridge their differences at a 5 October informal consultation hosted by the chair, and that they are likely to ask the Hong Kong Ministerial Conference to simply renew the mandate of the WGTDf, rather than expand and strengthen it.

The July Package (WT/L/579) requires the General Council to communicate the progress and recommendations of the WGTDf to the Hong Kong Ministerial Conference in December. In recent informal consultations, Members differed on precisely what the group's recommendations ought to be. Although countries largely agreed that the group should continue its work after Hong Kong, they were split on the terms under which it should do so.

The group of African, Caribbean, and Pacific (ACP) countries (WT/WGTDf/W/30 and W/32), supported by Argentina (W/33), has been pushing the WGTDf to recommend that the Ministerial Conference create a permanent WTO Committee on Trade, Debt, and Finance. Furthermore, the ACP group's two submissions on the matter set out a specific agenda for this committee that included reviewing WTO rules that might affect countries' debt and balance-of-payments positions; supporting economic diversification in commodity-dependent developing countries; promoting increased market access for developing and least-developed country (LDC) exports; urging rich countries to cancel bilateral debts, including those resulting from

export credits; and changing the WTO's trade policy review to include an assessment the effect of developed countries' development assistance, debt, and export credit policies on developing and least-developed countries. Even if Members did not agree to establishing a permanent committee, the ACP Group and Argentina wanted the WGTDF to address these issues in its post-Hong Kong work.

Trade negotiators reported that the US and some other developed countries had opposed Argentina and the ACP countries in recent informal consultations. Arguing that Members had not agreed on the ACP and Argentine proposals, they said that the group's recommendations should simply refer to the Doha mandate on trade, debt, and finance (Paragraph 36) that gave rise to the WGTDF in 2001. Other delegations called for the report to mention the 'Coherence Declaration,' a Uruguay Round document that suggests that "the WTO should... pursue and develop cooperation with the international organisations responsible for monetary and financial matters."

At the 5 October consultation, the US-backed position effectively won out. A trade negotiator said that delegations at the gathering agreed that the WGTDF's report to the General Council would essentially repeat the group's Doha mandate, i.e., to examine "the relationship between trade, debt and finance, and of any possible recommendations on steps that might be taken within the mandate and competence of the WTO to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and least-developed countries, and to strengthen the coherence of international trade and financial policies, with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability." Some delegations saw this as being better than the even weaker language in the Coherence Declaration.

ICTSD will provide coverage of the 10 October WGTDF meeting in the next issue of BRIDGES Weekly.

ICTSD reporting.

IN BRIEF

TECHNICAL DISCUSSIONS DOMINATE US-THAI FTA ROUND

The US Trade Representative's office is touting significant progress in the latest round of free trade agreement (FTA) talks with Thailand held from 26 to 30

September in Hawaii. However, the Thai negotiating team indicated more modest progress, largely in relation to technical barriers to trade, as well as an exchange of proposals on intellectual property rights.

Initiatives suggested for the simplification of technical barriers to trade included a workshop for Thai exporters to learn about US trade restrictions and the establishment of a unit to promote compatibility and mutual recognition of standards for industrial goods.

Thailand also submitted intellectual property proposals to the US including one seeking geographical indication protection for products such as Jasmine rice and Thai silk. Another called for both countries to enact measures for benefit-sharing related to the research and commercialisation of products that utilise genetic resources and/or traditional knowledge.

Negotiators could not agree on an approach to negotiations for investment liberalisation; they will likely pursue talks on a sector-by-sector basis at a later date.

Although the leaders of both countries have expressed an interest in concluding negotiations by next year, Thai civil society groups have urged their negotiating team to evaluate the potential agreement slowly and carefully. The Thai lead negotiator has not been willing to place an estimate on the likely conclusion date of the talks. Agriculture and intellectual property rights have been the most sensitive issues on both sides, and have presented the greatest negotiating hurdles to date.

"Hawaii talks leave key points out," BANGKOK POST, 3 October 2005; "United States and Thailand Conclude Fifth Round of FTA Talks," OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, 3 October 2005.

US-SACU TALKS UNDERWAY AGAIN

After a standstill of over a year, the Southern African Customs Union (SACU) and the US restarted their free trade agreement (FTA) negotiations with meetings from 28-29 September in Gaborone, Botswana.

The talks fell apart in September 2004, when a round of meetings was cancelled because SACU countries (Botswana, Lesotho, Namibia, South Africa, and Swaziland) were unwilling to agree to US demands on investment, government procurement, services and intellectual property rights (IPRs), arguing that their appropriateness for developing countries was questionable. South Africa in particular is wary of any limitations that rules on investment and government procurement could place on its 'black economic empowerment' programme, an affirmative action

scheme that seeks to improve employment and business ownership rates for black people.

SACU and the US agreed in July to get the talks going again by focusing initially on relatively uncontroversial aspects of the negotiations. Discussions in Gaborone thus looked primarily at industrial tariffs. Negotiators did touch upon issues such as investment and IPRs, but more to identify specific areas of divergence.

A similar spat arose in SACU's FTA negotiations with the European Free Trade Association (Iceland, Liechtenstein, Norway, and Switzerland: see BRIDGES Weekly, 9 March 2005, <http://www.ictsd.org/weekly/05-03-09/story3.htm>). However, the two blocs appear poised to sign a deal that does not contain substantial provisions on so-called 'new-generation' issues such as investment, IPRs, and government procurement.

However, investment rules and strong IPR disciplines that go beyond WTO requirements are a central part of the US' FTA negotiating agenda, and it is unclear if the US would accept a deal without them.

ICTSD reporting; "Caution as Sacu-US talks resume," BUSINESS DAY, 3 October 2005; "US-Sacu trade talks grind to a halt," BUSINESS DAY, 22 September 2004; "Sacu-US trade talks to resume," BUSINESS DAY, 8 July 2005; "SACU/US Trade Negotiations On Tomorrow," MMEGI/THE REPORTER, 27 September 2005; "Sacu and US to kick-start trade talks," BUSINESS REPORT, 18 August 2005.

FDI TO DEVELOPING COUNTRIES SURGES IN 2004, ACCORDING TO UNCTAD REPORT

2004 saw a significant boost in foreign direct investment (FDI) flows to developing countries, a trend that will continue into 2006, according to the 2005 World Investment Report, released by the UN Conference on Trade and Development (UNCTAD) on 29 September.

Despite a 14 percent decline in FDI in the developed world, the developing world saw foreign investment spike by 40 percent to USD 233 billion. These numbers show that the developing world now receives 36 percent of global FDI inflows -- the highest level since 1997. Asia and Oceania saw the largest FDI growth in the developing world, followed by Latin America and the Caribbean. The report credited developing countries for the two percent annual growth seen in global FDI -- a number that had been in decline for three years.

One of the factors cited for increased FDI growth in the developing world was industrial expansion from the developed world to emerging economies in order to improve competitiveness. The report also pointed to growth in outward FDI from developing countries, most notably in the services sector and towards other Southern countries.

For the first time, this year's World Investment Report included a survey of transnational corporations on current trends in research and development (R&D) investment. While lauding countries such as China and India for their ability to attract R&D, it cautioned that technologically lagging countries could be left behind, suggesting that they may need assistance from developed countries to launch a process of technological upgrading.

The UNCTAD World Investment Report is an annual publication that offers comprehensive analysis of current global trends in Foreign Direct Investment (FDI). The report has been published annually since 1991.

The "World Investment Report 2005: Transnational Corporations and the Internationalization of R&D" is available at

<http://www.unctad.org/Templates/webflyer.asp?docid=6087&intItemID=3489&lang=1&mode=downloads>.

"World Investment Report," UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT, 29 September 2005; "World Investment Report 2005 Announced at UNCTAD," STRATEGIY.COM NEWS, 2 October 2005; "Investment In New Member States Up 70 Percent," THE DAILY JOURNAL, 4 October 2005; "Foreign investment in developing countries surges - UN," MINING WEEKLY ONLINE, 4 October 2005; "Developing countries emerge as attractive locations for R&D: UNCTAD," DOMAIN-B.COM, 3 October 2005.

US, OMAN INK COMPREHENSIVE FTA

The US and Oman concluded a comprehensive free trade agreement (FTA) on 3 October. The accord eliminates most tariffs on goods trade between the two countries. It also includes disciplines on investment and intellectual property rights, as well as rules on labour and environmental issues. The agreement will not enter into force until it is approved by both chambers of the US Congress.

The Office of the US Trade Representative notes that Oman has also substantially opened its services sector to US companies. It also praises the agreement for securing national treatment for US investors in most sectors of the Omani economy.

The pact's intellectual property rights obligations go beyond the demands of the WTO Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS). For example, the FTA establishes a five-year protection period for the clinical test data that pharmaceutical companies submit to government sanitary authorities when seeking the right to put a new drug on the market. Critics of such 'test data exclusivity' periods warn that they could delay the production and sale of cheaper generic drugs, since would-be generic manufacturers would either have to wait for five years or run clinical tests of their own.

Strong disciplines for the treatment of foreign investments and intellectual property are among the US Congress' stated objectives in the country's FTA negotiations. The new agreement is part of the US' larger plan for a Middle East Free Trade Area, announced in 2003. The US has already signed FTAs with Israel, Jordan, Morocco, and Bahrain.

ICTSD reporting; "US, Oman reach free trade agreement," KHALEEJ TIMES, 3 October 2005; "United States and OMAN Conclude Free Trade Agreement," US TRADE REPRESENTATIVE, 3 October 2005.

WTO IN BRIEF

INFORMAL CONSULTATIONS CONTINUE ON LDC, AFRICAN S&D PROPOSALS

At an informal 27 September consultation hosted by Committee on Trade and Development Special Session (CTD-SS) Chair Faizel Ismail of South Africa, developed countries commented on 14 proposals from the group of African WTO Members to improve the provisions for special and differential treatment (S&D) in particular WTO agreements. Members agreed that there was little use repeating discussions that had taken place when the proposals were first put forward in 2003, and proceeded directly to questions and comments for the African Group. According to trade sources, the US, the EU, Canada, Australia and Japan asked about what use the proposals would serve, the motivation behind them, and whether they were prompted by particular challenges with implementing the WTO agreements they seek to amend.

The least-developed countries (LDCs) and the African Group -- the two key demandeurs in the S&D talks -- face serious challenges with regard to converting these questions into concrete changes to the texts of the proposals. Intensive meetings on crucial topics such as agriculture, non-agricultural market access (NAMA) and services in the weeks remaining before the Hong Kong

Ministerial Conference have underlined their limited negotiating capacity. They find it particularly difficult to participate in those discussions and simultaneously help redraft the S&D proposals as demanded by other WTO Members. A formal meeting of the CTD-SS scheduled for 4 October was postponed to allow the African Group time to consult internally, and with other countries, to refine their proposals. The LDCs are conducting a similar redrafting process (see BRIDGES Weekly, 27 July 2005, <http://www.ictsd.org/weekly/05-07-27/story2.htm>).

The CTD-SS is scheduled to meet 12 October. Members are set to re-examine the African Group proposals and consider what can realistically be done before, during and after the Hong Kong Ministerial Conference to enhance S&D in the WTO.

ICTSD reporting.

EU ASKS WTO ARBITRATOR TO EVALUATE REVISED BANANA TARIFF

On 26 September 2005, the EU requested a WTO arbitration panel to evaluate its recent proposal for a 187 euros per tonne most-favoured nation (MFN) tariff rate for imported bananas. This follows failed consultations on the proposal between the EU and banana producers in Latin America and African, Caribbean and Pacific (ACP) countries.

The EU is replacing its current banana import regime, which includes both tariffs and quotas for MFN suppliers, with a tariff-based system as of 1 January 2006. In August, a WTO arbitrator determined that the 230 euros per tonne MFN tariff rate proposed by the EU was too high, and would not preserve the market access available to MFN suppliers -- mostly in Latin America -- under the current system (see BRIDGES Weekly, 3 August 2005, <http://www.ictsd.org/weekly/05-08-03/story1.htm>).

The EU's most recent proposal, announced on 12 September, would set MFN tariffs at 187 euros per tonne and eliminate quota ceilings on MFN bananas. It would also preserve a duty-free tariff quota for ACP producers. However, Latin American producers -- Brazil, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Nicaragua, Panama and Venezuela -- contend that the tariff was too high, while Caribbean producers have argued that even the scaled-back tariff would leave them unable to compete (see BRIDGES Weekly, 14 September 2005, <http://www.ictsd.org/weekly/05-09-14/WTOinbrief.htm#1>).

The arbitration panel will try to determine, within 30 days, if the EU's new tariff scheme would maintain market access for MFN suppliers and grant a level of preference to ACP suppliers equivalent to that they enjoy under the EU's current regime. If the arbitration panel accepts the proposal, all of the parties will be obliged to adhere to its decision.

ICTSD reporting; "EU requests new WTO arbitration on proposal for banana import regime," CHINA VIEW, 27 September 2005; "EU bananas: the failure of consensus politics," FRESH WORLD INTERNATIONAL, 30 September 2005; "EU asks for arbitration in banana dispute," CREAMER'S MEDIA ENGINEERING NEWS, 29 September 2005.

EVENTS & RESOURCES

EVENTS

For a more comprehensive list of events in trade and sustainable development, please refer to ICTSD's web calendar. If you would like to submit an event, please [email us](#).

Upcoming Events: 6 October - 12 October

6 October, Washington, D.C.: US IMPLEMENTATION OF THE WTO COTTON CASE. Women in International Trade (WIIT) is organising this brown-bag lunch discussion on the WTO decision on the Brazil-US cotton case, which has had a great impact on the US cotton industry and has elicited a serious debate inside the US Congress on how the country will comply with its international obligations. For further information contact Isabel Simmerman, tel: +1-202-222-5608; fax: +1-202-293-0495; e-mail: mdungas@yahoo.com; internet: <http://www.wiit.org/events/events.htm>.

6 October, Washington, D.C.: STRUCTURING CROSS BORDER TRANSACTIONS: MANAGING COMMERCIAL AND REGULATORY COMPLIANCE RISKS. This seminar, organised by law firm Baker & McKenzie, will address the challenges of cross border project management, conducting effective due diligence, documenting a deal in a cross-cultural environment, crafting appropriate contractual provisions and negotiating other solutions, complying with laws in multiple jurisdictions and post-acquisition integration issues. The seminar is free of charge and registration is required. For further information contact Christie Raukar, tel: +1-202-835-1866; fax: +1-202-452-7074 ; e-mail: christie.a.raukar@bakernet.com; internet:

<http://www.bakernet.com/BakerNet/Events/Events+by+Date/DC+Cross+Border+Seminar.htm>.

10-14 October, Vientiane, Laos: INTENSIVE TRAINING COURSE FOR NEGOTIATORS OF INTERNATIONAL INVESTMENT AGREEMENTS. Developed in cooperation with the International Investment Agreements work programme of UNCTAD's Division in Investment, Technology and Enterprise Development (DITE), this course is part of the TrainForTrade project for Laos and Cambodia. For further information contact Sven Callebaut, tel: +41-22-917-2039; fax: +41-22-917-0050; e-mail: unctadfft@online.com.kh; internet: <http://www.unctad.org/Templates/Meeting.asp?intlItemID=2068&lang=1&m=10995&year=2005&month=10>.

11 October, Geneva, Switzerland: TRADE AND SUSTAINABLE DEVELOPMENT: THE ROLE OF LAW AND SCIENCE. Jointly organised by the University of Geneva's Faculty of Law and by the UN Environment Programme (UNEP) Economics and Trade Branch, this colloquium will offer researchers and diplomats a forum where they can discuss the relationship between law and science in the development of trade and environmental policies and in the implementation of related legal agreements primarily at the multilateral level. For further information contact Francine Pinget, tel: +41-22-379-8473; fax: +41-22-379-8467; email: Francine.pinget@droit.unige.ch.

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.

6 October: WORKING PARTY ON THE ACCESSION OF BHUTAN

7 October: TRADE POLICY REVIEW BODY - TUNISIA

7 October: WORKING PARTY ON THE ACCESSION OF SERBIA

10 October: COMMITTEE ON TRADE-RELATED INVESTMENT MEASURES

11 October: WORKING GROUP ON TRADE AND TRANSFER OF TECHNOLOGY

11 October: COMMITTEE ON TRADE AND ENVIRONMENT

11 October: WORKING PARTY ON THE ACCESSION OF SAUDI ARABIA

12 October: TRADE POLICY REVIEW BODY - GUINEA

Other Upcoming Events

28 October, Bangkok, Thailand. FEMINISTS TALK TRADE: HOW TO GET THE BIG BOYS TO LISTEN. In this Skills Building Workshop, representatives from the International Gender and Trade Network (IGTN) will train participants on how best to speak out on substantive feminist issues in trade talks. This workshop is organised as a component of the Association for Women's Rights in Development (AWID) International Forum on Women's Rights and Development (27-30 September). For further information contact AWID, tel: +1-416-594-3773; fax: +1-416-594-0330; e-mail: awidforum@awid.org; Internet: http://www.awid.org/forum/forum_programme.htm.

31 October-2 November, Cape Town, South Africa. AFRICAN REGIONAL WORKSHOP ON WTO DISPUTE SETTLEMENT IN AGRICULTURE. This workshop, co-organised by the UN Conference on Trade and Development (UNCTAD) the Trade Law Centre for Southern Africa (TRALAC), targets government officials, academics, practising lawyers, industry advisers and all others whose knowledge of the WTO dispute settlement mechanism on agriculture could contribute to meeting development targets. For further information contact Chitra Radhakishun, tel: +41-22-917-5695; fax: +41-22-917-0247; e-mail: chitra.radhakishun@unctad.org; Internet: <http://www.unctad.org/Templates/Meeting.asp?intItemID=2068&lang=1&m=11067&year=2005&month=10>.

RESOURCES

FOOD SOVEREIGNTY: TOWARDS DEMOCRACY IN LOCALIZED FOOD SYSTEMS. By Michael Windfuhr and Jennie Jonsén. Foodfirst Information & Action Network, 2005. This paper asserts that the rules that govern food and agriculture at all levels -- local, national and international -- are designed a priori to facilitate international rather than local trade. This reduces diversity and concentrates the wealth of the world's food economies in the hands of ever fewer multinational corporations, while the majority of the world's small-scale food producers, processors, local traders and consumers including, crucially, the poor and malnourished, are marginalised. The book attempts to

demonstrate how a food sovereignty policy framework provides a way out of this dilemma by pointing a way forward and inviting a more focused consideration of the principles behind what is fast becoming recognised as the most important food and agriculture policy consensus for the 21st century. Available online at http://www.ukabc.org/foodsovereignty_itdg_fian_print.pdf.

TOWARDS A NEW TRADE "MARSHALL PLAN" FOR LEAST DEVELOPED COUNTRIES: HOW TO DELIVER ON THE DOHA DEVELOPMENT PROMISE AND HELP REALIZE THE UN MILLENNIUM DEVELOPMENT GOALS? By Lakshmi Puri. UN Conference on Trade and Development (UNCTAD) Trade, Poverty and Cross-Cutting Development Issues Study Series No. 1, 2005. This paper sets out a new and comprehensive vision for a trade-related support plan for least-developed countries, which at present are unable to profit from trade liberalisation and beneficially integrate into the international trading system and the global economy. Drawing upon historical experience with the Marshall Plan, where the US reconstructed a war-devastated Europe virtually from the ground up, it calls for practical and concrete commitments, policies and measures in favour of LDCs. Available online at http://www.unctad.org/en/docs/ditctabpov20051_en.pdf.

INTERNATIONAL TRADE IN ENVIRONMENTAL AND ENERGY SERVICES AND HUMAN DEVELOPMENT: CONTRIBUTING TO WELL-BEING, GROWTH AND ACCESS FOR ALL. By the UN Development Programme Regional Centre in Colombo (UNDP RCC), September 2005. This paper, written primarily for constituencies in the Asia-Pacific, discusses the ways in which trade in energy and environmental services can contribute to, or upset, the pursuit of human well-being. The paper recognises that the energy and environmental sectors have potential benefits in terms of employment, technology transfer and economic growth. It concludes by suggesting strategic ways in which countries can respond to trade negotiating requests so as to ensure that access to essential services by the poor is bolstered and not restrained.

PREFERENTIAL TRADE AGREEMENTS IN THE ASIA-PACIFIC REGION. By Tubagus Feridhanusetyawan. International Monetary Fund (IMF) Working Paper, July 2005. This paper describes the proliferation of preferential trade agreements (PTAs) in the Asia-Pacific region. It discusses their characteristics and implementation, and assesses their potential effects. It makes the central point that realising the potential gains from Asia-Pacific PTAs requires countries to be committed to liberalising sensitive sectors, maintaining consistent provisions, and enforcing agreements. Available online at

<http://www.imf.org/external/pubs/ft/wp/2005/wp05149.pdf>.

THE MALAYSIAN EXPERIENCE IN FINANCIAL-ECONOMIC CRISIS MANAGEMENT: AN ALTERNATIVE TO THE IMF-STYLE APPROACH. By Martin Khor. Third World Network, July 2005. When it faced a financial crisis in 1997-98, Malaysia adopted an "unorthodox" policy package which included fixing the exchange rate, selective capital controls, lowering interest rates and expanding public spending. This paper examines the Malaysian model, which was seen as alternative to International Monetary Fund-type policies. Available online at <http://www.twinside.org.sg/title2/par/mk003.doc>.

U.S. VS. EC BIOTECH PRODUCTS CASE: WTO DISPUTE BACKGROUNDER. By Steve Suppan, Institute for Agriculture and Trade Policy, September 2005. This briefing outlines the key issues in the dispute brought by the US, Canada and Argentina against the EU's biotechnology regulations. Will the EU and other WTO members be able to develop and maintain a regulatory system for genetically modified (GM) crops that allows for the use of precautionary measures to protect consumer, animal and/or plant health when there is insufficient scientific evidence to assess the risks? Will the WTO agree that some of the EU's regulatory objectives for GM crops fall outside of the WTO and are instead covered by other international agreements such as the Cartagena Protocol to Biosafety, which allow for a more precautionary approach? Other questions and analyses probe into the case's implications for the use of precaution when scientific uncertainties preclude national regulators from fully assessing risks. To access this report visit <http://www.tradeobservatory.org/library.cfm?refid=76644>.

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BRIDGES Weekly Trade News Digest© is published by the International Centre for Trade and Sustainable Development (ICTSD), <http://www.ictsd.org/>.

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BRIDGES Weekly Trade News Digest is made possible in 2001 – 2004 through the generous support of the Government of the United Kingdom (DFID). Additional support is provided by ICTSD's core donors: the Governments of Finland, Denmark, the Netherlands and Sweden; Christian Aid (UK), MISEREOR, NOVIB (NL), Oxfam (UK) and the Swiss Coalition of Development Organisations (Switzerland). The **Weekly** also benefits from support for the **BRIDGES** series of publications including: the Rockefeller Foundation, the John D. and Catherine T. MacArthur Foundation and Swiss Development Cooperation. ISSN 1563-0

