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Facts and Figures

- In 2004 trade grew by 9 percent, the best performance since 2000 and the third highest rate over the last decade. Trade growth outstripped GDP growth by 5 percent.
- The most dynamic traders in 2004 were Asia, South and Central America, and the Commonwealth of Independent States of the former Soviet Union. Average trade growth in all of these regions was in double digits.
- Since 2000, growth in world exports of pharmaceutical products has been four times stronger on average than the equivalent figures for other chemical products and manufactures as a whole. The share of pharmaceuticals in world trade has risen to 3 percent, exceeding that of textiles and iron and steel.
- Prices of agricultural raw materials and beverages rose by only 3 to 6 percent while food prices went up by 14 percent. In 2004, prices of manufactured goods rose by 8.5 percent on average.

Source: *The World Trade Report 2005*. WTO. June 2005

Dalian May Be Too Little Too Late

After warnings of an impending 'crisis of immobility' from WTO Director-General Supachai Panitchpakdi, trade ministers pledged to increase momentum toward the successful conclusion of the Doha Round by 2006 at an informal meeting held in Dalian, China, on 12-13 July.

Prior to the Dalian mini-ministerial, hopes for a decisive step forward in the Doha Round negotiations by the end of July had been fading fast. Dr Supachai told the WTO's Trade Negotiations Committee (TNC) on 8 July that, instead of growing convergence, there was "a renewed sense of blockage and frustration," as well as "a resurgence of sterile debate about process, rather than negotiations on substance." He called for "clear guidance on crucial political issues" from the ministers in Dalian in order to prevent another collapse of a WTO Ministerial Conference in Hong Kong next December.

The thirty trade ministers attending the Dalian meeting attempted to respond to that call by focusing in particular on tariff reduction formulae for agricultural and industrial products. The most tangible result was a fragile consensus on how to proceed on agriculture, but this only provided a basis for further talks. In other areas, the outcome was even more tentative.

New Approach to Agricultural Tariffs?

Of the many areas still unresolved in the agricultural negotiations, discussions on market access had reached a virtual dead end in Geneva. In Dalian, ministers focused on a compromise proposal put forward by the G-20 group of developing countries. Combining elements from the Uruguay Round approach and the Swiss formula, the proposal would divide tariffs into five tiers for developed countries and four for developing countries. Reductions within the tiers would be made according to the linear Uruguay Round approach, but the required cut would be higher in the tiers containing the higher tariffs. In addition, tariffs would be capped at 100 percent for developed countries and at 150 percent for developing countries (see page 7 for further details).

Ministers requested their negotiators "to continue their work on the basis of the status report submitted by the Chairman of the Negotiating Group on 27 June 2005, using the recent G-20 proposal as a starting point for the work on the structure of the market access formula, recognising that some Members have reservations about certain aspects of that proposal." As for the timeline, the ministers pledged to give "specific, detailed and concrete instructions" to their negotiators in Geneva for identifying a 'most-favoured option' before the summer break.

It is, however, highly uncertain whether such an 'option' will emerge by end of July, the deadline set by Members to reach agreement on the 'first approximations' of the package to be submitted to ministers in December. That would require negotiators to solve, in just a couple of weeks, their differences on the formula, including the extremely controversial tariff cap, the treatment of sensitive tariff lines and Special Products, the balance between the three pillars of the agriculture negotiations (market access, domestic subsidies and export support) and the overall balance between the different issue areas under the Doha Round 'single undertaking'. In Dalian, ministers stated that negotiations on the market access and domestic support pillars could "proceed incrementally to negotiate structure [...] on the understanding that the overall level of ambition and the overall balance of the package are to be settled only when the structure of the components has been settled, i.e. in the September to December period."

Continued on page 2

Bridges

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Less Decisive Guidance on Industrial Tariffs

On 8 July, the Chair of the negotiations on non-agricultural market access had conceded that the talks had reached an impasse (see page 9). Reflecting the Doha Declaration principle that developing countries should have 'less than full reciprocity in reduction commitments', Pakistan proposed in Dalian that Members agree to a Swiss tariff reduction formula with two coefficients: six for developing countries and 30 for developed countries. The difference was based on the existing average tariffs of the two groups. In addition, developing countries would have access to the special and differential (S&D) treatment provisions inscribed in the Framework Agreement of July 2004.

The Co-chairs of the Dalian meeting noted that there were "different views on the precise form of the formula. Towards the end of discussion, there were some indications that the possibility of a Swiss formula with a couple of coefficients that would accommodate specific concerns could be further explored." Geneva negotiators were instructed to "continue working hard in the next two weeks on a formula approach that would most likely attract consensus. On the treatment of unbound tariffs, there was convergence on several guiding principles, such as achieving full binding, without prejudice to paragraph 8 [on the S&D provisions] of the framework; subjecting newly bound lines to the tariff reduction formula; the need to work out a pragmatic solution to address the concerns of Members with low unbound tariff lines; and the objective for a simple, transparent, and predictable methodology to establish the base rates."

Mixed Signals for Services Negotiations

On services, the ministers noted that 'quite a large number' of them felt that the present request-offer process would not yield a balanced and substantive outcome. This could be interpreted as a recognition of the concerns of developing countries that the negotiations are currently skewed in favour of developed country priorities. On the other hand, the ministers requested the Chair of the negotiations "to undertake intensive consultations in order to enhance the bilateral request and offer process and to explore other approaches within the parameters of the GATS, the Negotiating Guidelines and the July Package." This request reflects the prevailing divide between developing and developed countries with regard to undertaking minimum market access commitments in addition to the ongoing request-offer process. The ministers noted that it seemed "very difficult for Members to agree on indicators, or benchmarks, for an aggregated or sectoral level of ambition. However, some Members have been working in the background defining specific levels of ambition in certain sectors or modes of supply, which could become important drivers in our negotiations" (see page 11).

Development Concerns and WTO Rules

The chapters on development and rules added little value. The Chair of the negotiations on special and differential treatment was requested to continue intensive consultations on the agreement-specific proposals submitted by least-developed and other countries "with a view to firming them up by the end of July" (see page 10). On other development issues, the ministers merely confirmed previously agreed goals.

On rules (i.e. revisions to WTO disciplines on anti-dumping and countervailing, as well as subsidies), the Ministers urged negotiators in Geneva to make enough progress "so that by Hong Kong they can present us with an agreed universe of areas where improvements are recognised as necessary, together with a clear indication of what those improvements should be."

The Outlook Remains Sombre

Despite the agreement to use the G-20 proposal as a starting point for future work, Dalian did not deliver a breakthrough. After the meeting, EU Trade Commissioner Peter Mandelson admitted that it would be Herculean task to get to Hong Kong with "any prospect of achieving an ambitious outcome to this round." Dr Supachai assessed the situation as one of 'great concern'. Speaking to the TNC earlier in July, he had deplored Members' failure to translate the political support shown at previous informal ministerial meetings, including the G-8 Summit in Gleneagles (see page 23), into concrete progress in the negotiating groups in Geneva. On leaving Dalian, he again warned that leaving too many issues on the agenda unresolved would almost certainly doom the Hong Ministerial Conference to failure.

Agricultural Market Access and Developing Countries

Kym Anderson and Will Martin

While many developing countries are demanding a cut in OECD farm subsidies before opening their own markets, new research suggests that most of the Doha gains would come from lowering agricultural import barriers. The benefits to developing countries are greatest when significant liberalisation is undertaken – even when allowance is made for preference erosion and the net food import status of some developing countries – and diminish sharply if excessive use is made of sensitive product provisions.

Since agricultural policies are so politically sensitive, there are always self-interested groups suggesting they be sidelined in trade negotiations – as indeed has occurred in numerous sub-global trading agreements, as well as the GATT prior to the Uruguay Round. Today, groups with that inclination include not just farmers in highly protecting rich countries and food-importing developing countries, but also those food exporters receiving preferential access to protected markets. The latter groups include tariff rate quota holders, members of regional trade agreements and parties to non-reciprocal preference agreements, including all least-developed countries (LDCs) and the members of the African, Caribbean and Pacific (ACP) Group of States.

However, sidelining agriculture in the Doha Round would do a major disservice to many of the world's poorest people, namely those in farm households in developing countries who receive little or no government assistance. New empirical research suggests that almost two-thirds of the economic gains that would come from dismantling all merchandise trade barriers and farm subsidies globally would come from agriculture. This is so for the world as a whole, and also for developing countries as a group.

Developing countries are therefore right to focus on agriculture in the negotiations. To date that focus has been almost exclusively on developed country policies. That is understandable, given that many in developing countries feel they did not get a good deal out of the Uruguay Round and so are determined to get significantly more commitments under Doha from developed countries before they contemplate opening their own markets further. However, our modelling suggests that over half the gains to developing countries from global agricultural reforms would come from liberalisation by developing countries themselves (see Table 1 below). The reason is two-fold: first, agricultural tariffs are even higher in developing than in developed countries (18 compared with 16 percent on average) and second, a large minority of developing country trade is now with other developing countries.

Within agriculture, developing countries – including many G-20 members – are emphasising especially the need for cuts to agricultural subsidies. This is partly because they do not want to lower their own food import restrictions (as well as because it may adversely affect their international terms of trade). However, our modelling results again suggest this may be detrimental economically: they indicate that 93 percent of the welfare gains from removing distortions to agricultural incentives globally would come from reducing import tariffs. That is, only two percent is due to export subsidies and five percent to domestic support measures.

Certainly it is very important to discipline domestic support and phase out export subsidies, so as to prevent re-instrumentation of assistance from tariffs to domestic subsidies and to bring agriculture into line with non-farm trade in terms of not using export subsidies. But to ignore

market access in the Doha Round would be to forego most of the potential gains from reforming trade in goods.

The current Doha Round has an advantage of beginning from the framework of rules and disciplines agreed in the Uruguay Round. In particular, it has the three clearly identified 'pillars' of market access, export subsidies, and domestic support on which to focus. True, it took more than three years to agree on a framework for the current negotiations, reached at the end of July 2004, but now the July Framework Agreement is likely to guide the negotiations for some time. It therefore provides a strong basis for undertaking an *ex ante* analysis of various options potentially available to WTO members during the Doha negotiations.

Turning now to what might be achievable under a partial Doha reform package, the devil is going to be in the details. For example, permitted domestic support for farmers is so much higher than actual support levels at present that the 20 percent cut in the total bound support promised in the July Framework Agreement as an early installment is unlikely to require any actual support reductions for any WTO Member. Indeed, a cut as huge as 75 percent for those with most domestic support is needed to get some action, and even then it would only require four WTO Members to cut in domestic support from 2001 levels: the US (by 28 percent), the EU (by 18 percent), Norway (by 16 percent) and Australia (by 10 percent). As the EU and Australia have already introduced reforms of that order since 2001, they may need to do no further cutting even under that formula.

Table 1: Effects on developing country economic welfare of full trade liberalisation from different groups of countries and products, 2015

Gains Due To	Ag. & Food	Textiles & Cloth.	Other Manufactures	All Goods
Developed country policies	29%	17%	4%	50%
Developing country policies	33%	10%	7%	50%
All country policies	62 percent	27 percent	11 percent	100 percent

Dealing with Binding Overhang

Large cuts in bound rates are needed also to erase 'binding overhang' in agricultural tariffs. As shown in Table 2, the average bound

Continued on page 4

rate in developed countries is almost twice as high as the average applied rate, and in developing countries the ratio is even greater. Thus large reductions in bound rates are needed before it is possible to bring about *any* improvements in market access. To bring the global average actual agricultural tariff down by one-third, bound rates would have to be reduced for developed countries by at least 45 percent, and up to 75 percent for the highest tariffs, under a tiered formula.

Table 2: Agricultural weighted average import tariffs, by region, 2001¹

	Bound Tariff	Applied Tariff ¹
Developed Countries	27%	14%
Developing Countries	48%	21%
of which LDCs	78%	13%
World	37%	17%

¹ Includes preferences and in-quota TRQ rates where relevant, as well as ad valorem equivalents of specific tariffs. Developing countries include the transition economies that joined the EU in May 2004. The ‘developing country’ definition used here is that adopted by the WTO and so includes East Asia’s four newly industrialised economies.

Exemptions

Even large cuts in bound tariffs do little if ‘Sensitive Products’ are allowed, except if a cap applies. If Members succumb to the political temptation to put limits on tariff cuts for the most sensitive farm products, much of the prospective gains from Doha could evaporate. Even if only two percent of HS6 agricultural tariff lines in developed countries are classified as sensitive (and four percent in developing countries, to incorporate their ‘Special Products’ as well), and are thereby subject to just a 15 percent tariff cut (as a substitute for the TRQ expansion mentioned in the Framework Agreement), the welfare gains from global agricultural reform would shrink by three-quarters. However, if at the same time any product with a bound tariff in excess of 200 percent had to reduce it to that cap rate, the welfare gain would shrink by ‘only’ one-third.

The high binding overhang of developing countries means that despite their high tariffs – and even if tiered formulae are used to cut highest bindings most – relatively few of them would have to cut their actual tariffs and subsidies at all. That is even truer

if ‘Special Products’ are subjected to smaller cuts. Politically this makes it easier for developing countries and LDCs to offer big cuts on bound rates.

Industrial Tariff Cuts Could Double Doha Gains

Expanding non-agricultural market access would add substantially to the gains from agricultural reform: a 50 percent industrial tariff cut by developed countries (and 33 percent by developing countries and zero by LDCs) would double the gain from Doha for developing countries. That would bring the global gain to US\$96 billion from merchandise liberalisation, which is a sizable one-third of the potential welfare gain from full liberalisation of US\$287 billion. Adding services reform would of course boost that welfare gain even more.

Most of the developing country gains from such a comprehensive Doha scenario would go to large countries, notably Brazil, Argentina and other Latin American countries, Thailand and South Africa plus others in Southern Africa. The rest of Sub-Saharan Africa gains when non-agricultural market access is expanded, and developing countries participate as full partners in the negotiations. An important part of this result is increases in market access – on a non-discriminatory basis – by other developing countries.

The Case for Africa

True, some least-developed countries in Sub-Saharan Africa and elsewhere appear to be slight losers in our Doha simulations when developed countries cut their tariffs and those LDCs choose not to reform at all themselves. That results from their terms of trade deteriorating either because of tariff preference erosion on their exports or because they are net food-importers and so would face higher prices for their imports of temperate foods. Our simulations overstate the benefits of tariff preferences for LDCs, however, since they ignore the trade-dampening effect of complex rules of origin and the grabbing of much of the rents by developed-country importers. But even if they were to be losers after correcting for those realities, it remains true that preference-receiving countries could always be compensated for preference erosion via increased aid at relatively very small cost to current preference providers – and in the process other developing countries currently hurt by LCD preferences would enjoy greater access to the markets of reforming developed countries.

Conclusions

Several clear implications for the Doha Round follow from this analysis. First, in addition to outlawing agricultural export subsidies, *domestic support commitments must be cut very substantially to reduce binding overhang*. In so doing, the highest-subsidising countries, namely the EU and the US, need to reduce their support, not just for the sake of their own economies but also to encourage developing countries to reciprocate by opening their markets as a *quid pro quo*. An initial 20 percent cut is nothing more than a start towards getting rid of that overhang.

Second, even more importantly, *agricultural tariff bindings must be cut hugely so that some genuine market opening can occur*. Getting rid of the tariff binding overhang that resulted from ‘dirty tariffication’¹ during the Uruguay Round should be the first priority, but more than that is needed if market access is to expand. Exempting even just a few Sensitive and Special Products is undesirable as it would reduce hugely the gains from reform and would tend to divert resources into, instead of away from, enterprises in which countries have their least comparative advantage. If it turns out to be politically impossible not to designate some Sensitive and Special Products, it would be crucial to impose a cap such that any product with a bound tariff in excess of, say, 100 percent would have to reduce it to that cap rate.

Third, *expanding non-agricultural market access at the same time as reforming agriculture is essential*. A balanced exchange of concessions is impossible without adding other sectors. With other merchandise included, the trade expansion would be four times greater for both rich and poor countries – and poverty in low-income countries would be reduced considerably more.

And fourth, *South-South ‘concessions’ are also needed*, especially for developing countries, which means reconsidering the opportunity for developing countries to liberalise less. Since develop-

ing countries are trading so much more with each other now, they are the major beneficiaries of reforms within their own regions. Upper middle-income countries might consider giving least-developed countries duty-free access to their markets (mirroring the recent initiatives of developed countries), but better than such discriminatory action would be MFN tariff reductions by them. Even least-developed countries should consider reducing their tariff binding overhang at least, since doing that in the context of Doha gives them more scope to demand ‘concessions’ (or compensation for preference erosion or other contributors to terms of trade deterioration) from richer countries – and yet would not require them to cut their own *applied* tariffs very much.

The good news is that there is a great deal to be gained from liberalising merchandise – and especially agricultural – trade under Doha, with a disproportionately high share of that potential gain available for developing countries (relative to their share of the global economy). To realise that potential gain, it is in agriculture that by far the greatest reform is required. However, the political sensitivity of farm support programmes, coupled with the complexities of both the measures introduced in the Uruguay Round Agreement on Agriculture and the modalities set out in the July 2004 Framework Agreement, will make final agreement difficult. To realise more of their potential gains from trade, developing and least-developed countries would need to fully participate in trade (and complementary domestic) reforms, and to invest more in trade facilitation. High-income countries could encourage them to do so by being willing to open up their own markets more to developing country exports, and by providing more targeted aid. To that end, a new proposal has been put forward to reward developing country commitments to greater trade reform with an expansion of trade-facilitating aid, to be provided by a major expansion of the current Integrated Framework, which is operated by a consortium of international agencies for least developed countries (see Hoekman and Prowse in the February-March 2005 issue of *Bridges*).

This may well provide an attractive path for developing countries seeking to trade their way out of poverty, not least because it would help offset the tendency for an expanded aid flow to cause a real exchange rate appreciation (see the Commission for Africa report of March 2005, pp. 296-97). It is also potentially a far more efficient way for developed countries to assist people in low-income countries than the current systems of tariff preferences.

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ENDNOTE

¹ ‘Dirty tariffication’ refers to the conversion of other border protection measures (quotas, ‘variable levies’, etc.) into tariffs at the end of the Uruguay Round in way that yielded much higher bound rates than the previous measures would have warranted.

US Takes Step Two to Comply with Cotton Ruling

On 5 July, the US Department of Agriculture (USDA) announced that a ‘proposal of statutory changes’ repealing the Step 2 subsidy programme for cotton had been sent to Congress. Brazil agreed to suspend its retaliatory procedures.

Step 2, which compensates US mills for using and/or exporting higher priced domestic cotton, was the key element of the US cotton regime successfully challenged by Brazil. The panel found that Step 2 subsidies paid to domestic users were prohibited under the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement) and that subsidies available to exporters of cotton under the programme were illegal because they were not inscribed in the US Schedule of subsidies. The panel also ruled that the US should eliminate prohibited subsidies by 1 July at the latest.

On 30 June, the USDA announced changes to three export guarantee programmes ruled illegal in the dispute, in particular making the programme’s structure risk-based. This, however, did not address Step 2. It was only after the US sent to Congress the proposal to eliminate that programme ‘as soon as possible’ that the two sides on 5 July came to an agreement on the procedure to follow in the dispute.

Brazil Could Still Retaliate in Intellectual Property Rights

In order to fully safeguard its retaliation rights in the future, on 15 July Brazil submitted a formal request to the WTO’s Dispute Settlement Body to take countermeasures due to US non-compliance with the ruling by 1 July. The damage to Brazil was evaluated at roughly US\$3 billion. Arguing that just raising import duties on US goods would not be practical or effective, Brazil said it might resort, ‘to the extent necessary’, to countermeasures under the TRIPS Agreement and the General Agreement on Trade in Services. In the IP field, these

measures could include the suspension of concessions on copyrights, trademarks, industrial designs, patents and the protection of undisclosed information (see also article in *Bridges* Year 9 No.5, page 19). In services, concessions could be withdrawn, *inter alia*, in business, communication and financial services.

According to the procedural deal reached between the two sides on 5 July, the US opposed the request and the matter was referred to arbitration, with the understanding that both parties would, ‘at the earliest opportunity’, request the arbitrator to suspend its work. This gives the US Congress an undefined period to repeal Step 2, while leaving Brazil the possibility to request, at any time, a panel to decide whether the US measures amount to compliance with the WTO ruling.

Christian Aid Study Counts the Real Cost of 'Free' Trade

Claire Melamed

New research from Christian Aid shows that countries in sub-Saharan Africa are US\$272 billion worse off because of trade liberalisation policies forced on them by donors and international institutions as a condition of receiving aid and debt relief.

This figure represents the income that countries in Sub-Saharan Africa (SSA) have lost over the past 20 years as a result of opening their markets to imports. It is roughly equivalent to what the continent has received in aid over the same period, and would have been sufficient to wipe out all of SSA's debt and allow all of its children to be vaccinated and go to school. The study stands on its head the traditional pro-market argument that free trade automatically leads to growth and a way out of poverty. It shows that trade liberalisation has actually cost developing countries billions of dollars that could have been invested in health and education, the development of new industrial capacity, or improving agricultural productivity.

Counting the Cost

The study used economic modelling to estimate what might have happened to national incomes had trade not been liberalised. Using data from the World Bank, the International Monetary Fund and the United Nations, it examined the impact of liberalisation on 32 countries, mostly in Africa but also some in Asia and Latin America. The results suggest that imports tend to rise faster than exports following trade liberalisation, leading to quantifiable losses in income for some of the poorest countries. This does not mean that countries which liberalise do not grow, or that some people in them do not become less poor, but rather that without liberalisation growth could have been higher and poverty reduction faster.

When trade is liberalised, imports climb steeply as new products flood in. Local producers are priced out of the markets by new, cheaper, better-marketed goods. Exports also tend to grow, but not by as much. Demand for traditional SSA exports – such as raw materials – does not change much, limiting scope for significant increases. On balance, local producers sell less than before trade was liberalised.

In the long run, it is production that keeps a country going – and if trade liberalisation means reduced production, in the end it will lead to lower incomes. Any gains to consumers in the short term will be wiped out in the long term as their incomes fall and unemployment rises.

While some countries in Africa have increased their GDP over the past 20 years, the increase is not as great as it could have been. There are more poor people in SSA now than there were 20 years ago – some of them would not be poor today, were it not for inappropriate trade liberalisation.

The negative effects of trade liberalisation are not confined to Africa. Low-income countries in Asia and Latin America have suffered similar consequences. The average loss to countries in this study was about 11 percent of total GDP over 20 years – amounting to several billion dollars for each country. The total loss for the 32 countries in the study was US\$896 billion.

Who Paid the Price?

If a country's GDP falls, it does not affect everyone equally: it is often the poor who suffer most. Recent evidence from the United Nations shows that countries that have undertaken the deepest liberalisation measures tend to suffer from increases in poverty. Countries that cut themselves off from trade altogether do not reduce poverty very successfully either – in fact, it is those with moderate levels of protection that have fared best.

It is often poor farmers who suffer most when trade is liberalised due to the fall in domestic demand resulting from import increases. They have very limited access to capital or technology to increase their productivity or improve the quality of what they sell in response to more competition. Farmers in developing countries are also competing in an extremely unequal market, where imports from developed countries are often heavily subsidised.

Liberalisation also stifles the development of industry which would replace lost jobs in agriculture. In the wake of free trade reforms, manufacturers import less machinery to run their factories and most countries simply export more of the same, rather than more manufactured goods or higher-value agricultural exports. An UNCTAD study also found that many least-developed countries lost market share following trade liberalisation, as their exports failed to compete in international markets.¹

It is clear that trade liberalisation is not driving the development of a more dynamic, diversified or pro-poor pattern of development. On the contrary, it is locking Africa into greater dependence on a few agricultural products whose prices have been declining for 50 years. Liberalisation is hitting manufacturing hard – and it is the development of manufacturing that Africa needs if it is ever to trade its way out of poverty.

Increased aid and debt cancellation are welcome, of course, but if nothing is done to stop the forced opening of African markets, donors and international institutions will be giving with one hand and taking with the other.

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ENDNOTES

¹ UNCTAD, Least Developed Countries Report, 2004.

Dalian Compromise May Revive Agriculture Negotiations

The July negotiating session on agriculture closed on Chair Tim Groser telling Members that absent an ‘upsurge’ in political guidance chances were slim for meeting the end-July deadline for ‘first approximations’ of the deal to be put to ministers in Hong Kong next December.

The July 2004 Package mandates a ‘single approach’ to tariff reductions for developed and developing country Members “through a tiered formula that takes into account their different tariff structures.” The number of tiers (or ‘bands’) and the tariff thresholds for them are still subject to bitter disagreement, and views are divided on whether the tariffs within a given tier should be reduced though linear, Uruguay Round-like average/minimum percentage cuts (the preference of the G-10 group of net food-importing countries and the EU) or through a progressive, harmonising Swiss-type formula (advocated by major exporters).¹

Chair’s 27 June Assessment

At the close of the July negotiation session, Chair Groser identified the following elements as necessary to be able to report progress by the 31 July deadline:

- In the domestic support pillar, the structure of the reduction commitments (not the size of the reductions) relating to trade-distorting domestic support. It might also be possible to develop convergence on some Green Box (minimally distorting support) criteria.
- In the export competition pillar, where elimination by a ‘credible end-date’ of all forms of export subsidies has already been agreed, further elaboration of parallel commitments, in particular in the areas of state trading enterprises and food aid.
- In the market access pillar, determining the number of tiers and at least a ‘description’ of the nature of the tariff reduction formula(e) within the tiers; and further elaboration of a number of ‘flexibilities’, in particular aspects of the Special and Sensitive Products.

Mr Groser also repeatedly stressed the need to fulfil the July Package mandate to address cotton “ambitiously, expeditiously and specifically within the agriculture negotiations.” He concluded that once some structure had emerged on the three pillars under negotiation, a parallel evaluation of their possible implications for the cotton sector could “play a powerful role.”

G-20 Proposal Provides Hope, But No Guarantee of Success

At the Dalian mini-ministerial a possibility finally emerged to overcome the Uruguay Round/Swiss formula debate. Thirty trade ministers from countries at different levels of development agreed that further negotiations on the tariff reduction formula should be based on the assessment report submitted by the Chair of the Negotiating Group on 27 June 2005 (see above), “using the recent G-20 proposal as a starting point.” The ministers noted, however, that some Members had “reservations about certain aspects of that proposal” (see page 1).

The G-20 proposal would divide tariffs into five tiers for developed countries and four for developing countries. The aim of the proposal is to achieve ‘overall proportionality’ between developed and developing countries through requiring developing countries to cut tariffs by two-thirds less than developed countries. Controversially, particularly for the G-10, the G-20 also proposed tariff caps for all WTO Members.

The G-20 Tariff Reduction Formula (where $v < w < x < y < z$)

	Developed Countries		Developing Countries	
No. of Bands	5		4	
	Thresholds in AVEs	Linear Cuts	Thresholds in AVEs	Linear Cuts
	0 < 20	v%	0 < 30	< v%
	> 20 < 40	w%	> 30 < 80	< w%
	> 40 < 60	x%	> 80 < 130	< x%
	> 60 < 80	y%	> 130	< y%
	> 80	z%		
High Tariffs & Cap	Cap: 100%		Cap: 150%	

Flexibilities Could Be a Problem

The tariff reduction formula is closely linked to flexibilities. The 2004 July Package provides all WTO Members with the possibility of designating “an appropriate number, to be negotiated, of tariff lines to be treated as sensitive.” This clause was included in the deal at the insistence of the G-10, which tend to protect domestic producers against imports through high tariffs on certain products (Japan with its 400 percent tariff on rice is an often cited example). The G-20 proposal specifies that the number of sensitive tariff lines will be “very limited” and that the more the tariff line in question differs from the pattern in the table below, “the greater the compensation for this deviation through combinations of tariff rate quota commitments and tariff reductions.”

The number of, and selection criteria for, the Special Products (SPs) that developing countries may designate to address food and livelihood security, as well as rural development needs, are a touchy topic even among developing countries. The G-20 proposal skirted the issue by reiterating the group’s commitment to work with the G-33 countries defending the SPs. At the July negotiating session, the G-33 told Members that it was working on indicators for the selection of SPs, thus allaying fears that these countries would insist on a ‘blanc check’ of exceptions to tariff reductions. In Dalian, ministers welcomed this announcement as ‘helpful’, but did not elaborate further.

ENDNOTE

¹ After the Uruguay Round, agricultural tariffs were cut by 36 percent on average, and by at least 15 percent per product over six years. This gave Members the possibility to make only minimum cuts on sensitive products and still reach the overall reduction target through steeper than average cuts elsewhere. The ‘Swiss formula’, used during the Uruguay Round to reduce industrial tariffs, includes a harmonising coefficient that cuts higher tariffs more steeply than lower ones and establishes a maximum final rate, no matter how high the original tariff was.

Work Continues on Special and Differential Treatment

At an informal meeting of the Committee on Trade and Development in mid-June, WTO Members examined revised versions of proposals put forward by least-developed countries and began consideration of submissions tabled by other developing countries.

The 2001 Doha Declaration instructed the Committee on Trade and Development (CTD) to consider, *inter alia*, how special and differential (S&D) treatment provisions could be made more effective, in particular with regard to least-developed countries (LDCs) and to “report to the General Council with clear recommendations for a decision by July 2002.” This deadline has been extended and missed several times since.

After a prolonged procedural deadlock, the CTD finally started to address the substance of specific proposals aimed at strengthening S&D provisions in WTO agreements in May 2005. Those talks focused on five proposals submitted by LDCs, which agreed to redraft them so that they would better reflect the proponents’ real development needs (Bridges Year 9 No.5, page 8).

LDCs tabled new language on the proposals on 15 June. Although several Members said that they did not have enough time to consult with their capitals in order to respond by the 16 June meeting, initial responses suggested that the changes to the text that had been considered in May were largely cosmetic.

Members raised questions regarding the ‘automaticity’ of some of the LDC proposals. For instance, redrafted text on proposals 22 and 23 regarding the *Understanding in Respect of Waivers of Obligations* says that requests for waivers of obligations from LDCs, as well as from other Members acting ‘in favour of LDCs’, should be given special consideration. This might apply, for instance, to a request to waive the most-favoured nation principle for any country providing preferential market access to an LDC. Members feared this could open the door to claims for waivers from WTO disciplines for measures allegedly, but not in fact, in the interest of LDCs.

Members also continued to raise questions regarding proposal number 84, which would permanently exempt LDCs from the disciplines of the Agreement on Trade-related In-

vestment Measures (TRIMS). The agreement prohibits, *inter alia*, local content or export/import balance requirements, which many host countries regard as essential development tools. Those WTO Members (both developed and developing countries) that are more receptive to the argument of flexibilities as a development tool would not have a major problem with granting exemptions to the poorest countries. Others, convinced that the use of TRIMS distorts trade or is inefficient, wish to keep the agreement as it stands. At the June CTD meeting the US, EU, Canada and Japan were unwilling to concede a comprehensive exemption owing to fears that this would create a precedent for other developing countries seeking improved S&D for TRIMS, as well as result in different treatment for different developing countries. Several Members suggested that additional work was necessary to align the language of the proposal with the stated needs of LDCs and what other countries were willing to concede.

Another proposal (number 38) examined by the CTD would allow LDCs to make no tariff cuts in either agricultural or industrial products in trade negotiations “if they considered that this was warranted by economic and trade situations and the stage of development.” Developed countries argued that a permanent exemption from tariff cuts would be contrary to the WTO’s objective, which is to integrate LDCs into the multilateral trading system. They also pointed out that Members had already agreed to waive tariff reduction requirements for LDCs in the Doha Round in the July framework.

Both developing and developed countries questioned whether the Enabling Clause was the right instrument to address a number of additional support measures for LDCs, including debt relief, support for diversification and temporary financial compensation for the erosion of preferential margins due to a general lowering of tariffs (proposal 35). Some Members proposed that LDCs identify the exact objective of the proposal, and add to it language directing the General Council to suggest or recommend that capitals discuss assistance.

All Agreement-specific Proposals to Be Examined

Given the July 2005 deadline for a step forward in the negotiations, Members agreed to start addressing other pending agreement-specific proposals (there are 88 in all), beginning with those by the African Group and moving on to others. The proposals, which have not been examined since the Cancun ministerial meeting, went through a cursory reading, including a first reading of some Category III proposals, characterised as those on which “currently there appears to be a wide divergence of views, and on which progress might not be possible without a certain degree of redrafting of the original text presented.”

Members commented that, similarly to the LDC proposals, much of the language in the other agreement-specific proposals did not match the stated needs of developing countries and more particularly the country or group that submitted the proposal. A number of developed country Members said that in many cases, the underlying objective behind the proposals was not clear and this made it difficult to ascertain the exact problems that the proposals were attempting to address. They suggested that the proposals needed to be more targeted and specific. In addition, Members suggested that several proposals were outdated and failed to take into account agreements reached in the July Package.

The Chair of the S&D negotiations, Faizel Ismail, will be holding small group consultations in the coming weeks on the LDC agreement-specific proposals to explore language that could provide a basis for possible recommendations in July or thereafter. Once work on LDC proposals is completed, the Committee will shift its attention to agreement-specific proposals of the African Group.

Impasse Reached on Industrial Tariff Reduction Formula

On 8 July, the Chair of the Negotiating Group on Non-agricultural Market Access told WTO Members that an impasse had been reached in the NAMA negotiations on 'the most fundamental element, the formula' and that collective guidance was needed on the treatment of unbound tariffs.

Ambassador Johannesson noted that should the deadlock persist beyond July, it would be "an infinitely more difficult task to engage in the essential negotiations over the the actual numbers to be plugged into the formula." Echoing the steps outlined by Tim Groser in the agriculture negotiations (see page 7), he urged Members to "resolve their differences over, at the very least, the structure of the formula."

Impression of Growing Support for 'Simple' Swiss Formula Fades

Summing up the previous (early June) negotiating session, Chair Johannesson had said that "support for a simple Swiss formula ha[d] grown measurably, with support depending on the level of the coefficients and their linkage with the flexibilities." This assessment was backed by the fact that the trade ministers of the Asia-Pacific Economic Co-operation (APEC)¹ had called for a "Swiss formula with coefficients to be negotiated for tariff reductions applied on a line-by-line basis." Picking up other several other key points pushed by developed countries, and the US in particular, the ministers also endorsed the principle of binding all tariff lines and making them subject to the tariff reduction formula and a critical mass approach to developing sectoral initiatives on a voluntary basis.

Under a simple Swiss formula, the higher the tariff, the greater the cut. Its defenders – most developed countries and some developing countries such as Chile and South Korea – have argued that it is the only way to deliver on the Doha Declaration's goal of significant market access, through "reducing tariffs, and reducing or eliminating tariff peaks, high tariffs and tariff escalation."

The June-July meeting of the NAMA group made it clear that a number of countries – including India, Brazil and many other Latin American WTO Members, as well as most African countries – continued to have serious reservations about the fairness of a 'simple' Swiss formula and its applicability to their individual situations. Among their chief concerns are the loss of tariff revenue, the erosion of preferential margins and the viability of weak or incipient domestic industries. These countries also strongly share the view that the Swiss formula would require developing countries to make greater concessions, contrary to the July Package confirmation that the tariff reduction formula will "take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments."

Last but not least, several of these countries, and Argentina and Brazil in particular, have repeatedly highlighted the discrepancy between developed countries' insistence on a simple Swiss formula in the NAMA negotiations while a good number of them reject it outright for agricultural tariffs. Chair Johannesson acknowledged this linkage in his 8 July assessment, but urged Members "seek convergence on the most pressing issues in the NAMA group – obviously on the basis that nothing is agreed until everything is agreed."

Alternative Approaches

Argentina, Brazil and India (ABI) have proposed that a country's existing average tariff be factored into the formula so as to preserve the difference between high-tariff and low-tariff countries. Their rationale is that – due to the fact that they generally have higher industrial tariffs than developed countries – developing countries would need to make the steepest cuts under a 'simple' Swiss formula, which would not reflect the principle of 'less than full reciprocity' in reduction commitments. The inclusion of the national tariff average in the formula has been dismissed by most developed countries as an attempt to revive an old and already rejected idea (i.e., the 2003 Girard formula, see Bridges Year 9 No.4, page 9), but several developing countries continue to back both the tariff formula and the proposal's explicit link between the coefficient to be used and the level of ambition in agriculture.

The continued divisions were further highlighted in July, when Antigua and Barbuda, Barbados, Jamaica and Trinidad and Tobago proposed a new tariff reduction formula for developing countries that would not only incorporate the ABI paper's national average tariff, but also "other relevant factors that are important for development and for developing countries [...] in order to ascertain the appropriate rates of reduction, consistent with developing country Members' circumstances and development needs."

These elements could include a country's bound tariff coverage; the degree of its autonomous liberalisation since the Uruguay Round; its dependence on tariff revenue; the maintenance and strengthening of incipient domestic industries; policy space for industrial development; the country's adjustment costs for the loss of preferential market access as a result of multilateral liberalisation; the existing degree of openness of an economy to trade as a measure of liberalisation and vulnerability to external shocks; and its economic vulnerability. These factors, and perhaps others, would be quantified and added to the base co-efficient as 'credit'. The motivation of the four Caribbean countries was that their repeatedly expressed concerns about the impacts of the formula had not been met in five proposals already on the table.

Argentina, Bolivia, Cuba, Egypt, India, Kenya and Tunisia welcomed the proposal. Kenya said that it responded to the special needs and interests of developing countries, while Egypt offered to work closely with the proponents on the coefficient. Cuba and

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The Caribbean Tariff Formula

$$\frac{(B + C) \times T_a \times T_0}{[(B + C) \times T_a] + T_0} = T_1$$

T_1 is the final tariff rate, to be bound in *ad valorem* terms)

T_0 is the bound base rate

T_a is the average of the current bound rates

B is a coefficient, its value(s) to be determined by the participants

C is the credit to be accorded to developing country Members

India said that it was supportive of the development dimension of the negotiations.

On the other side, the EU was categorical about the unacceptability of factoring in the average tariff, although it added that it understood the concerns behind the proposal. Japan said the Caribbean approach suffered from the same limitations as the ABI. Chile and Australia raised practical concerns about valuing the ‘credits’ (Australia predicted that the task would be insurmountable). Costa Rica objected to credits for preference erosion.

Flexibilities and Coefficients

All six proposals on the table so far are based on the Swiss formula or variations thereof,² but their treatment of coefficients and flexibilities varies widely. With regard to the latter, the July Package confirmed that developing countries would have longer implementation periods for tariff reductions, as well as two additional special and differential (S&D) treatment flexibilities: (i) applying less than formula cuts to up to a certain number of tariff lines, or (ii) keeping, as an exception, some tariff lines unbound.

Developing countries regard these flexibilities as additional to, and independent from, the tariff formula. As evidenced by the ABI and Caribbean proposals, they consider that ‘less than full reciprocity’ principle should be incorporated in the formula itself.

In contrast, the US, one of the strongest advocates for a simple Swiss formula, sees the use of different coefficients for developed and developing countries and the S&D flexibilities as mutually exclusive. In other words, the ‘less than full reciprocity’ principle can be brought into the equation either through a formula or the S&D provisions, but not both. The EU has also linked a more favourable developing country formula to giving up least some of the S&D flexibilities or taking on other liberalisation commitments.

Unbound Tariffs

The treatment of unbound tariffs remains another major point of contention. While the APEC statement endorsed “the principle of binding all tariff lines and making them subject to the tariff reduction formula”, the Philippine Trade Secretary Juan

Santos told the press after the APEC ministerial meeting that “the very act of binding tariffs is already a concession, it would therefore be unfair that the Philippines and other developing countries, having just newly bound their tariffs, should immediately be asked to concede an actual reduction.” This position is supported by numerous developing countries.

Citing the principle of ‘less than full reciprocity’, Congo, Côte d’Ivoire, Cuba, Ghana, Kenya, Mauritius and Zimbabwe suggested in July that Members with a binding coverage of less than [35] percent tariff lines should be exempt from making tariff reductions, but should be encouraged to substantially increase their binding coverage “at a level consistent with their individual development, trade, fiscal and strategic needs.”

Armenia, Georgia, the Kyrgyz Republic, and Moldova – all recently-acceded WTO Members that have bound their tariff at low levels – requested to be exempted from applying the formula and from participating in the sectoral approach (TN/MA/W/56). The US deplored the trend of countries trying to avoid meaningful liberalisation, while Norway said these countries were seeking even more flexible treatment than that accorded to least-developed countries (LDCs) in the July Package.

Sectoral Initiatives

In a victory for the US, APEC endorsed a “critical mass approach to developing sectoral initiatives on a voluntary basis.” The US has been the main *demandeur* for sector-specific tariff reductions/elimination, but many developing country Members have resisted any initiatives that go beyond most-favoured-nation NAMA liberalisation. Chile and Brazil recently argued that allowing sectoral initiatives would dramatically decrease interest in an ambitious tariff reduction formula. Due to the pressure to come up with a ‘first approximation’ of the tariff reduction formula by the end of July, the debate of sectoral initiatives has at least temporarily taken a backseat.

ENDNOTES

¹ APEC’s 21 member economies¹ account for more than a third of the world’s population and about 47 percent of world trade. They include Australia, Brunei Darussalam, Canada, Chile, China, Hong Kong, Indonesia, Japan, South Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, the Philippines, Russia, Singapore, Taiwan, Thailand, the US and Vietnam.

² From Chile, Colombia and Mexico; Norway; the US; the EU; Argentina, Brazil and India; and the four Caribbean countries.

Pakistan’s Proposed NAMA Compromise

At the Dalian mini-ministerial, Pakistan proposed a simple Swiss formula for tariff reductions with two coefficients. Based on existing bound average tariff rates, the coefficient for developed countries would be six, and that for developing countries would be 30. This would have the effect of harmonising tariffs in both ‘bands’ while retaining the difference in average tariff levels between the groups. In the view of most developed countries, the proposed difference is too great. Many of them also object to Pakistan’s position that special and differential treatment flexibilities (to make less than formula cuts on certain tariff lines, or leave some tariff lines unbound) would be additional to the tariff cut formula.

With regard to unbound tariff lines, mostly found in developing countries, Pakistan suggested adding 30 percent to the average applied rate and making the resulting tariff subject to reductions. An earlier developed country proposal would have added five percent to the applied tariff on a line-by-line basis before applying a reduction formula.

According to Pakistan, its proposal would reduce developing countries’ average bound rates of 35 percent and applied rates of 25 percent to around 15 percent, while developed countries’ average bound and applied rates would be cut to roughly four percent.

Most Members Reject Benchmarks in Services Talks

While many WTO Members have welcomed recently submitted revised offers, developing countries have made clear that a ‘common baseline’ for minimum commitments would be an unacceptable departure from the rules agreed for the services negotiations.

After the services cluster held in late June, the Director of the WTO Services Division Abdul-Hamid Mamdouh said that with more than 40 new market opening offers submitted between March and June, the negotiations were in better shape although “still facing problems and falling behind.” Most of the new submissions were revised versions of earlier offers following bilateral negotiations between Members. A few were first offers, which were due to be tabled in May 2003. In general, the offers made so far rarely present real new market opportunities. In some cases, they amount to less than current access, which in many countries is more liberal than scheduled WTO commitments. While developed countries and certain advanced developing countries seek in particular to open such sectors as telecommunications, and financial and information technology services, many developing countries are primarily focused on increasing the physical presence of their service providers across a large variety of sectors in foreign countries. So far, no Member has made significant new commitments in accepting more temporary service providers – known at the WTO as ‘movement of natural persons’ or Mode 4 of services delivery.

Benchmarks Deemed Inappropriate

Frustrated by the slow pace, as well as the lack of ‘ambition’ of the request-offer process, some WTO Members now advocate a ‘complementary’ approach to the services negotiations. On 23 June, the WTO Committee on Trade in Financial Services discussed a statement by twelve countries¹ urging all Members to take into account four ‘benchmarks’ when scheduling commitments in financial services, including removing limitations to ‘commercial presence’ (rights to establish/buy new companies, full ownership of subsidiaries, etc.) and removing exceptions to national treatment and such market access obstacles as monopolies, quotas and economic needs tests. A number of developing countries argued that these benchmarks ran counter to the ‘positive list’ architecture of the GATS and the modalities agreed upon in the 28 March 2001 Negotiating Guidelines and Procedures for the services talks.

At the June/July services negotiating session, the EU was widely expected to circulate a document proposing elements for a ‘common baseline’ – or benchmarks by another name – for all market access aspects of the services negotiations. Among those elements would have been that Members commit to making offers in a minimum number of sectors/subsectors from an agreed list of priority sectors/subsectors. Commitments offered should be commercially meaningful and reflect “no less than existing level” of market opening. Developing and least-developed countries would have the flexibility to commit fewer sectors. As for the modes of delivery, Members would commit to removing limitations and requirements hindering services delivery in a to-be-negotiated percentage of the sectors/subsectors offered from the agreed list. With regard to Mode 4, Members would commit to admitting temporary business visitors and intra-corporate transferees in all of the sectors from the list that they have agreed to open. In a to-be-negotiated percentage of the committed sectors, Members would also undertake commitments for contractual service suppliers and independent professionals.

Request-Offer Method Not the Problem, Critics Say

Although the document was never officially tabled, some Members aired their views on the benchmark approach at the June/July services negotiating session. Argentina and Brazil strongly rejected the need for a ‘common baseline’, arguing that the request-offer negotiating approach was not the reason for slow progress. Both maintained that some developing and least-developed countries had not submitted even initial offers because they did not believe they could reap any benefits from the negotiations. Argentina also noted it had not updated its own initial offer due to lack of progress in the agriculture negotiations. The ‘common baseline’ approach, it said, was contrary to the Doha Round’s development objectives. Many developing countries have also argued that the EU’s proposal would mark a return to mandatory commitments in services, which they successfully opposed during the Uruguay Round.

Brazil accused most developed countries of “just reselling old Uruguay Round commitments” and even backtracking in areas of interest to developing countries. It said that the developed countries with the world’s biggest economies had “offered nothing in Mode 4 and close to nothing in specific sectors. If we do not correct this imbalance, Annex C [of the July Package] will be subverted and we risk having a ‘round for free’ for developed countries.”

No Progress on Rule-making

UNCTAD presented a paper suggesting that a safeguard mechanism for services – long requested by developing countries – was both desirable and feasible. Nevertheless, the debate remained deadlocked as many developed countries again questioned key definitions and the feasibility of restrictions on Modes 1 (cross-border supply) and 2 (consumption abroad).

Chile, Hong Kong, Mexico, Peru and Switzerland put forward a provisional definition of a services ‘subsidy’ and suggested subsequent steps, including timelines, for the exchange of information mandated under Article XV of the GATS. Members offered preliminary comments on the proposed definition, as well as diverging views on the paper’s information exchange component. No conclusions were reached.

With regard to domestic regulation, Members addressed a matrix prepared by the WTO Secretariat that outlined how various negotiating proposals related to the elements of possible disciplines. Debate on this document was curtailed by one delegation’s questioning whether the matrix should or should not be used in further discussions on disciplines. More consultations among the major proponents will be necessary if even a checklist of possible elements for disciplines in domestic regulation is to emerge by the Hong Kong Ministerial Conference.

ENDNOTE

¹ Australia, Bahrain, Canada, the EU, Japan, Norway, Oman, Panama, Singapore, Switzerland, the US and Taiwan.

Environmental Goods: A Hong Kong Deliverable?

In the run-up to Hong Kong, negotiations on environmental goods have picked up speed in the Committee on Trade and Environment, where India recently suggested that market opening in these areas should be guided by specific environmental goals.

Paragraph 31 (iii) of the Doha Declaration mandates WTO members to negotiate “the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services”. While the actual tariff negotiations will take place in the Negotiating Group on Market Access and the Council for Trade in Services, the Committee on Trade and Environment (CTE) has the role of defining what products/services would be considered ‘environmental’.

A number of developed countries have pressed the CTE to finalise at least a list of environmental goods (talks on environmental services are less advanced) by the Hong Kong Ministerial Conference, but many developing countries have resisted this attempt, fearing that such a ‘list approach’ would not provide any benefits for them. Various lists of possible environmental goods have been put forward, which are largely based on those compiled by the Asia-Pacific Economic Co-operation (APEC) forum and the Organisation for Economic Development and Co-operation (OECD). The majority of goods proposed are end-of-pipe pollution control and waste treatment products, but also include some energy efficient consumer goods and certain measurement equipment. The inclusion of environmentally preferable products (EPPs) has also found support among some Members, including New Zealand, Switzerland (in both cases based on ‘end-use or disposal characteristics’) and the EU (based on ‘high environmental performance and/or low environmental impact’). Most developing countries have yet to submit their lists.

The Project Approach

While the aim of the proponents of environmental goods and services (EGS) liberalisation, such as the EU and the US, is a permanent elimination of tariffs on EGS on a most-favoured-nation basis, India’s new proposal suggests a different approach: temporary market opening for goods and services deemed necessary for achieving specific environmental goals (TN/TE/W/51 and TN/TE/W/54). Introducing this ‘environ-

mental project approach’, India noted that many of the items proposed for the lists had a dual use, such as electricity meters, conveyers and centrifugal drums. In addition, some of the goods could “not even be considered to be *predominantly* used for environmental purposes, for example suggestions for inclusion of consumer appliances, such as microwave ovens, energy efficient refrigerators, etc.” Preferential tariff treatment for such goods would have “significant ramifications for industrial sectors, particularly in developing and least-developed countries where industry is largely dominated by small and medium enterprises”, including the development of indigenous pollution prevention and control enterprises that could provide low-cost solutions to environmental problems based on standards appropriate to the countries.

India sketched a broad outline of how the approach would work: first, the broad criteria for ‘environmental projects’ could be agreed upon in the CTE negotiations “with due consideration to the policy space of national governments”. Such projects could address a variety of areas, including air pollution control; water and waste management; remediation and clean-up; noise and vibration abatement; environmental monitoring and analysis; energy saving management; and EPPs. A Designated National Authority would examine specific projects that fulfil the agreed criteria, and any goods and services included in an approved project would qualify for “specified concessions for the duration of the project”. The commitments of WTO Members could include (i) reduction or elimination of tariffs on import of all project related goods; (ii) reduction, elimination or appropriate treatment of standards, licensing restrictions, non-tariff barriers and other related issues; and (iii) specific commitments required in all modes of service delivery.

Several Members, in particular developed countries, questioned whether the proposed approach would have as widespread effects as envisaged under the Paragraph 31 (iii) mandate on EGS, given that it would be applied on a case-by-case basis. Some noted that the benefits might in fact be limited to multinational corporations since an environmental project implies a certain scale that might be beyond the capacities of smaller enterprises. Many developing countries welcomed the new, alternative approach as a basis for further discussion, but also raised questions about practicalities.

Other Recent Submissions

New Zealand has submitted a list of goods sorted into categories along with the reference points – such as the OECD or APEC lists, or relevant bilateral or regional free trade agreements – used for each product (TN/TE/W/49). In addition to previously cited categories, New Zealand added EPPs, cleaner and more resource-efficient technologies and products, and waste and scrap utilisation as new categories. Switzerland’s list uses the OECD definition for environmental goods as a reference point, while adding goods under the categories of Cleaner Technology and Products and EPPs (TN/TE/W/57). Some delegates felt that certain products – such as bicycle parts – were of dubious environmental value.

Canada’s proposal simply presents a list of proposed environmental goods, grouped under previously suggested categories drawn mainly from the OECD and APEC lists (TN/TE/W/50). Canada stressed that it would like to see an initial list developed by Hong Kong.

Brazil stressed the need to take into account developing country interests through special and differential treatment, less than full reciprocity in the reduction commitments and improved market access for products with low environmental impacts and/or derived from or incorporating cleaner technologies, using UNCTAD’s approach on EPPs as a basis for discussion (TN/TE/W/59). Specific products could include natural fibres and colorants and other non-timber forest products, and renewable energy, including ethanol and biodiesel.

TRIPS Council Still Stuck on All Fronts

The WTO Council for Trade-related Aspects of Intellectual Property Rights remains deadlocked on every single item on its agenda, ranging from compulsory licensing for pharmaceuticals and the relationship between the TRIPS Agreement and the Convention on Biological Diversity, to a registration system for geographical indications and the enforcement of intellectual property rights.

Meeting in mid-June, the Council made no headway on a permanent solution to problems experienced by countries with insufficient manufacturing capacity to make effective use of compulsory licensing under the TRIPS Agreement. The debate opposes the African Group, supported by a number of developing countries, to practically all developed countries, as well as some developing countries, such as India and Korea. The key issue is whether a permanent amendment to the TRIPS Agreement should be a 'technical conversion' of the temporary waiver of TRIPS restrictions adopted by the General Council in August 2003 and how to reflect the Chairman's Statement read out at the time. The African Group continues to contend that the amendment need not be a mere technical exercise and that any reference of the Chairman's Statement is unnecessary. In contrast, the US, Canada, Japan and others maintain that the Statement is an integral part of the August 2003 compromise and must therefore be reflected in any amendment (see box for background).

The EU announced that it would soon submit a new proposal, suggesting a technical conversion of the 2003 waiver into an amendment of the TRIPS Agreement. African countries expressed hope that this issue could be dealt with by the summer break, after Members missed the latest deadline in March this year. This appears highly unlikely as resistance to the African proposal continues unabated, and several countries familiar with the EU's forthcoming proposal, including the US, Japan and Switzerland, are opposed to it as well. Ambassador Choi Hyuck, who chairs the TRIPS Council, will continue consultations on the issue.

In the Doha Declaration on TRIPS and Public Health, ministers mandated the Council for TRIPS to find, by the end of 2002, an expeditious solution to the difficulties faced by WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector to make use of compulsory licensing.

On 30 August 2003, the General Council adopted a Decision – usually referred to as 'the waiver' – outlining the conditions under which Members could export and import medicines manufactured under compulsory license. A large number of the waiver's provisions were aimed at preventing the re-export of low-cost generic drugs into other markets than the country requesting the import of medicines manufactured under compulsory license. These provisions were further reinforced by the Chairman's Statement, which offered assurances that WTO Members would use the system in good faith and not as "an instrument to pursue industrial or commercial policy objectives" (Bridges Year 7 No.6, page 9). Members were instructed to come up with a permanent amendment to the TRIPS Agreement "based where appropriate on this Decision" by mid-2004, but the deadline was missed, as have all subsequent ones.

In November 2004, the African Group did propose a permanent amendment, which received a frosty welcome from countries with large brand-name pharmaceutical sectors because it cut out many of the waiver's trade diversion provisions. In addition, the proposal made no mention of the Chairman's Statement (Bridges Year 8 No.10, page 1).

Many developing countries and health activists contend that the August 2003 provisions are too cumbersome, and point to the fact that so far not a single country that lacks domestic manufacturing capacity has notified the WTO of its intent to use the system as an importer.

Meanwhile, Norway, Canada and India have already amended their patent laws to reflect the waiver, while the EU and Switzerland are in the process of doing so. In Korea changes to domestic law will take effect in December 2005.

No Convergence on TRIPS-CBD

Members continued discussions on the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD) and the protection of traditional knowledge (TK), but did not move any closer to consensus on this long-standing agenda item.

The debate focused on earlier proposals by a group of developing countries led by Brazil and India to require patent applicants to disclose the country of origin of genetic resources and/or TK used in an invention, and evidence of prior informed consent (PIC) and benefit-sharing. These countries would like to see the issue included in the July 'first approximations' of the Doha Round negotiating modalities, allowing it to be included in the Hong Kong Ministerial Conference package. They requested Tony Miller, who chairs parallel informal consultations on the issue, to remain available to hold more consultations that would contribute to the July exercise.

While a new submission from Peru elaborated on ways to prevent poor-quality patents and 'biopiracy' (IP/C/W/44/Rev.1), the US reiterated its view that disclosure requirements were not the best way to prevent 'bad' patents or ensuring PIC and benefit-sharing (IP/C/W/449). It argued that other means, such as searchable patent databases, would be more useful. Australia and Japan concurred with the US position. While the EU generally supports a disclosure requirement in patent applications, it opposes an obligation on patent applicants to provide evidence of fair and equitable benefit sharing, due to concerns that patent offices would not have the expertise to determine what is 'fair and equitable'.

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Switzerland tabled a number of questions with regard to the proposals of the Brazil-India group, the US and the EU (IP/C/W/446). Malaysia and Taiwan also sought further clarifications from the developing country group.

Enforcement Proposal Opposed

Introducing a new and controversial issue of discussion at the TRIPS Council, the EU noted that it “would like the TRIPS Council to carefully examine compliance of Members with the enforcement provisions of the TRIPS Agreement, pursuant to Article 68 of the TRIPS Agreement” (IP/C/W/448). Such examination would include assessing “the implementation of TRIPS provisions on enforcement in detail, and make recommendations on ways to improve the situation (for instance by laying down benchmarks to evaluate the progress made by national administrations towards a higher level of intellectual property enforcement, suggesting best practices, etc) to ensure a full implementation of TRIPS obligations in this field.”

While all Members agreed that intellectual property counterfeiting and piracy constituted a serious problem, developing countries – including Argentina, Bolivia, Brazil, Cuba, India, Malaysia, Peru, the Philippines and Venezuela – strongly opposed the EU proposal, arguing that it would result in a *de facto* norm-setting role for the Council, which would go beyond its field of competence. In addition, developing countries noted that a discussion on enforcement was premature, given that many of them were still struggling with the challenge of implementing TRIPS obligations. Countries raised the concern that the EU proposal might lead to a loss of TRIPS flexibilities in the area of enforcement.

Deadlock over GIs

Geographical indications (GIs) continue to be one of the most controversial items on TRIPS Council’s agenda. The issue is two-fold: (i) Members are to negotiate the establishment of a multilateral system of notification and registration of GIs for wines and spirits¹ as part of the Doha Round (these discussions take place in Special Sessions of the TRIPS Council), and (ii) as part of the outstanding ‘implementation issues’ identified in Doha, they are to ad-

dress (in regular TRIPS Council meetings) the extension of the strong protection of GIS for wines and spirits provided under Article 23 of the TRIPS Agreement to other products. GI protection divides the membership according to ‘old world’/‘new world’ lines rather than developed vs developing countries.

In June, the EU tabled a controversial proposal that covered all aspects of its position on GIS (TN/IP/W/11, WT/GC/W/547 and TN/C/W/26), but specified that it intended only the section on the multilateral register to be discussed in the Special Session. In that context, the EU proposed a new annex to the TRIPS Agreement, laying down the details of registration and legal effects. The EU said that the proposal took account of a number of concerns expressed by other Members, including costs; how to deal with existing trademarks that could conflict with geographical indications; and the circumstances in which countries could later challenge a term even if they failed to do so when the term was first registered.

A large number of both developed and developing countries (Argentina, Australia, Brazil, Canada, Chile, Costa Rica, Guatemala, Japan, Mexico, New Zealand, Taiwan and the US) strongly objected to the document, not least because it also covered the bitterly divisive issue of ‘extension’, which would significantly strengthen the protection of such product names as Parma ham or Gruyere cheese. On the other side, Bulgaria, Switzerland, Thailand, Turkey and Zimbabwe supported the EU’s argument that the paper was within the Council’s mandate, with Bulgaria, Switzerland and Turkey specifically supporting the sections on extension as well. The Special Session Chair, Ambassador Manzoor Ahmad of Pakistan, said it was clear the discussions were “not going anywhere” and that differences appeared to “be as large as ever and not to have narrowed since prior to Cancun.” He said his report to the July meeting of Trade Negotiations Committee would repeat his earlier assessment that “two key points of difference that continue to impede efforts towards finding agreement [on the register], namely the questions of legal effect and participation. In addition, I would mention that there are other issues which need further discussion, such as costs and administrative burdens.”

Informal consultations on GI extension, chaired by WTO Deputy Director-General Thompson-Flôres, yielded no results. Argentina, Australia, Brazil, Canada, Chile, New Zealand and the US said there had been no agreement to negotiate extension and that those in favour of it (the EU, Switzerland, India, Bulgaria, Turkey, Romania, Kenya and others) still had not provided factual evidence of the inadequacy of the present Article 22. Some of these countries also argued that the EU paper did not provide a complete picture of its ambitions, since a separate proposal had been tabled in the agriculture negotiations, aimed at reclaiming and protecting certain terms that are now treated as generic. The Chair said he would report on the discussion to Director-General Supachai Panitchpakdi, who could decide how best to proceed. Further consultations remained possible before a document is produced at the end of July.

Maldives Gets TRIPS Exemption

Only one issue commanded consensus: the Maldives’ transition period for implementing the TRIPS Agreement was extended beyond 1 January 2006, which is when current exemptions for least-developed countries (LDCs) are set to expire (except for pharmaceutical patents for which the transition period was extended to 2016 in Doha). Taking into account the country’s need to recover from the 26 December 2004 tsunami, the Council agreed to extend the transition period until 20 December 2007, the date the Maldives is due to graduate out of its LDC status under a UN General Assembly decision of 20 December 2004.

The next formal session of the TRIPS Council is currently scheduled for 25-26 October. Special Sessions on the multilateral register will be held on 16 September and 27-28 October. Further informal consultations on TRIPS-CBD and GI extension might be held in the lead-up to the July General Council meeting.

ENDNOTE

¹ GIs for wines and spirits protect denominations such as Champagne against the use of the indication for similar products (in this case, sparkling wines).

Compromise Averts Compulsory AIDS Drug License in Brazil

After ten days of intense negotiations with Abbott Laboratories, the Brazilian government announced on 8 July that it would not issue a compulsory license for the company's patented AIDS drug Kaletra, as it had threatened to do on the grounds of public interest.

Kaletra, manufactured by Chicago-based Abbott Laboratories, is one of the newer generation antiretrovirals used in AIDS treatment drug cocktails. In March 2005, Brazil's then-Health Minister Humberto Costa warned Abbott, as well as two other pharmaceutical companies, that unless they agreed to drastic price cuts, Brazil would resort to manufacturing their patented AIDS drugs under compulsory license. After Abbott only offered a 26 percent reduction, Brazil's President Luiz Inacio Lula da Silva and Minister Costa on 24 June declared the lopinavir-ritonavir combination that makes up Kaletra a 'public interest medicine', and notified Abbott that a compulsory license would be issued unless the company made an acceptable offer within ten days. The action was motivated by the heavy financial burden that Kaletra imports imposed on Brazil's widely-praised free HIV/AIDS treatment programme.

This was the closest that Brazil had ever come to issuing a compulsory license in its many years of bargaining with brandname pharmaceutical manufacturers anxious to avoid generic production in the country. Had no agreement been found with Abbott, generic lopinavir-ritonavir would have been produced by the state-owned laboratory FarManguinhos, which expected to make it available for US\$0.68 a pill, i.e. 42 percent less than the cost of the brandname product (US\$1.17). The Health Ministry said that FarManguinhos would probably have been able to produce Kaletra within ten months after the issue of the compulsory license. Abbott would have been paid a three percent royalty. The Ministry also specified that the generic version would be produced exclusively for non-commercial public use by domestic consumers.

Some 600,000 Brazilians are estimated to suffer from HIV/AIDS, and about 151,000 of them are currently being treated free of charge. However, the costs of the scheme have skyrocketed in the last few years as more people have taken advantage of the programme. At the same time, the programme's dependence on imported medicines has grown considerably, and now accounts for 80 percent of its budget – for Kaletra alone the government was expected to pay more than US\$90 million this year compared to US\$35 million in 2002.

The Kaletra Deal

The Brazilian Health Ministry said the deal with Abbott ensured a 'significant price reduction' for Kaletra over the next six years, as well as access to a new formulation of the drug to be launched worldwide in two years. It said the agreed price reduction meant US\$18 million less would be spent on the drug next year, while up to US\$259 million would be saved in the next six years. The number of patients treated is projected to grow from 23,400 today to 60,000 over that period. Abbott's own brief statement only noted that the agreement did "not specify a per-capsule price, and [would] not be at the low price quoted for local and generic manufacturers. The price of Kaletra will be dependent on the number of patients treated." The company's spokesperson Melissa Brotz characterised the price cuts as 'volume discounts'.

While the Health Ministry said that Abbott would start, as of 2009, transferring technology that would make it possible for FarManguinhos to manufacture the Kaletra in Brazil, Abbott stressed that the terms of its assistance to enable local manufacture of Kaletra were still under discussion. The company also specified that the production would be for HIV/AIDS patients in Brazil, not for export, and would only start after the patent's expiry in 2015.

Before the deal was struck, Abbott had argued that its price for Kaletra in Brazil was the lowest outside of Africa and least-developed countries, and that as the ninth largest economy in the world Brazil's "demand that it is owed the same relief as developing countries is counter to the spirit of the TRIPS agreement." Brazil's GNP per capita is US\$7,600, but the income of the vast majority of AIDS sufferers is well below the national average. By comparison, the GNP per capita ratio in the United States is US\$37,800.

Health Activists Disappointed

Some health activists regret that the Brazilian government did not go ahead with its plan. Had the license been issued, they argue, it would have fallen within the flexibilities in the TRIPS Agreement confirmed in the Doha Declaration on TRIPS and Public Health. That document states that all WTO members have "the right to grant compulsory licences and the freedom to determine the grounds upon which such licences are granted," as well as the right to determine what constitutes a national emergency or other circumstances of extreme urgency. By setting a precedent, Brazil's success in using these provisions could have encouraged other developing countries to take similar action.

It should be noted that Brazil is not the only country to have used the threat of generic production to obtain price concessions. For instance, during the anthrax scare in 2001, both Canada and the US were poised to issue compulsory licenses for the antibiotic ciprofloxacin when the patent owner Bayer accepted to nearly halve the price of its brandname Cipro.

Brazil and Colombia Eye Wider Patent Action

The Justice and Constitution Commission of the lower house of the Brazilian Congress has unanimously voted to exclude product and process patents on AIDS drugs from patentability. The Senate is yet to address the legislation.

In related news, the Colombian Regulatory Authority for Industry and Commerce announced on 8 June the cancellation of 250 patents mostly covering chemical, cosmetic and pharmaceutical products. Originally due to expire in 2014, the patents were held by 13 multinationals, including Pfizer, GlaxoSmithKline, Sandoz, Eli Lilly, Merck and Ciba Geigy. The reasons given for the cancellation were administrative irregularities, including the companies' failure to pay the fees required for continued patent production.

Ministers Agree Regional Positions Before Hong Kong

Trade ministers of three important regional groupings and one issue-based alliance have recently met to review progress in the Doha Round and consolidate positions ahead of the WTO's Ministerial Conference in Hong Kong next December.

African Union

Meeting in Cairo on 8-9 June, trade ministers of the African Union adopted the Cairo Declaration and its annex, the Cairo Roadmap on the Doha Work Programme.

The Declaration is a brief statement which calls on WTO Members "to demonstrate the requisite political will to achieve progress in July approximations that would lay the basis for a successful Hong Kong Ministerial Conference." The more detailed 22-point Roadmap identifies priorities for Africa in the current Doha Round of talks under the headings: agriculture; non-agricultural market access (NAMA); services; development issues; commodities; trade facilitation; rules; LDCs; technical co-operation; work programme on small economies; trade, debt and finance; trade and transfer of technology; and accession. Key points of the Roadmap include calls for:

- Agriculture modalities to "take into account the need for appropriate policy space that would allow African countries to pursue agricultural policies that are supportive of their development goals, poverty reduction strategies, food security and livelihood concerns, while ensuring improved market access for the agricultural products of African countries, both in primary and processed forms."
- African countries' shares of the EU banana market to be protected, in reference to the arbitration procedure initiated by non-African banana-exporting countries currently underway at the WTO.
- Developed-country WTO Members to undertake certain measures in order to make progress on the cotton initiative no later than the Hong Kong Ministerial.
- Identification of appropriate NAMA tariff reduction formula that would allow African countries to undertake industrial policy and diversification objectives and take as a priority the principles of non-reciprocity, Special and Differential Treatment and less than full reciprocity.
- Flexibilities in NAMA modalities that fully take account of African countries' developmental, financial and industrial needs.

- A mechanism for addressing preference erosion within the WTO.
- Substantial improvement in services market access in modes and sectors of export interest to African countries, especially tourism, professional services and construction services under Mode 4.
- Urgent completion of the review of all outstanding special and differential agreement-specific proposals before adoption, implementation-related issues, and the amendment of the TRIPS Agreement to incorporate the 30 August 2003 decision on the implementation of Paragraph 6 of Declaration on TRIPS and Public Health.

The meeting also adopted a separate declaration on the Economic Partnership Agreements (EPAs) between African regions and the EU. It calls for the exclusion of the Singapore, NAMA and TRIPS-plus issues from EPAs, and for amendments to GATT Article XXIV to allow for "necessary and special and differential treatment."

Least-developed Countries

Trade ministers from over 30 least-developed countries (LDCs) adopted a common negotiating position on the Doha Round at their 25-26 June meeting in Livingstone, Zambia. In addition to repeating the call for immediate, non-reciprocal and binding commitments on duty- and quota-free market access for all products from LDCs, the 38-point Livingstone Declaration calls for the WTO and the Hong Kong Ministerial Conference to agree on:

- Further strengthening the existing preferential schemes and the incorporation of provisions in the modalities to address the erosion of preferences;
- The need for non-debt creating financial resources from international organisations and bilateral partners, for adjustment required in LDCs as a consequence of changes in the multilateral trade rules.
- Increased resources and an effective delivery mechanism for trade capacity building to address the inherent supply-side capacity constraints faced by LDCs with a view to enabling them take advantage of increased market access opportunities.
- The special circumstances and needs of *inter alia*, post-conflict, small island, landlocked and vulnerable economies to be taken into consideration in meeting their commitments in the WTO.
- Incorporation of provisions in the modalities on realistic, flexible and simplified rules of origin, certification and inspection requirements and technical and safety standards;
- Ambitious, expeditious and specific cotton-related decisions, in particular the elimination of domestic support measures and export subsidies that distort international trade in cotton, as indicated in the African Group submission by no later than the Sixth WTO Ministerial Conference.
- Establishing a Special Safeguard Mechanism (SSM) to respond to the needs and the particular circumstance of LDCs enabling them to adopt temporary emergency measures in order to address import surges and price declines with a view to safeguarding food and livelihood security as well as rural development.

Ministers expressed concern that repeated failure to meet deadlines set out in the Doha Declaration was jeopardising the development objectives of the Doha Development Agenda, thereby marginalising LDCs and perpetuating their exclusion from the multilateral trading system. They also voiced concern about the slow progress in finding a permanent solution through amendment of the TRIPS Agreement to enable countries with no or insufficient manufacturing capacity to access pharmaceutical products at affordable prices. In response to the EU's recent proposal to reform its sugar market by cutting the intervention price for sugar by 39 percent (see page 18), LDC ministers urged EU not to cut prices so steeply and quickly, arguing that more time would help LDCs consolidate their sugar industries.

G-33 Ministerial Meeting

The G-33 is an issue-based alliance of more than 40 developing WTO Members that share an interest in promoting Special Products (SPs) and a Special Safeguard Mechanism (SSM) for developing countries in the agricultural market access negotiations. Fourteen of the group's members are African countries, eleven are Caribbean, nine Asian (including China, India, Indonesia, Pakistan and the Philippines), and eight are Latin American.

Meeting in Jakarta on 11-12 June, G-33 trade ministers called for broad flexibilities on SPs and the use of the SSM as part of any deal on agriculture at the WTO, while rejecting the 'Swiss' harmonisation formula for reducing tariffs on agricultural imports.

Key points of the Ministerial Communiqué include:

- Products that meet the criteria of food security, livelihood security and rural development shall be designated Special Products.
- Selection of SPs by Members should not be based on "universal criteria" established by the WTO and that the selection "must be made with a full appreciation of the domestic policy context and circumstances of individual developing countries concerned."
- For SPs to be effective, "these products must be exempt from tariff reductions and any commitments on TRQs."
- SPs "must have guaranteed access" to the SSM, allowing for an additional level of protection against increased imports of these designated goods.
- The SSM should be available for all agriculture products, automatically triggered, and operationalised through both volume and price triggers.
- The SSM should not be linked to the level of tariffs or to commitments on tariff reduction on particular products as this would "undermine the nature and objective" of the safeguard.
- These mechanisms should respond to the institutional capabilities and resources of developing countries, i.e. is simple, effective and easy to implement.
- The tariff reduction formula should not undermine the concept of special and differential treatment and must take into account the different tariff structure of Members.
- A "tiered" formula should guarantee that the overall tariff reduction by developing countries is less than that required for developed country Members, i.e. non-harmonising.

Asia Pacific Economic Co-operation

The key outcome of the APEC trade ministers' meeting in Jeju, Korea, on 2-3 June, was their agreement in favour of a 'Swiss' formula for calculating tariff reductions in the WTO's non-agricultural market access (NAMA) talks. This approach would require higher tariffs to be cut more steeply than lower ones, promoting tariff harmonisation.

Many of the major APEC Members had already voiced their support for the Swiss formula, including Japan, Canada and Korea. Under the newly unified APEC position, however, they have now been joined by other key WTO Members, including Australia, China, Indonesia, Malaysia and Mexico (see related story on page 9).

In the APEC Ministerial Statement on the Doha Development Agenda (DDA) Negotiations that emerged from the meeting, ministers express their concern at the slow progress of WTO negotiations since July 2004 and commit "to working with a sense of utmost urgency to move the negotiations fast forward" towards "an ambitious and balanced outcome at the Hong Kong Ministerial." In preparation for the July approximations, ministers pledge every effort to achieve substantive progress in WTO talks that includes:

- "A common understanding on the shape and core elements of the modalities for NAMA, commensurate with agriculture, that can deliver substantial improvements in market access opportunities, including a Swiss formula with coefficients to be negotiated for tariff reduction applied on a line-by-line basis; the principle for binding all tariff lines and making them subject to the tariff reduction formula while recognising the need to address APEC Members' concern regarding the treatment of low unbound lines and instructing our officials to find a pragmatic solution; a critical mass approach to developing sectoral initiatives on a

voluntary basis; a pragmatic approach to addressing non-tariff barriers, and special and differential treatment for developing Members including less than full reciprocity in reduction commitments."

- "A common understanding on the shape and core elements of the modalities for agriculture, including a tiered formula for tariff reduction and treatment of sensitive products with necessary flexibility that will lead to substantial improvements in market access opportunities for all products, the tiered formula for achieving substantial and harmonising reductions in trade-distorting domestic support, the process for eliminating all forms of export subsidies by a credible date to be agreed, and special and differential treatment for developing Members including special products and special safeguard mechanism."
- "A critical mass of initial and revised offers in services, for which the APEC economies will lead by example, a framework for collective assessment thereof with a level of ambition that will lead the way to creating commercially meaningful new business opportunities in sectors and modes of supply of export interest to all Members, particularly developing Members, as well as progress in rule-making aspects of the negotiations."
- "The development of a focused process to define the scope and direction of clarification and improvements of rules in preparation for text-based negotiations, as well as a solid roadmap up to and beyond the Hong Kong Ministerial, with a view to ensuring clearer and more predictable trade disciplines."
- "The intensification of the works on trade facilitation by identifying the possible elements of a final outcome, based on proposals and comments, that will enable all Members to further expedite the movement, release and clearance of goods;" and
- "The reflection of the development dimension in all negotiating areas, recognising that the most effective way to promote development is through the removal of market distorting measures and the improvements in real market access by all WTO Members, especially in areas of interest to developing and least-developed countries, as well as progress in the works on making existing special and differential treatment more precise, effective and operational."

EU Releases Sugar Reform Revision

On 22 June, the European Commission released a new market reform plan for the sugar sector, which is set to significantly change a system that has been in place for 40 years. The controversial proposal includes both a support price cut and a decoupled compensation subsidy.

The reform plan is an updated version of a scheme released a year ago, and comes in the wake of a successful challenge to the European sugar subsidies at the WTO by Australia, Brazil and Thailand (Bridges Year 9 No.5, page 10). It includes a two-step, 39 percent cut in the guaranteed price of white sugar; compensation to EU farmers for 60 percent of the price-cut in the form of a decoupled subsidy linked to environmental and land management standards; and a restructuring scheme encouraging less competitive producers to move out of sugar farming as well as supporting factory closure. The reform also offers assistance to the African, Caribbean and Pacific (ACP) countries that have traditionally enjoyed preferential access to the EU sugar market. The European Commission hopes for political agreement on the proposal at its Agriculture Council in November 2005, in advance of the WTO Hong Kong Ministerial Conference.

Implementing the plan would result in a seven million tonne decrease in European sugar production by 2014 – from 19.7 million today to 12 million – implying that 40 percent of EU production will cease. Production is projected to end in Greece, Ireland, Italy and Portugal, while it will decrease significantly in Denmark, Finland, Spain, the Czech Republic and Hungary. The effects will extend beyond farmers to sugar refineries, plants and related services, including transport. The reform is also expected to lead to greater concentration in the sugar sector, which has raised concerns that powerful multinationals, such as Südzucker of Germany, would be able to control prices and capture most of the rents. Sugar producers, as well as some EU governments, are strongly opposed to the plan.

Defending the reform proposal, European Agriculture Commissioner Mariann Fischer Boel said it offered a “long-term, stable planning horizon with a generous restructuring fund to encourage less competitive producers to leave the sector and to cope with the social and environmental impacts of the

restructuring process.” She added that were a European price cartel to form, she would use temporary tariff rate quotas to let in additional low-cost sugar from third countries to combat the phenomenon.

Effects on ACP, Least-developed Countries

A number of ACP countries have been exporting to the EU market at guaranteed prices under the Cotonou Sugar Protocol, and will be hard-hit by the reform. These countries have vulnerable economies, and are much less competitive than major producers, such as Brazil. In addition, least-developed countries (LDCs) have been guaranteed duty-free access, to be fully phased in by 2009, under the 2001 Everything But Arms (EBA) initiative. The majority of EU imports have been from Mauritius, which has been exporting 14 times more sugar to the EU than Brazil has. The ACP countries, India and LDCs will continue to be able to export at the new EU ‘reference price’, which replaces the intervention price. The EU price will still be higher than the world price.

As part of the reform package, the EU will offer EUR40 million in adjustment assistance to ACP countries in 2006, and continue to support this process for another eight years. According to the EU, trade measures under EU-ACP Economic Partnership Agreements (EPAs) will also serve to assist the ACP countries in the adjustment process. According to Louis Michel, the EU’s Development Commissioner, “We must stop telling some countries that will never manage to be competitive in sugar that they can continue to be. I’m not far from thinking that we have not been sufficiently honest with some countries by maintaining a system that has made them quasi-dependent on some industries and made them shy away from diversifying.”

The ACP and LDCs had called for a slower phase-in of the reform and more assistance. Clement Rohee, Minister of Foreign Trade of Guyana and Ministerial spokesperson on sugar for the Caribbean Community, stressed that it was “impossible to overstate the devastating impact the price cuts and timescale proposed by the Commission will have on ACP countries. As far as the ACP is concerned, the proposed reform is too fast, too deep, and too soon. Under these conditions the sugar industries in many countries will be simply unable to survive, while in other producing countries the so-called reform will inevitably lead to severe cutbacks with disastrous socio-economic consequences.” The LDC Sugar Group, for its part, highlighted the special constraints these fragile countries faced, including mounting transport costs.

Oxfam’s Duncan Green pointed out that smaller vulnerable countries from the Caribbean and Africa were getting “the short end of the stick,” and that their interests needed to be balanced with those of large, efficient producers such as Brazil. Oxfam also called for a more gradual reform and substantial adjustment assistance to the affected developing countries.

Biofuels in the Sugar Reform

The sugar reform plan ensures that the production of biofuels – clean-burning, carbon-neutral fuels derived from agricultural crops that can be used to partially replace liquid petroleum products – will not be adversely affected. Sugar beet will be eligible for an EU energy crop aid, in line with its policies on biofuels, worth EUR45 per hectare. Sugar used for the production of ethanol, as well as by the chemical and pharmaceutical industries, will be excluded from the sugar quota. In addition, when beet is grown for non-food purposes, it qualifies for set-aside payments.

Certain ACP countries have also said they plan to diversify into ethanol production. For example, Jamaica has plans to start producing ethanol, as well as using sugar cane residues, known as bagasse, for electricity generation.

Supermarkets and Supply Chain Management: Policy Challenges

Bill Vorley

Agrifood distribution channels are changing fast, and this is happening under the radar of public policy. Informed debate about these changes, and about leverage points for ensuring favourable developmental outcomes from them, is as important as debate about the multilateral trading system.

The world of *food retailing* is especially remote from discussions of trade and sustainable development. The purpose of this article is to begin to bridge that gap.

The Development of Supermarkets, Supermarkets and Development

Two types of supermarket development have a bearing on the position of agricultural producers in the South. The first is the growing market in Northern supermarkets for high-value exports from developing countries, such as out-of-season and exotic horticulture. In an attempt to ride this wave, a huge number of projects are trying to connect small farmers – especially in Africa – with Northern supermarkets as part of the current fixation with ‘making markets work for the poor’.

The second is the expansion of supermarkets in the South. The internationalisation of retail is a recent phenomenon, having mostly occurred in the 1990s, much later than for manufacturing and food processing. But the growth of supermarkets in low- and mid-income countries is now growing faster than simple per capita GNP would predict. China, India and Russia are the most attractive markets for modern food retail. The number of supermarkets in China increased from one in 1991 to 53,000 in 2002, and there are now 14 global chains present. It is estimated that about 30 percent of fresh food is now retailed via supermarket chains in China’s big cities. India is also about to change rapidly. Prime Minister Manmohan Singh has said that the country will very soon allow foreign direct investment in retail. Wal-Mart sees a tremendous retail potential and is looking to invest ‘serious money’ in this ‘under-retailed’ market. The supermarket giants Wal-Mart, Carrefour, Tesco and Metro generate a growing proportion of their revenue from overseas. Discount chains such as Schwartz Group – now present in 19 countries – are also a growing force to be reckoned with.

But it is also important to note that this is no longer just a story of the continuing expansion of the big global players: knowledgeable and confident local and regional players are learning from the globalisers, building expertise and taking their strategies into riskier and poorer markets. There is a retail or wholesale strategy and format for most countries and socio-economic groups.

The Business Logic of Comparative Advantage

In order to understand the impacts of supermarkets on suppliers and primary producers, it is necessary to understand the logic underlying the supermarket model.

First, large retail chains leverage *economies of scale* by extracting more favourable terms from suppliers, either through lower merchandise prices, or favourable credit terms, discounts or fees, or greater provision of services such as special packaging or third-party food safety certification. Savings may be passed on to consumers across the board, or focused on a more limited basket of products – the ‘known value items’ for which consumers are most price-sensitive.

Savings are also achieved through attention to managing and evaluating shelf space, and attention to *distribution logistics*. Distribution is perceived to be equally important as retailing in driving costs out of the system, first by eliminating the role of the traditional wholesaler, and latterly taking over parts of the upstream distribution network from suppliers where savings are perceived.

The third ‘leg’ of supermarket advantage is *supply chain management* – achieving the right mix of products for maximum profit and minimum wastage. This is being outsourced to a

select group of *preferred suppliers* with whom retailers share information and strategy. While the retailer sets the ‘rules of the game’ for participating in the chains, these key suppliers may take responsibility for developing a product category’s profile to give maximum returns. Inside these supply chains, pricing or margins are increasingly fixed, or cost-based, and not set by the spot market.

Fourth, retailers’ own brands (‘own-label’) have been another element of the retail revolution that has shifted competitive forces. Own brands return the highest contribution to margin or gross profit. Retailers’ brands now compete head on with manufacturers’ brands.

Fifth, successful supermarkets have been relentless in their focus on customers. Many retailers have developed sophisticated consumer information systems, which can facilitate supply chain management. Tesco, for example, tracks four out of every five pounds spent in its UK stores through its loyalty card.

Sixth, *customer assurance*, via supply chain standards and traceability, is key to managing for consistent product quality and for minimising risk. Assurance, especially around food safety (pathogens, pesticides) is a key argument in attracting consumers away from public markets, and another reason why supermarkets’ supply chains are bypassing wholesale and spot markets.

Consumers have been willing players in the relocation of retail from specialist retailers or street markets to one-stop shopping in supermarkets. In Eastern Europe and China, the massive changes that supermarkets have ushered in compare extremely favourably to the quality and choice associated with earlier regimes. It is worth pointing out, however, that it is not just consumer ‘pull’

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that drives the growth of supermarkets; in many countries there is also a policy ‘push’ related to vested interests, manifested in a policy environment (zoning, credit, rents etc.) which is hostile to street markets and beneficial to supermarkets.

What are the implications of these changes in agrifood *governance* and the *private re-regulation* of food systems, and the associated spiral of retail *consolidation and market concentration*, for primary producers?

Implications for Primary Producers

In line with wider impacts of globalisation, consumers are in broad terms the winners and primary producers are the losers, especially in deregulated markets where structural oversupply becomes the norm. From a macro perspective, there is *declining residual value to be shared between supermarkets and upstream actors in the chain*. The *zone of profitability* has moved away from production, towards processing and retailing.

Within the rural economy, ‘insiders’ in supermarket supply chains may be able to survive and even prosper despite chronic price deflation and a constant squeeze on margins, through investing in relationship marketing, product quality, technology and brand reputation. But these ‘insiders’ may find themselves highly leveraged through their dependence on one buyer. Supply chain management sets up its own pattern of competition between suppliers, which allows opportunism by supermarket buyers. Producers become *cost-plus* suppliers, trading the ability to play the spot market for greater security.

One reason why small-scale farmers’ comparative advantage in labour-intensive products such as horticulture is not valid in the case of supermarket supply chains, is the issue of *private standards and certification*. Compliance with supermarket standards – and, more importantly, *proof* of that compliance – drives scale, and it is the large farm – wage labour model that seems to dominate.

The impact of private standards is felt first in sectors with little processing such as horticulture, meat and dairy – the most demanding end of the market. But the drive for traceability and risk management is pushing standards into commodities and ingredients such as coffee and cereals. The fact that su-

permarket standards can become *de facto* conditions of market entry raises important trade policy questions. And the demise of wholesale markets means that an inherently more small-holder-friendly market (at least in terms of standards) is less profitable. Wholesale is having to redefine itself, with private sector investments such as the Thai Agro Exchange (Talaadthai) in Bangkok, creating integrated centres for agricultural goods that meet high product standards.

Supermarkets can be wider channels for imports which by-pass domestic producers. But in the same vein, supermarkets can present export opportunities; national distribution centres can also function as supply bases for international operations.

Leverage Points

The changes that are taking place in the structure and governance of agrifood have met with high levels of consumer satisfaction and trust with product quality, safety, choice and price. There is no clear civil society scrutiny of the sector, or strong demands for accountability. Although there are some protests from fast-disappearing small local retailer and from some producers where markets are most concentrated, governments generally seem comfortable with delegating much of the governance of agrifood to the supermarkets.

But in order to keep primary producers in the ‘zone of profitability’ while these changes take place, *deliberate actions* by producers, national governments, *and* retailers are required. There is still the opportunity for countries at the beginning of the retail revolution to introduce *anticipatory policies* in advance of these changes.

The most obvious response is the development of *producer organisations* and *intermediaries* that can compete with large enterprises in terms of economies of scale, scheduling of production, quality, traceability and certification, as well as deal with the requirements of downstream processors and retailers. In terms of public policy interventions, there are two broad areas: firstly managing the growth of supermarkets, and secondly ensuring a vibrant wholesale and retail sector as an efficient alternative. Regulation of zoning, opening hours and below-cost selling are all ways to encourage a diversity of wholesale and retail food services. The political strategy of the international retailers, on the other hand, is for the removal of impediments to applying their standard business model in all countries of operation.

National and global *supermarkets* themselves must also re-evaluate the definition of *corporate responsibility*. Supermarket strategy is fixated on meeting consumers’ needs. Having supermarkets in the driving seat of agrifood governance is currently effective only for those areas that create consumer value for the supermarkets, such as food safety. Those parts of the agenda that do not resonate with most consumers, such as trading relations with farmers or labour rights, fall into a *governance gap*, which is simply not addressed by prevailing models of corporate social responsibility and self-regulation. Links need to be made between retailer strategy and national and international development goals, bringing a new approach to accountability to both players. As a first step, this could include a serious review of procurement practices and their impacts on small-scale producers, so that certification protocols can be adjusted accordingly.

When market structures have undergone the kind of changes described above, the impact of trade reform is going to differ from assumptions. What is clear is that managing the growth of international supermarkets in a pro-poor and pro-sustainability direction requires *anticipatory* policy, which is extremely hard to pull off. But the chances of success will be greatly enhanced by a three-pronged approach to research and policy development. First, a much better understanding of the impacts of supermarket procurement practices on the rural economy. Second, a comprehensive analysis of best practice in linking supermarket procurement and smaller scale producers and SMEs. Third, the formation of international learning groups, which expose researchers, industry experts and policy-makers to different policy approaches, to devise policies ahead of the wave of change moving through the global agrifood system.

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Data Exclusivity: Implications for Developing Countries

Meir Perez Pugatch

The protection of pharmaceutical test data is rapidly becoming a global North–South issue as the US and the EU expand their web of trade agreements with developing countries. This article looks into the potential implications of the EU's data exclusivity provisions.

Data exclusivity is one of the most interesting issues in the current discussion on pharmaceutical intellectual property policy-making globally. It is aimed at protecting and safeguarding pharmaceutical registration files, i.e. the data submitted by companies to regulatory authorities, such as the US Food and Drug Administration and the European Agency for Evaluation of Medicinal Products, for the purpose of obtaining marketing approval for new drugs.

Recognised internationally for the first time in the mid-1990s in Article 1711 of the North American Free Trade Agreement (NAFTA) and Article 39.3 of the WTO Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS), data exclusivity is a relatively new form of intellectual property.

The underlying logic of data exclusivity suggests that it is an expression of trade secrets and, as such, should be independent of patents. Compared with patents, the market power of data exclusivity is in theory less restrictive, mainly because it does not legally prevent other companies from generating their own registration data. In other words, data exclusivity protection does not apply to cases where the second (generic) comer provides its own test data. In such cases, the originator may not prevent marketing approval from generic 'new-comers'. Rather, the marketing of the generic product may only be prevented if there is a valid patent on the relevant substance. However, in practice, the vast financial resources and extended time required for gathering and generating pharmaceutical registration data for a new drug create a market barrier that is too high for generic-based companies.

Data exclusivity is also rapidly becoming a global North–South issue, as it is now being fiercely advocated by the United States and to some extent the EU vis-à-vis developing countries, such as Guatemala, Israel, Taiwan, India and Thailand.

The EU's '8+2+1' formula

EU data exclusivity legislation is provided by Article 10 of Directive 2004/27/EC (amending 2001/83/EC). The new Directive was finalised in December 2003 and came into effect in May 2004.¹

EU legislation can be divided into two periods: 2001 to December 2003, in which data exclusivity legislation was not harmonised between EU members and varied between six and ten years, and the period thereafter, in which the term of protection was harmonised according to the 8+2+1 formula, as discussed below.

In order to better understand the new format of the EU's data exclusivity legislation it is important to provide a brief background to the main reasons underlying the 2003 amendments.

Prior to December 2003, Article 10(1)(a)(iii) of Directive 2001/83/EC stated that, for the purpose of obtaining authorisation for market use, six years must elapse before the generic drug could rely on the registration dossiers of an original product that had been authorised for use within the Community. The Directive also stated that the six-year period of market exclusivity would be extended to ten years in the case of high-technology medicinal products, and that member states could extend the period of exclusivity to ten years to all medicinal products.²

One also has to bear in mind that prior to the December 2003 resolution, the period of data exclusivity at the national level varied between the member countries (and EU candidates at the time). For example, Germany, France, the UK and the Netherlands granted a ten-year period of data exclusivity, while Austria, Greece, Spain, Estonia and Latvia allowed only six years.

The December 2003 amendments to the EU's data exclusivity legislation were part of a wide 'package' of proposed changes aimed at substantially modifying the regulatory framework governing the pharmaceutical industry in Europe. The calls for changing the current state of affairs in the European pharmaceutical industry were based on two major factors:

- the urgent need to harmonise the European pharmaceutical market following the expansion of the EU, and
- the fact that the European pharmaceutical industry had become much less competitive vis-à-vis that of the US.

This is why the European Commission established, on 26 March 2001, a High Level Group on Innovation and the Provision of Medicines. The Group's mandate was to propose a new agenda to improve the framework for competitiveness in the pharmaceutical industry and to harness its power to deliver on Europe's health care goals.

Based on the Group's recommendations, the Commission proposed in July 2003 a mandatory data exclusivity period of ten years for all new pharmaceutical products registered under the pan-European 'centralised procedure'.³ The Commission also proposed granting an extra year of protection for new indications of original medicines (this is usually referred to as the 10+1 formula). Finally, the Commission recommended that generic companies be legally entitled to make commercial experiments in patented pharmaceutical drugs as part of the process of obtaining marketing approval for generic substitutes (so called 'Bolar' provisions).⁴

In December 2003, the European Parliament adopted a compromise, known as the '8+2+1' formula.⁵ According to this formula, new pharmaceutical products would be entitled to eight years of data exclusivity, two years of marketing exclusivity (in which generic companies would be allowed to rely on the data of the original product, i.e. sub-

Continued on page 22

mit bio-equivalence tests, but not yet to market their generic substitute) and an additional year of protection for new indications of existing products. As stated in paragraph 8 of Directive 2004/27/EC:

“By way of derogation from Article 8(3)(i), and without prejudice to the law relating to the protection of industrial and commercial property, the (generic) applicant shall not be required to provide the results of pre-clinical tests and of clinical trials if he can demonstrate that the medicinal product is a generic of a reference medicinal product which is or has been authorised under Article 6 for not less than eight years in a Member State or in the Community. A generic medicinal product authorised pursuant to this provision shall not be placed on the market until ten years have elapsed from the initial authorisation of the reference product.

The ten-year period referred to in the second subparagraph shall be extended to a maximum of eleven years if, during the first eight years of those ten years, the marketing authorisation holder obtains an authorisation for one or more new therapeutic indications which, during the scientific evaluation prior to their authorisation, are held to bring a significant clinical benefit in comparison with existing therapies.”

Article 10(6) of the Directive also allows generic companies to engage in Bolar-type activities for the purpose of registering and approving their products for market use.

Implications for Developing Countries

The debate over the scope and term of data exclusivity is rapidly spilling over to other countries, particularly advanced developing countries with established research and development capabilities.

There is growing evidence suggesting that regional and bilateral trade agreements – between the US and EU on the one hand and developing countries on the other – are based on TRIPS-plus provisions, including those in the field of data exclusivity.⁶

In the case of data exclusivity, the US is the *demandeur* in the sense that bilateral and regional free trade agreements (FTAs) between the US and developing countries are based on the data exclusivity standards of the former. Generally speaking, the US-led FTAs require the establishment of data exclusivity

legislation, consisting of a minimum five-year protection period, including cases in which marketing authorisation was granted to a third party in another country.⁷

In this context, the main question is what will be the data exclusivity requirements of the EU-led FTAs that are in the pipeline. In other words, will the EU's FTAs require developing countries to adopt a data exclusivity legislation according to the 8+2+1 formula discussed above?

Compared to the US, the IP provisions of the new-generation FTAs (so-called ‘association agreements’) between the EU and developing countries (Jordan, Israel and Chile) are more general and less issue-specific. These provisions usually refer to the need to provide “adequate and effective protection of the highest international standards including effective means of enforcing such rights”.⁸ Not surprisingly, this language provokes considerable debate about what the highest international standards are, and to what period these standards refer.

There are specific cases in which the EU has gone beyond the above pattern to demand a higher level of IP protection from its trading partners, based on the EU standard (meaning the EU's data exclusivity formula of 8+2+1). For example, the 1998 Partnership and Co-operation Agreement between the EU and Ukraine requires the latter to implement IP protection standards similar to that existing in the EU by the end of 2003.

We do not yet know where the EU is heading with its IP demands in regional or bilateral FTAs involving developing countries. The big question is: if the EU does decide to adopt a more hawkish approach, demanding developing countries to implement its data exclusivity standard, are we likely to enter a new phase of ‘TRIPS-double-plus’ or ‘TRIPS-max’ trade agreements?

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ENDNOTES

¹ Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004 amending Directive 2001/83/EC on the Community Code Relating to Medicinal Products for Human Use, Official Journal of the European Communities, (30 April 2004), L 136/34.

² Directive 2001/83/EC, Article 10.

³ European Commission, July 2003, p. 14. The ‘centralised procedure’ refers to product registration with the European Agency for Evaluation of Medicinal Products.

⁴ For a discussion on Bolar provision see; Pugatch (2004), pp. 180-186.

⁵ European Parliament resolution, Amendment 14, Article 1, Point 8 (17 December 2003); This resolution is based on the recommendations of the European Parliament Committee on the Environment, Public Health and Consumer Policy. *Draft Recommendation for Second Reading on the Council amending Directive 2001/83/EC on the Community Code Relating to Medicinal Products for Human Use* (28 November 2003) A5-0425/2003.

⁶ OECD-Trade Directorate. *Regional Trade Agreements and the Multilateral Trading System* (Paris: 20 November 2002), TD/TC(2002)8/FINAL. See also: Abbott, F. M. *The Doha Declaration on the TRIPS Agreement and Public Health and the Contradictory Trend in Bilateral and Regional Free Trade Agreements* (Quaker United Nations Office: 14 April 2004) Occasional Paper; Vivas-Eugui, D. ‘Regional and Bilateral Agreements and a TRIPS-Plus World: the Free Trade Area of the Americas (FTAA)’, *TRIPS Issue Papers 1* Geneva (Quaker United Nations Office: 2003).

⁷ For an analysis of the different components of data exclusivity legislation in US-led FTAs see: Pugatch M.P. *Intellectual Property and Pharmaceutical Data Exclusivity in the Context of Innovation and Market Access*, prepared for the International Centre for Trade and Sustainable Development: the Third Bellagio Dialogue on Development and Intellectual Property (Geneva: UNCTAD-ICTSD: October 2004). An expanded paper will be available in late 2005.

⁸ A reference for this language can be found in the EU-Israel Association Agreement (2000), Chapter 4 - Intellectual, Industrial and Commercial Property; EU-Jordan Association Agreement (2002), Article 65; EU-Chile Association Agreement (2002), Title VI - Intellectual Property, Article 168.

Meagre Trade Harvest at G-8

The 6-8 July G-8 Summit brought together the heads of government of the world's eight most industrialised countries to discuss aid to Africa, climate change and trade.

Much was made of the leaders' pledge to "work to further increase momentum towards our goal of an ambitious and balanced outcome in the [Doha Round] negotiations" and their call to all WTO Members "to work with greater urgency to bring these negotiations to conclusion by the end of 2006." However, the three-paragraph statement on trade mainly consists of generalities reflecting commitments already adopted in other documents. For instance, the following are lifted almost verbatim either from either the Doha Declaration (DD) or from the 2004 July Package (JP): commitment to substantially reduce trade-distorting domestic support and to substantially improve market access (DD para.13); commitment to eliminate all forms of export subsidies and establishing disciplines on all export measures with equivalent effect by a credible end date (JP Agriculture Annex para.17); commitment to the objective of duty-free and quota-free market access for products originating from LDCs (JP Agriculture Annex para.45). The other 'commitments' did no more than list the already stated goals of the key areas under negotiation: opening markets more widely to trade in non-agricultural products; expanding opportunities for trade in services; improving trade rules, and; improving customs and other relevant procedures to facilitate trade.

Hopes were briefly raised regarding progress on agricultural subsidies. President Bush challenged the EU to agree to the elimination of all subsidies within five years. British Prime Minister Tony Blair said he believed it was possible to get a "clear commitment" at Hong Kong to end export (but not domestic) subsidies in 2010. Claude Veron-Reville, spokesperson for the EU's Trade Commissioner Peter Mandelson, said that 2010 would not be "credible" but that ten years would be too long. French President Jacques Chirac was firm that the end-date could only be agreed as part of broader negotiations. As seen above, the upshot was a mere reiteration of existing commitments to set a 'credible end-date' to all forms of export subsidies and to substantially reduce trade-distorting domestic support and improve market access.

Increased Aid

"The commitments of the G-8 and other donors will lead to an increase in official development assistance to Africa of US\$25 billion a year by 2010, more than doubling aid to Africa compared to 2004," the leaders said. Civil society groups in particular have questioned how much of this increase will actually be 'new money.'

The G-8 also agreed to cancel the entire multilateral debt of eligible Heavily Indebted Poor Countries (HIPC), and welcomed the OECD's Paris Club agreement 'in principle' to achieve a "sustainable exit for Nigeria from its debt problems." The leaders said that, according to OECD estimates, development assistance from the G-8 and other donors to all developing countries would increase by US\$50 billion a year by 2010 compared to 2004: "These substantial extra resources will be focused on countries where they will make a difference, to accelerate progress towards the achievement of the Millennium Goals [...]. We will focus aid on low-income countries, which are committed to growth and poverty reduction, and to sound public financial management."

Climate Change

The heads of state formally promised to co-operate to promote clean energy and combat climate change. Their final communiqué recognised climate change as a "serious long-term challenge" that needed to be tackled with urgency and resolve. It declared that climate change was "happening now" and human activity was contributing to it. Although the statement does not include binding targets and timetables for cuts in greenhouse gas emissions, it does promote clean energy as a priority, recognises the UN Framework Convention on Climate Change as the appropriate forum for future multilateral negotiations to address climate change, and stresses the need for G-8 countries to work with each other and with emerging economies to set the world onto a path towards more sustainable energy use.

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

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

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Meetings of WTO Bodies*

July 19	Committee on Trade and Development, Special Session*
July 20	Dispute Settlement Body
July 21-22	Trade Negotiations Committee
July 25-26	Negotiating Group on Trade Facilitation
July 25-26	Negotiating Group on Rules, regional trade agreements
July 27	General Council
July 28-29	Dispute Settlement Body, Special Session*
July 29	General Council
Sept. 16	Council for Trade-related Aspects of Intellectual Property Rights, Special Session*
Sept. 23	Dispute Settlement Body, Special Session*
Sept. 26	Council for Trade in Services, Special Session*

* *Special Sessions denote negotiations mandated in the Doha Ministerial Declaration.*

Other Meetings

Jul. 19-21 Geneva	Joint Integrated Technical Assistance Programme (JITAP) High-level Workshop of the Inter-institutional Committees in Preparation for the 6th WTO Ministerial Conference in Hong Kong. http://www.unctad.org/
Sept. 14-16	High-level Plenary Meeting of the UN General Assembly on the follow-up to the outcome of the Millennium Summit http://www.un.org/millennium/

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