

LEAD STORIES

LAMY: TALKS NOW IN 'RED ZONE,' MEMBERS NEED TO COMPROMISE 1

FALCONER URGES MEMBERS TO NARROW DIFFERENCES ON SENSITIVE PRODUCTS 2

WTO MEMBERS CLASH ON EVALUATION, LIBERALISATION OF ENVIRONMENTAL GOODS 4

OTHER NEWS

NEW TEXT PROPOSALS FOR FISHERIES SUBSIDIES DISCIPLINES ON THE WTO TABLE 6

AG: DISAGREEMENTS STILL REMAIN ON EXPORT COMPETITION 7

EU, NAMA-11 CALL FOR NEW MECHANISM TO DEAL WITH NTBS 9

IN BRIEF

US-ECUADOR FTA TALKS ON HOLD AFTER ECUADOR CANCELS OCCIDENTAL CONTRACT 10

WTO IN BRIEF

G-33 CRITICISES FALCONER'S SP PAPER; DEVELOPING COUNTRY GROUPS REITERATE IMPORTANCE OF SP/SSM 10

DSB ESTABLISHES ANOTHER PANEL IN AIRBUS-BOEING DISPUTE 11

FINAL WTO BIOTECH PANEL REPORT MAINTAINS VERDICT AGAINST EU 11

EVENTS & RESOURCES

EVENTS 12

RESOURCES 13

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LEAD STORIES

LAMY: TALKS NOW IN 'RED ZONE,' MEMBERS NEED TO COMPROMISE

Time is running out for WTO Members to reach a framework deal on Doha Round subsidy and tariff cuts, Director-General Pascal Lamy warned on 15 May. "We

are now in the red zone, and... we are not far from the red part of this red zone," he told the General Council, "the more we move into the year, the more we risk to fail in our endeavour to conclude the round." Nevertheless, he insisted that an agreement remained within grasp if countries are willing to compromise.

The WTO chief reminded delegates that after failing to meet an end-April deadline to establish 'modalities' for cutting agricultural tariffs, farm subsidies and duties on industrial goods, they had recognized that only "weeks rather than months" remained in which to do so (see BRIDGES Weekly, 3 May 2006, <http://www.ictsd.org/weekly/06-05-03/story2.htm>).

Continuous negotiations since the beginning of the month on agriculture and non-agricultural market access (NAMA) have thus far produced intense discussions, but little in the way of agreement.

Lamy urged Members to find their "second wind" and make the compromises necessary for the "production of texts for ministerial discussion in the coming weeks." He did not, however, specify whether these discussions would be at the WTO in Geneva, elsewhere, or simply in countries' capitals. Some top trade envoys are planning to go to Geneva in the second half of June, including future US Trade Representative Susan Schwab. Ministers attending the Organisation for Economic Cooperation and Development (OECD) summit in Paris on 23-24 May might also get together to discuss the WTO negotiations.

Whether ministers have anything to discuss in June will depend on progress in the agriculture and NAMA negotiating groups, which will be meeting non-stop through the middle of the month. Lamy said that delegations must improve their "engagement... in bridging gaps and finding consensus." "Members cannot rely on Chairs to produce convergence out of thin air," he added. "They need to actively participate in convergence-building by tabling papers, discussing hypotheses and simulations and definitively abandoning well-known positions."

Lamy stressed that progress had been made in areas of the Doha agenda that are not "headline catchers," but that it could be lost "if negotiators fail to unlock the modalities in agriculture and NAMA in the coming weeks." As an example, he pointed to recent steps towards expanding and improving the Integrated

Framework, a multi-agency programme that provides trade-related technical assistance to least-developed countries (LDCs).

Most governments still insist they are committed to concluding the round by the end of 2006, before the US presidential administration loses its 'fast-track' ability to negotiate trade agreements and submit them to Congress without the possibility of major amendments. It is generally believed that to have a chance of doing so, Members need to agree on modalities before the end of July.

Sources report that Cuba intervened at the meeting to argue that Members should explore the costs and benefits of prolonging the round past the end of 2006, which many say would lead to a long period of 'hibernation' in the negotiations. It argued that at present, rich countries stood to gain the most from the proposals on the table, an absurdity for a 'development round.' Cuba blamed developed countries for the deadlock in the negotiations, suggesting that they lacked the will to address imbalances resulting from the Uruguay Round.

The high number of small meetings during the course of recent weeks also drew some attention. Venezuela noted that the intensified negotiations seemed to be driven by the "ghost of exclusion." Paraguay, on behalf of the so-called 'informal group' of developing countries, warned that haste might impair transparency towards all Members, which in turn could compromise the legitimacy of any agreement reached.

The gathering did witness a rare moment of apparent consensus: hearty agreement to Zambian Ambassador Love Mtesa's suggestion that it was "vitally important" for all meetings to end by 4pm during the upcoming football World Cup, in order to allow negotiators to watch the matches. One source who attended the meeting regretfully reported that the comment appeared to have been made in jest.

The next General Council is scheduled for 27-28 July.

ICTSD reporting; "Zambian ambassador says WTO meetings shouldn't conflict with World Cup," ASSOCIATED PRESS, 15 May 2006.

FALCONER URGES MEMBERS TO NARROW DIFFERENCES ON SENSITIVE PRODUCTS

WTO agriculture negotiations Chair Ambassador Crawford Falconer (New Zealand) is urging Members to try to narrow their differences to a "more manageable

level" on both the number of 'sensitive' farm products and the extent to which they will be shielded from the full force of tariff cuts.

In an 11 May 'reference paper,' as well as in consultations the following day, he said that Geneva-based negotiators needed to do so in order to give ministers a realistic chance of agreeing on final figures. A deal on sensitive products will be a necessary part of any modalities for tariff and subsidy cuts.

Specifically, Falconer encouraged Members to step away from the most extreme positions on the total number of sensitive products, and to agree on limits for permitted deviations from the overall tariff reduction formula. For example, he proposed constraining tariff cuts on sensitive products to between 25 and 75 percent of the 'normal' reduction. He also noted that delegates could experiment with different approaches to expanding tariff rate quotas (TRQs), so as to see where their effects might be comparable and thus point the way to potential compromises.

According to the July 2004 Framework, both developed and developing countries will be able to designate sensitive products for relatively lower rates of tariff reduction, so long as there are 'substantial improvements' in market access. These improvements are to be achieved through a combination of the modest cuts and TRQ expansion -- the lower the tariff cut, the higher the TRQ expansion. The number and treatment of sensitive products are both crucial to the overall negotiations: many governments estimate that as few as 20-50 tariff lines could account for the bulk of their agricultural exports to major markets.

Falconer calls for convergence on numbers, focus on treatment

In his reference paper, Falconer pointed Members to the substantial differences among existing proposals for the proportion of tariff lines eligible for sensitive product status. The G-10, a group of mostly developed countries with heavily protected farm sectors, is seeking to designate as many as 15 percent of dutiable tariff lines (those not bound at zero) as sensitive. In contrast, the US, the G-20, and the Cairns Group of farm exporters would like to restrict the number to no more than 1 percent. The EU, for its part, has proposed 8 percent.

The chair exhorted Members to narrow the "chasm" between the figures at each end of the spectrum, although he confessed that he had "detected no willingness to do so despite the lateness of the stage we are at."

Falconer's paper contended that the "negotiating credibility" of the two numbers was "starting to wear just a bit thin." He noted that for two unnamed major developed countries, 15 percent of dutiable tariff lines could affect most farm trade, accounting for as much as 88.1 and 84.3 percent of the value of their agricultural imports.

"This is not to presume that Members would actually choose their sensitive products based on value of trade," he added, comparing it to the selection of 'special products' (SPs) which developing countries will be able to slate for lenient tariff treatment on the basis of food security, livelihood security, and rural development concerns. Sources report that Japan, for example, has pointed out that rice -- virtually guaranteed to be classified as 'sensitive' -- actually accounts for a very low proportion of its trade.

Nevertheless, unlike SPs, no criteria are attached to countries' designation of sensitive products. Indeed, their level of 'sensitivity' may well depend in part on the extent of market displacement -- and thus political difficulty -- that would likely result from making standard liberalisation commitments. However, Falconer has already indicated that countries generally agree that SPs will receive more flexible tariff treatment than sensitive products.

The chair said that 1 percent was also unlikely to garner consensus, observing that sugar alone accounted for 44 tariff lines at the 8-digit HS level for one Member -- or 2.5 percent of its total. He noted that 1 percent would amount to fewer than 20 tariff lines for several countries.

Falconer asked Members to "focus their immediate efforts" on the treatment of sensitive tariff lines, implying that knowing how much increased market access was likely for such products would help them agree on how many to permit. He noted that while most Members agree that all sensitive products would have to be subject to some level of both tariff reduction and TRQ expansion, one country wanted to be able to select entirely one or the other for some products.

With regard to tariff cuts, the chair suggested that delegates "could start to make practical progress" by deciding to "top and tail" the upper and lower limits for how much sensitive products are allowed to deviate from the standard reduction formula. As a potential "outer range," he proposed allowing cuts ranging from as high as 75 percent to as low as 25 percent of the reduction demanded by the formula.

Many Members believe that that most of the new export opportunities for the heavily-protected products which are likely to be designated as sensitive will arise not

from tariff cuts, but from additional TRQ commitments increasing the quota of imports eligible for the lowest tariff rates.

Members have focused on three broad approaches on which to base TRQ expansion for sensitive products: current levels of domestic consumption; existing TRQ commitments; and current import volumes.

At the meeting, delegations largely repeated their past positions. The US and the G-20 developing countries would like to see future TRQ levels to rise from a certain base share of domestic consumption. Critics claim that this would lead to expansions so large that they would be disproportionate to any savings on tariff reduction granted to sensitive products.

The G-10 and the EU emphasised that the purpose of the mandate for 'sensitive products' meant that TRQ expansion had to lead to future import levels lower than those that would have resulted from the full application of the standard reduction formula. The G-10 supports a 'hybrid' approach under which TRQs would be calculated on the basis of existing commitments, but with larger relative increases for products whose in-quota thresholds are equivalent to small proportions of domestic consumption. The EU argues that TRQ expansion should be based on existing import volumes and the degree to which imports are likely to increase following tariff cuts (the so-called 'elasticity of import demand'), but has recently indicated that it would be willing to consider some sort of limited link to domestic consumption (see BRIDGES Weekly, 12 April 2006, <http://www.ictsd.org/weekly/06-04-12/story4.htm>).

Opponents of these approaches point out that existing TRQ commitments and import levels are often quite low.

Falconer's reference paper said that Members had accepted, "albeit at a general level," the notion that TRQ expansion should be relatively high in cases where current imports are relatively low, and vice versa. Identifying a ratio of about ten to one in terms of the range of ambition of the different proposals -- that is, "where one proposal would result in additional quotas amounting to 10,000 tonnes for a particular [sensitive] product, another would result in additional quotas amounting to 100,000 tonnes" -- he urged negotiators to explore possibilities for narrowing the gap. He recommended that they experiment with calculating TRQ expansion based on different hypothetical figures for variables such as the strength of the link to domestic consumption or the elasticity of import demand, suggesting that the resulting comparisons might even help bridge some of their differences.

Sources report that delegates largely agreed with the chair's suggestion, with the EU and the G-10

emphasising that no single approach should be privileged.

S&D, quota-less products remain undetermined

The question of what to do for sensitive products with no existing TRQ commitments remains unanswered. The chair's paper noted that many Members oppose the creation of new TRQs as part of the Doha Round, since they feel that it would represent a step backward in the liberalisation process. Proposals for such products include requiring Members to implement the lower tariff reduction in a smaller period of time, or granting them a longer period to implement the full tariff cut required by the standard formula. This issue is of particular interest to the many developing countries that do not have TRQs for a large number of products, since it will affect their use of the 'sensitive product' designation.

Falconer said that progress was unlikely on special and differential treatment (S&D), including the number of products that developing countries will be allowed to designate as sensitive, until the 'core disciplines' had been determined. Some have suggested allowing them one-and-a-half times as many as those accorded to developed countries.

Sources expect Falconer to release new or revised reference papers this week on issues including trade preference erosion, tropical products, and some aspects of domestic support. He is also reportedly planning to hold small-group meetings on some of these issues. Senior officials from some dozen key Members are also set to meet before the end of the week to discuss the agriculture negotiations.

All of the chair's reference papers are available online at http://www.wto.org/english/tratop_e/agric_e/refpapers_apr06_e.htm.

ICTSD reporting.

WTO MEMBERS CLASH ON EVALUATION, LIBERALISATION OF ENVIRONMENTAL GOODS

At an informal 10-12 May technical meeting of the WTO Committee on Trade and Environment Special Session (CTE-SS), Members were split on how to evaluate whether certain wastewater and solid and hazardous waste management products could be described as "environmental" for the purposes of expedited trade liberalisation. While several developing countries maintained that a single potential non-environmental

end use should suffice to disqualify a product from consideration, developed countries countered that this would exclude all but a handful of items.

In November 2005, the WTO Secretariat put together a compilation (TN/TE/W/63) of all of the 480-odd products that Members have proposed for liberalisation under Paragraph 31(iii) of the Doha Declaration, which mandated Members to negotiate "the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services." Although countries remain divided on the broad approach to take to removing barriers to trade in environmental goods, they agreed in February to undertake a technical examination of the products in the Secretariat's compilation to evaluate whether certain items should be eliminated. In April, they focused on the products included in the categories of renewable energy and air pollution (see BRIDGES Trade BioRes, 14 April 2006, <http://www.ictsd.org/biores/06-04-14/story1.htm>). As per prior agreement, the recent meeting looked at wastewater management and solid and hazardous waste management goods.

Wastewater, solid, and hazardous waste management goods examined

Canada, the EU, New Zealand, Japan, Norway, Taiwan, Switzerland and the US, which have been referring to themselves as the "friends of environmental goods" since December 2005, circulated an informal non-paper on the two categories (including a list of all such products drawn from the Secretariat's compilation) to Members on 8 May (JOB(06)/140). The document, though it recognised the importance of examining products for possible non-environmental dual or multiple uses, stressed the importance of considering broad environmental and developmental benefits such as those identified in the Millennium Development Goals when determining whether a product should be retained. For example, it pointed to deaths caused by insufficient access to safe water and sanitation to justify liberalising trade in the waste management products identified in the Secretariat compilation.

During the meeting, Brazil, China, India, Ecuador and several other developing countries -- many of which are opposed to the 'list approach' that would identify specific products for liberalisation, and prefer India's project approach (see BRIDGES Trade BioRes, 23 June 2005, <http://www.ictsd.org/biores/05-06-24/story1.htm>) -- said that they would prefer to go through the list of products with single-environmental use as a filter. For example, they argued that covering-sheets for landfills should not be included in the list, on the grounds that they could also be used for another non-environmental purpose, namely for the roofs of makeshift shelters.

The Friends group countered that single end-use was an excessively narrow criterion to use for filtering and evaluating potential environmental goods, and would result in the elimination of too many of them. Instead, they suggested that products should be retained if it can be shown that they are predominantly used for environmental purposes. Developing countries said that in the future, any lists of potential environmental goods submitted by Members should include explicit descriptions of all possible uses of the products.

Environmental implications of liberalisation questioned

Several developing countries raised concerns that liberalising trade in some of the listed products would not have positive environmental effects, and might even have negative ones.

In particular, some Members pointed out that it is unclear what precisely is covered by current references to recycled products in the Secretariat's compilation. For instance, would a reference to "recycled paper" involve the used paper that is employed as an input; the machinery for shredding used paper; the shredded material itself; the machines for turning it into recycled paper; and/or the recycled paper thus manufactured?

Most Members expressed support for slating the technology used to recycle products for liberalization, rather than the inputs or end products themselves, out of concern that the latter do not have environmental purposes.

A new document from Egypt suggested that reducing tariffs on trade in certain wastes and scraps in the Secretariat's compilation would work against the objectives of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal. According to the Egyptian document, the Basel Convention could potentially cover some of the toxic wastes and scraps in which Members are seeking liberalisation. As such, Egypt proposed excluding hazardous wastes from the coverage of the CTE-SS, and called for the Basel Convention to retain its jurisdiction over trade in such products. The proposal received broad support at the meeting, particularly from developing countries.

How to identify particular products?

China, India, Brazil, Ecuador and several other developing countries said that they did not support the current way some products in Members' lists have been identified, because it is not transparent.

At question is the practice in the Friends group's list of naming a product category at the relatively general 6-

digit HS level, and then specifying in a separate column that only a sub-category -- called an 'ex-out' -- would actually be eligible for expedited liberalisation. However, these 'ex-outs' are only identified in general terms. For example, 'liquid pumps' would be the category at the 6-digit level, and the ex-out identified would be 'pumps for sewage systems.' The developing countries argue that such unspecific references could lead to a multitude of different interpretations of product coverage. Instead, they would like to have more specific definitions at an 8-, 10-, or 12-digit HS level.

However, the World Customs Organization pointed out that 'ex-outs' are already used extensively by customs officials, for example to distinguish between civil and military aircrafts. The Friends group reiterated their support for the ex-out approach.

Steps ahead

The third and last CTE-SS informal technical discussion will be held on 12-14 June. In a recent note to Members, Chair Ambassador Toufiq Ali (Bangladesh) said that the categories to be covered include environmental monitoring, analysis and assessment equipment; remediation and clean up of soil and water; cleaner technology and products; environmentally preferable products based on end use or disposal characteristics; and high environmental performance or low environmental impacts.

Sources suggest that the discussions are likely to be highly controversial, given that many developing countries are concerned that products in the "cleaner technology and products" category could be treated differently on the basis of process and production methods (PPMs).

'Friends' call for environmental goods liberalization in NAMA talks

In related news, the US, Canada, the EU, New Zealand, Norway, Singapore and Switzerland submitted a proposal to both the CTE-SS and the Negotiating Group on Non-Agricultural Market Access (NAMA) calling for developed countries and developing countries "declaring themselves in a position to do so" to eliminate tariffs on environmental goods by 2008 (TN/MA/W/70 and TN/TE/W/65). Other developing countries would do so by an undetermined later date.

The paper acknowledged that the products to be covered by the environmental goods-specific liberalisation initiative still needed to be finalised, but specified that they would be based on the environmental goods identified in the CTE-SS. It also suggested that developing countries could be allowed

to exclude a limited number of products from tariff elimination.

Sources report that at informal NAMA meetings on 10 and 16 May, a number of developing countries including Argentina and Cuba described the proposal's consideration of modalities for liberalising trade in environmental goods as premature, since Members have not even agreed on the best way to approach the negotiations, let alone on a final list of goods. Furthermore, they argued that it was tantamount to a sectoral liberalisation proposal, albeit mandatory instead of voluntary like other sectoral initiatives. The proponents countered that it was not appropriate to call it a 'sectoral' approach, since it responded to the Doha mandate on trade in environmental goods, and in any event dealt with a diverse basket of goods. This sets them apart from NAMA sectoral initiatives, such as the ones on bicycles and forest products, which tend to cover specific HS chapters.

The Friends' submission will not be taken up by the CTE-SS until its meeting in June.

ICTSD reporting.

OTHER NEWS

NEW TEXT PROPOSALS FOR FISHERIES SUBSIDIES DISCIPLINES ON THE WTO TABLE

WTO talks on fisheries subsidies made considerable headway at the 8-10 May meeting of the Negotiating Group on Rules, with three new submissions tabled proposing draft text for the eventual disciplines.

Brazil's revised draft text -- presented by Fisheries Minister Jose Fritsch in a strong show of political support -- attracted much attention at the meeting, and was welcomed by many WTO Members as a good input to the discussions. The first text-based proposals by the EU as well as Japan, Korea and Taiwan attracted many questions in addition to criticism that their low levels of ambition would not force major subsidisers to substantially change current practices.

Brazil proposal tries to accommodate Members' concerns

Many WTO Members expressed appreciation for Brazil's efforts to incorporate their concerns and comments into the third revision of its draft text (TN/RL/GEN/79/Rev.3).

In response to Members' concerns (see BRIDGES Trade BioRes, 3 April 2006, <http://www.ictsd.org/biores/06-04-03/inbrief.htm#1>), the Brazilian revised text drops virtually all references to 'regional fisheries management organisations' (RFMO), including as a means for evaluating the sustainability of developing countries' subsidies to enhance fishing capacity. Instead, the revised text simply stipulates that developing countries -- under the special & differential treatment (S&D) provisions -- would only be allowed to provide capacity-enhancing subsidies if the fishery was not 'patently at risk' as established by the UN Food and Agriculture Organization.

In addition, the text includes revised provisions on artisanal and small-scale fishing subsidies. Subsidies to 'artisanal fishing' -- i.e., relating to the subsistence of fishermen and their families -- would be permitted for both developed and developing countries without having to fulfil any sustainability criteria. On the other hand, subsidies to small-scale fishing -- which is carried out on a commercial basis -- would be presumed to cause adverse effects by leading to capacity increases, and would therefore be actionable. This provision would effectively shift the burden of proving that the subsidy was not harmful to the Member providing the grants. Under the S&D provisions of the proposal, this presumption would not apply to developing countries.

Several Members, in particular small-island states, argued against differentiating between artisanal and small-scale fishing. Some, including Barbados and New Zealand, contended that exemptions for artisanal and small-scale fishing should not apply to developed countries, but rather exist only as S&D provisions. In their submission, Japan, Korea and Taiwan proposed that subsidies for artisanal and small-scale fisheries -- defined solely on the basis of boat length -- would be allowed for all Members.

The revised paper's S&D provisions would allow government-to-government payments for accessing a developing country's national waters or fishing quotas under an RFMO, without any sustainability conditions.

However, the EU, echoed to a lesser extent by some developing countries, felt that the proposal might be too complicated and impractical. Brazil stressed that it should only be seen as a starting point and expressed willingness to further discuss and amend its details.

Japan, Korea, Taiwan elaborate bottom-up approach

In their first submission proposing draft text for possible disciplines, Japan, Korea and Taiwan outline the subsidies that they believe should be prohibited and those that should be non-actionable, as well as S&D

provisions (TN/RL/GEN/114). The three countries have long supported a 'bottom-up' approach that would identify specific fisheries-related subsidies for prohibition, in contrast to the overall ban with negotiated exemptions sought by the 'Friends of Fish' group.

The 'Friends of Fish,' Brazil and many developing countries welcomed the text from Japan, Korea, and Taiwan, but continued to object to the overall approach they were taking.

Particularly strong criticism was levelled at the proposal's S&D provisions, which would accord such treatment only to developing country Members listed in Annex II (still to be elaborated) as well as to those countries whose production of marine capture fisheries fell either below a to-be-defined percentage of the world total, or below a certain weight threshold. Some Members felt that this provision was too simplistic for the complex issue it sought to address. China and Mexico in particular strongly objected to the 'differentiation' among developing countries that would result. While most developing countries account for only a small share of world production, some countries, such as China, Mexico and Peru, would likely not be eligible for S&D under the Japan/Korea/Taiwan proposal, depending on the thresholds agreed.

EU draft text under fire

The draft text put forward by the EU, which aims to provide a middle ground between the 'Friends of Fish' and Japan, Korea, and Taiwan while also reflecting Brussels' internal reform of the Common Fisheries Policy, prompted many requests for clarification and elaboration (TN/RL/GEN/134).

Members in particular criticised the proposal's broadly-defined S&D scope which would exempt developing countries from the disciplines as long as they did not increase their fishing capacity "to an extent that it is an impediment to the sustainable exploitation of fishery resources worldwide." Some delegates also pointed to seeming inconsistencies between its subsidy categories, which would prohibit grants for vessel 'renovation' while permitting them for vessel 'modernisation'.

Concerns were also voiced over the role the EU proposed for the Permanent Group of Experts (PGE) -- a group of five independent persons "highly qualified in the fields of subsidies and trade relations" that exists under the Agreement on Subsidies and Countervailing Measures -- in the implementation of the disciplines. The EU would have the PGE be charged with reporting on Members' subsidisation practices. Moreover, under the S&D provisions, any Member would be able to refer to the PGE whenever they feel that "impediments to

sustainable exploitation" are taking place (or are imminent). Some Members said that the proposal would effectively move some negotiations and disputes to a body which was not qualified to deal with these issues.

Members also held met for some informal plurilateral consultations which are expected to continue at the next meeting of the Rules Group, currently scheduled for 12-23 June.

For a list of Members' submissions on fisheries subsidies, see <http://www.trade-environment.org/page/theme/tewto/para28.htm>.

ICTSD reporting.

AG: DISAGREEMENTS STILL REMAIN ON EXPORT COMPETITION

As the first fortnight of an intensive six-week cycle of agriculture negotiations drew to a close on 12 May, WTO Members remained divided on how to develop disciplines on a range of policies that could have an effect tantamount to that of export subsidies, so that these practices can be eliminated together by 2013. 'Export competition' is a key part of the overall 'modalities' that negotiators are still working towards, after missing a key end-April deadline for reaching agreement.

Agriculture Chair Ambassador Crawford Falconer (New Zealand) circulated revised 'reference papers' on export credits, food aid and exporting state trading enterprises (STEs), which identified some areas of convergence and focused on others where Members still needed to bridge differences. Observers say that Members have made progress since the Hong Kong Ministerial Conference in December, especially on food aid, though many issues still remained unresolved.

In Hong Kong, the EU reluctantly agreed to eliminate its export subsidies by the end of 2013, so long as other countries phase out "all export measures with equivalent effect" over the same period of time. While the EU has traditionally relied heavily on export subsidies to ensure that surplus production can be sold overseas, the US has used favourable loans to achieve the same goal. The EU is also keen to ensure that the provision of in-kind food aid (primarily by the US) and the activities of STEs do not serve as a loophole for continuing export subsidisation.

Meetings on 11 May focused primarily on food aid and exporting STEs, and saw substantive discussion of the chair's revised reference papers.

STE definitions still a stumbling-block

The Hong Kong Declaration stipulates that "disciplines relating to exporting STEs will extend to the future use of monopoly powers so that such powers cannot be exercised in any way that would" provide support to exports. While many countries have STEs, Members are primarily concerned about the powerful state trading enterprises in Australia, Canada and New Zealand. The EU and US argue that these monopoly powers are trade-distorting in and of themselves, and are seeking their elimination. They have pushed for tighter disciplines, including a revision of the existing definition of STEs in WTO rules as set out in GATT Article XVII.

The first version of the chair's reference paper had described a choice between two options: either maintaining the existing definition with minor modifications, or using an alternative definition which had been proposed. The revised reference paper now suggests a compromise based largely on the alternative definition, but with some words and phrases in square brackets to indicate areas of ongoing disagreement. Nonetheless, in the 11 May meeting, Australia, Canada and New Zealand continued to argue against the need for any revised definition.

The EU argued that an open-ended list of new disciplines would be necessary to ensure that STEs' actions do not have an effect equivalent to that of export subsidies. Countries with major STEs, however, claimed that this would just create uncertainty.

Members also continued to disagree over whether monopoly powers should be completely prohibited or simply disciplined. Less contentious, but still to be resolved, are outstanding issues around notification and transparency measures concerning STE operations, and how and when new commitments would be implemented.

Negotiators still need to reach agreement on appropriate treatment for developing country STEs, though it is recognised that these entities serve an important role in preserving domestic consumer price stability and ensuring food security. The reference paper envisages additional flexibility for developing country monopoly STEs that account for a low percentage of total world exports. The precise nature of special and differential treatment for developing countries may become clearer once arrangements for developed country STEs have been finalised.

Argentina and Brazil emphasized that any new text must maintain existing restrictions on subsidies in the Agreement on Agriculture. The chair agreed to revise the reference paper so as to ensure that there was no ambiguity about this.

Some more convergence on emergency food aid

Discussions on food aid aim to ensure the elimination of commercial displacement resulting from donations of subsidised food, whilst safeguarding bona fide food aid in emergency situations through a 'safe box.' A proposal from the African and Least-Developed Country (LDC) groups, which include many food aid recipients, has served as the basis for subsequent submissions from the EU and the US.

The US and the EU remain divided over the nature of non-emergency aid. While the EU would like in-kind food aid only to be provided in fully grant form (as opposed to concessional sales) and ultimately phased out in favour of cash, the US believes that in-kind aid should remain allowed, and has spoken against making fully grant form mandatory. The US believes that the monetisation of in-kind aid (when it is sold to raise funds for development purposes) should be allowed in certain circumstances, whereas the EU favours a complete phase-out. The chair's reference paper reflects these disagreements, and seeks further guidance from Members.

Sources nonetheless reported that positions in some areas seem less extreme than before. In particular, Members appear to have achieved a degree of convergence on appropriate 'triggers' for allowing flows of in-kind food aid under the safe box, with roles foreseen for appeals from multilateral agencies and the non-governmental humanitarian organisations that cooperate with them. The chair's reference paper therefore contains sections of preliminary draft text in this area. However, countries remain split between those that want the recipient governments to take priority over intergovernmental institutions with regard to the trigger, and those that would prefer the reverse.

Discussions on 11 May looked at the role of the WTO in particularly urgent situations where multilateral agencies might not be able to issue the declaration of emergency necessary to "trigger" the safe box mechanism. Falconer concluded that, in such cases, the WTO's role would be primarily one to ensure that any grants are appropriately notified.

The chair also noted that defining the duration of emergencies was not within the WTO's competence, and suggested that better qualified multilateral agencies should provide advice on the period of time for which in-kind food aid would be necessary.

Export credits: new EU proposal stirs up discussions

Falconer's reference paper on export credits contains several paragraphs of draft text outlining rules for export financing support to make sure that governments are prohibited from making loans on overly favourable terms to support the purchase of their farm exports.

For instance, it specifies a 180-day limit for the repayment of loans, so that governments cannot extend credit indefinitely. It would also require interest to be paid on export financing support, and points to some potential benchmarks for establishing a minimum interest rate. The draft text in the paper also seeks to ensure that governments cannot assume too much of the risk associated with their loans, including the risk of non-payment or foreign exchange fluctuations. Notably, it would require export financing support programmes to be "self-financing" over a to-be-negotiated length of time. Countries are divided over the duration over which this would be assessed -- the EU maintains it should be no longer than one year; the US would prefer 15 years, but has said that it would be willing to 'explore' shorter periods.

The chair noted that a new EU proposal, which Members had not yet been able to discuss in a meeting of all delegations, took a "very different approach" to dealing with export credits. The paper called for the development of 'core disciplines' aimed at ensuring that export financing support does not have the effect of subsidising exports. These would focus on the maximum repayment period, premiums to offset risk, and the duration of the self-financing period. This would represent a substantial departure from the approach that has been discussed thus far, under which Members would develop specific disciplines for all aspects of export credit programmes that might potentially have the effect of an export subsidy. Another new proposal, this one from the US, follows the traditional approach. It too has not been discussed by the negotiating group.

Sources report that since discussions on export competition are relatively far advanced compared to other areas, no consultations on the issue are planned in the immediate future.

ICTSD reporting.

EU, NAMA-11 CALL FOR NEW MECHANISM TO DEAL WITH NTBs

The EU and the NAMA-11 group of developing countries* have called for the establishment of a new WTO mechanism to rapidly mediate bilateral conflicts over non-tariff barriers (NTBs) affecting trade in goods. However, sources report that at an informal meeting on 15 May, Members including Canada, Japan, and the

US questioned the need for a new mechanism, and wondered whether it might undermine the Dispute Settlement Undertaking (DSU).

Paragraph 16 of the Doha Declaration mandates Members to pursue the "reduction or elimination of... non-tariff barriers, in particular on products of export interest to developing countries."

Both proposals argued that the two avenues that exist under current WTO rules for addressing NTBs are inappropriate. Formal dispute settlement is time-consuming and expensive, while the 'regular' (as opposed to negotiating) committees that oversee Members' implementation of obligations are useful for notifying and discussing NTBs that one's exporters might be facing, but ineffective at resolving problems. The DSU's two-year timeline does little to address the immediate problems of exporters whose goods are blocked in a port of entry, observed the NAMA-11.

Instead, the EU and the NAMA-11 would like a provision for expert 'facilitators' to swiftly broker compromises among Members, without going into whether or not the NTB in question is illegal. Such mediation, they underline, would not in any way detract from Members' right to launch a formal DSU case at any time.

Some civil society groups have warned that countries are using the negotiations to seek the attenuation of environmental and health standards, pointing to the NTBs that they have notified. The papers took pains to acknowledge that several measures that affect would-be traders may actually aim to serve perfectly legitimate policy goals unrelated to trade. However, they suggested, facilitation could address situations where the implementation of these measures might unnecessarily restrict access to markets or discriminate among WTO Members.

60-day non-binding facilitation process

According to the procedure outlined by the NAMA-11 (TN/MA/W/68/Add.1), a Member facing an NTB would describe how its trade was being affected in the relevant WTO committee, and ask for the matter to be referred to the 'NTB Resolution Mechanism.' The country imposing the measure in question would be obliged to cooperate with the process. A mutually-approved 'facilitator' from a roster of experts maintained by each committee would then examine the case; consult with Members, affected industries, and other specialists; and provide non-binding recommendations on possible solutions within 60 days. Unlike participation in the process, implementing the recommendations would be optional.

The NAMA-11 emphasised that the mechanism would be oriented towards "creative and pragmatic results" to address the trade impact of NTBs, rather than an evaluation of their legality. It stressed that the "conciliatory negotiations" would be "informal, low-key, and less adversarial than the DSU."

The EU (TN/MA/W/11/Add.8) outlined a similar 60-day non-binding facilitation process. It said that a supplemental mechanism "to facilitate progressive and more rapid resolution" of problems related to NTBs appeared to be necessary, in part because new NTBs continue to emerge and it is often difficult to determine whether or not they are legal.

Sceptics argue that no new mechanisms are necessary. For example, they suggest that the first stage of formal dispute settlement procedures -- bilateral consultations -- are one existing forum in which Members could solve problems resulting from NTBs.

*The members of the NAMA-11 are Argentina, Brazil, Egypt, India, Indonesia, Namibia, the Philippines, South Africa, Tunisia, and Venezuela.

ICTSD reporting.

IN BRIEF

US-ECUADOR FTA TALKS ON HOLD AFTER ECUADOR CANCELS OCCIDENTAL CONTRACT

The Bush administration has frozen free trade agreement (FTA) negotiations with Ecuador, following the Andean nation's 15 May decision to void its contract with US-based Occidental Petroleum Corporation, the latest development in a longstanding dispute. The Ecuadorean government insists that Occidental violated its contract by transferring part of an oil field to another company without proper authorisation, and has described the US move as 'blackmail.'

FTA negotiations between the two countries had long been faltering over issues including agriculture, intellectual property rights, and investment disputes between the Ecuadorean government and US companies, including Occidental (see BRIDGES Weekly, 29 March 2006, <http://www.ictsd.org/weekly/06-03-29/inbrief.htm#2>).

The US concluded FTA talks with Colombia in February, and formally signed another such pact with Peru in April.

Ecuadorean officials indicate that they have initiated steps to take over Occidental's operations in the country, but emphasise that they have no intention of nationalising the oil industry. Although outgoing US Trade Representative Rob Portman denied on 17 May that Washington had completely ruled out the possibility of seeking an FTA with Ecuador, he said "it's difficult to engage while they are taking certain actions with regard to legitimate US investment." No date has been set for future talks. Ecuador's head trade negotiator said that the termination of Occidental's contract would make it "impossible to re-establish the negotiations."

In April, the Ecuadorean government passed a new law to increase its share of windfall oil profits resulting from high oil prices. Many of the foreign oil companies in Ecuador negotiated their original contracts during the 1990s, when crude oil prices were much lower.

Ecuador's decision came two weeks after Bolivian President Evo Morales moved to nationalise his country's natural gas sector, giving foreign companies six months to renegotiate contracts and revenue-sharing agreements, or face expropriation.

Late on 17 May, Occidental announced that it would sue the Ecuadorean government under the US-Ecuador bilateral investment treaty.

ICTSD reporting; "US Halts Ecuador Talks as Occidental Field Seized," BLOOMBERG, 17 May 2006; "US door not shut on Ecuador trade deal: Portman," REUTERS, 17 May 2006; "Ecuador moves against US oil giant," REUTERS, 16 May 2006; "Ecuador not planning oil nationalization," ASSOCIATED PRESS, 16 May 2006; "Ecuador moves against Occidental Petroleum contract and assets," INVESTMENT TREATY NEWS, 16 May 2006; "Occidental files arbitration claim against Ecuador," REUTERS, 17 May 2006.

WTO IN BRIEF

G-33 CRITICISES FALCONER'S SP PAPER; DEVELOPING COUNTRY GROUPS REITERATE IMPORTANCE OF SP/SSM

In an 11 May submission, the G-33 group of developing countries described the WTO agriculture chair's criticism of the market access flexibilities they seek as being "contrary to the spirit of the Doha mandate, the provisions of the July Framework, and the Hong Kong Declaration." The same day, the G-33 also circulated a statement jointly with the African Group, the African,

Caribbean and Pacific (ACP) Group and the Least-Developed Country (LDC) Group, underlining the importance of 'special products' (SPs) and the Special Safeguard Mechanism (SSM) to their development goals.

Developing countries are to be allowed to designate SPs for more lenient tariff treatment based on food security, livelihood security and rural development concerns; the SSM is intended to allow them to afford farmers some protection from import surges. Developed and developing country farm exporters have presented proposals seeking to limit the scope of both (see BRIDGES Weekly, 3 May 2006, <http://www.ictsd.org/weekly/06-05-03/story1.htm>).

The G-33 submission was particularly critical Chair Ambassador Crawford Falconer's 4 May 'reference paper' on SPs. In it, the chair argued that the 20 percent of tariff lines that the G-33 seeks to designate for SP status would allow developing countries to shield an inappropriately high percentage of farm imports from Doha Round tariff cuts -- as much as 98.4 percent of import value in one case. The G-33 argued that involving these market access considerations overstepped the negotiating mandate, and that Falconer should have asked the Secretariat to assess the impact that recent proposals would have on "the mandated criteria of food security, livelihood security and rural development needs."

The joint paper from the G-33, African, ACP, and LDC Groups reiterated the importance of the mandate, and also criticised some exporters for seeking to apply market access considerations to SPs and the SSM. The groups emphasised that any final package would need to address their concerns in order to receive their support.

ICTSD reporting.

DSB ESTABLISHES ANOTHER PANEL IN AIRBUS-BOEING DISPUTE

On 9 May the WTO Dispute Settlement Body (DSB) established a second panel to investigate the US' claim (WT/DS316/6) that EU member governments are providing additional kinds of illegal subsidies to Airbus, the civil aircraft manufacturer. The US claims that so-called 'launch aid' grants, debt forgiveness, and other financial contributions violate the General Agreement on Tariffs and Trade (GATT) and the Agreement on Subsidies and Countervailing Measures (SCM).

The new panel comes in addition to an one established in July 2005 to examine a different set of disputed subsidies (see BRIDGES Weekly, 27 July 2005, <http://www.ictsd.org/weekly/05-07-27/story4.htm>). WTO rules prevented the EU from vetoing the panel's creation a second time, as it did in response to the US' initial request at the 21 April DSB meeting.

In April, the US had also asked for the effective merger of the new panel with the previous one. The EU refused, arguing that working procedures had already been established for the original panel, and that the scope of the second request was substantially broader.

The WTO has already established two separate panels to examine the EU's parallel allegations that the US is illegally subsidising Boeing. With regard to the panel examining its second set of claims, the EU has repeatedly sought the initiation of an information gathering process that would allow for government grants to private companies to be examined in order to determine whether 'serious prejudice' has been caused to any other Members' interest. The US has rejected the launch of these so-called 'Annex V' procedures under the SCM Agreement, arguing that the grants in question were not within the WTO's current mandate.

Some suggest that the disputing parties might best pursue their objectives through a procedural agreement, under which the EU would agree to the merger of the two panels, and the US to the Annex V procedure. However, reaching such an accord would present challenges of its own.

ICTSD reporting; "EU eyes new talks on Boeing, Airbus," CNN.MONEY.COM, 3 May 2006; "Boeing optimistic on aid dispute," BBC NEWS, 3 May 2006.

FINAL WTO BIOTECH PANEL REPORT MAINTAINS VERDICT AGAINST EU

A WTO dispute panel on 10 May issued its final ruling on the complaint brought by the US, Canada and Argentina against what they alleged was an EU moratorium on the approval of new biotech products.

The substance of the report, which remains confidential and was only released to the parties to the dispute, remained unchanged from the 7 February interim ruling, according to one trade diplomat (see BRIDGES Weekly, 8 February 2006, <http://www.ictsd.org/weekly/06-02-08/story1.htm>). That ruling said that the EU had indeed applied a general 'de facto' moratorium on approvals of biotech products between June 1999 and August 2003 which "resulted in a failure to complete individual procedures without undue delay," thereby violating the WTO Agreement on

the Application of Sanitary and Phytosanitary Measures (SPS).

The interim ruling also found that that 'safeguard measures' in the form of national bans on the marketing and import of EU-approved biotech products in France, Germany, Austria, Italy, Luxembourg and Greece were WTO-incompliant, since the EU's scientific committee had already judged the products to be safe and the countries had not performed supplementary risk assessments to justify the bans.

The European Commission was quick to note that the ruling does not affect the EU's current biotech regulatory framework because the six-year moratorium ended in 2004. "Nothing in this panel report will compel us to change that framework," said Peter Power, European Commission spokesman on trade. Analysts have suggested the ruling's demand for national bans to be justified by a risk assessment, however, could have impacts on the six EU member states that currently have such bans in place. The report, which could be appealed, is scheduled to be released to the public within six weeks, although sources have suggested that this might not happen before September.

ICTSD reporting; "Right to Remain GE-Free Overrides WTO Ruling," GREENPEACE, 10 May 2006; "WTO confirms ruling against EU GMO moratorium," REUTERS, 11 May 2006; "WTO faults EU for blocking modified food," ASSOCIATED PRESS, 11 April 2006.

EVENTS & RESOURCES

EVENTS

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

Upcoming Events: 18-24 May

19-20 May, Shirakawa, Japan: BUSINESS FORUM ON SCIENCE AND TECHNOLOGY FOR SUSTAINABLE DEVELOPMENT. This invitation-only forum is organised by the World Sustainable Development Forum (WSDF), which was created by the Energy Research Institute (TERI). The gathering will discuss the role of science and technology and the need to bridge the divide between developed and developing countries in this field. For more information contact Annapurna Vancheswaran, TERI; tel: (+91) 11-2468-

2100 (Ext. 2509); e-mail: avanche@teri.res.in; internet: <http://static.teriin.org/dsds/2006/wsdfbrochure.pdf>.

22-23 May, Paris, France: OECD FORUM 2006: BALANCING GLOBALISATION. This "multi-stakeholder summit," organised by the Organisation for Economic Co-operation and Development (OECD), will bring together business and labour leaders, civil society representatives, government ministers and leaders of international organisations to discuss the key issues of the 21st century. The agenda includes themes such as solving global economic imbalances, optimising the contribution of financial markets to economic growth, and ensuring that trade and investment are effective and ethical motors for development. For further information contact John West, tel: (+33) 01-45-24-80-25; fax: (+33) 01-44-30-63-46; e-mail: oe.cd.forum@oe.cd.org; internet: http://www.oecd.org/site/0,2865,en_21571361_358420_76_1_1_1_1,00.html.

WTO Events

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

19 May: TRADE POLICY REVIEW BODY - URUGUAY

22-23 May: DISPUTE SETTLEMENT BODY - SPECIAL SESSION

24 May: COUNCIL FOR TRADE IN SERVICES - SPECIAL SESSION

24 May: WORKING GROUP ON TRADE, DEBT AND FINANCE

Other Upcoming Events

30 May, Geneva, Switzerland: DIALOGUE ON THE MEXICO SOFT DRINKS DISPUTE: IMPLICATIONS FOR REGIONALISM AND FOR TRADE AND SUSTAINABLE DEVELOPMENT. Organised by the International Centre for Trade and Sustainable Development (ICTSD), this meeting will focus on the jurisdictional issues raised by the ruling, the potential implications for regional trade agreements, and the systemic implications of the Appellate Body's interpretation of GATT Article XX(d). Given the limited seating, kindly confirm your availability to Knirrie

Sogaard, e-mail: ksogaard@ictsd.ch; fax: +41 22 917 80 93. The agenda is available at: http://www.ictsd.org/issarea/dsu/dialogue%20materials/Mexico_Soft_Drinks_dialogue_programme.pdf.

26 June - 14 July, Beirut, Lebanon: TRAINING COURSE ON KEY ISSUES ON THE INTERNATIONAL ECONOMIC AGENDA. This course, organised by the UN Conference on Trade and Development (UNCTAD) and the United Nations Economic and Social Commission for Western Asia, will focus on the links between trade, investment and development, especially in the context of the current multilateral trade negotiations. The course is aimed at senior government officers who are involved in the formulation and implementation of national trade and development policies. Academics from research institutions and universities active in international economic issues are also encouraged to apply. For further information contact UNCTAD, e-mail: mohan.panicker@unctad.org, internet:

<http://www.unctad.org/Templates/Meeting.asp?intItemID=2068&lang=1&m=11728&year=2006&month=5>.

8-12 October, Gothenburg, Sweden: 40TH WORLD INTELLECTUAL PROPERTY CONGRESS. This meeting is organised by the Canadian Group of the International Association for Protection of Intellectual Property (AIPPI). For further information contact AIPPI, <http://www.aippicanada.org/>.

RESOURCES

GLOBAL MONITORING REPORT 2006. By Mark Sundberg et al. World Bank and the International Monetary Fund (IMF), April 2006. The third annual Global Monitoring Report on the Millennium Development Goals (MDGs) examines the progress made towards meeting the MDGs. The report focuses on poverty and malnutrition, human development outcomes, commitments on aid, trade and debt relief, the performance of international financial institutions, and governance issues. It concludes that in spite of significant progress in some countries, the world is still far from achieving the MDGs. In particular, it notes that many countries in Africa and South Asia are not on track to meet their goals. It highlights the need for a far greater effort to implement the vision of global action and mutual accountability to achieve the results envisaged at the Monterrey Summit on financing for development in 2002. The report places special emphasis on the importance of good governance to strengthen accountability for resource use and for

development outcomes. It argues that donors and international finance institutions should strengthen their own anticorruption controls (including through action against suppliers engaging in bribery and corruption). The report also calls for increased transparency and technical assistance and funding to encourage good governance, rather than fragmenting and depleting already weak country systems. For further information go to <http://web.worldbank.org/external/default/main?menuPK=2186472&pagePK=64218926&piPK=64218953&theSitePK=2186432>.

POWER IN GLOBAL VALUE CHAINS: IMPLICATIONS FOR EMPLOYMENT AND LIVELIHOODS IN CASHEW NUT INDUSTRY IN INDIA. By K.N. Harilal, Nazneen Kanji, J. Jeyaranjan, Mridul Eapen and Padmini Swaminathan, the International Institute for the Environment and Development (IIED), March 2006. Power in Global Value Chains: Implications for Employment and Livelihoods in the Cashew Nut Industry in India explores the impacts of an expanding global market for cashew nuts on the livelihoods of women workers in the cashew processing industry. This report shows that a power imbalance between intensely competing producers and relatively few buyers in the global market place gives large retailers, the supermarkets, the upper hand over their supply chains. Supermarkets are increasingly able to dictate the terms on which business is done and how the cashew is produced, as well as to capture most of the revenue generated along the chain. Our survey of the women workers who process the cashew nuts shows clearly that such work, while essential for survival, does not provide enough income to raise households out of poverty. The increasing informalisation of employment in the sector creates insecure and hazardous working conditions. This research is a good example of how international trade too often fails to provide the kind of economic growth which will foster secure and equitable employment and enable the working poor to escape from poverty. Available online at <http://www.iied.org/pubs/pdf/full/14514IIED.pdf>.

THE EU'S RESPONSIBILITY AT THE WTO: ENVIRONMENT, GENDER AND DEVELOPMENT. By Women in Development Europe and Friends of the Earth Europe, 2006. This publication aims to contribute to a constructive dialogue between civil society representatives from the North and the South and representatives from the EU that could contribute to an EU trade policy consistent with social and gender justice and environmental sustainability. The first part reports on the public hearing, entitled "The EU's responsibility at the WTO: Environment, gender and development," highlighting issues such as the commodification of natural resources under the WTO, the importance of people's food sovereignty, the gender

dimension of the trade agenda, and biosafety. The second part consists of an analysis of the outcome of the Hong Kong Ministerial meeting from a feminist and environmentalist perspective. Available online at <http://www.eurosur.org/wide/Globalisation/WTO06.pdf>.

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