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## Facts and Figures

- Patent applications by residents and non-residents in least-developed countries (LDCs) declined from 179 in 1990 to 24 in 2004.
- Even in peak years, applications by non-residents far outstripped those by residents, with the ratio varying from 260 to 110 in 1995, and 117 to 13 in 2000. In the year 2001, non-residents applied for 372 patents while residents submitted just 7 applications.
- The low level of patenting activity in LDCs mirrors their levels of spending on research and development. Most recent available data shows that gross domestic expenditure on R&D in Burkina Faso amounted to 0.17 percent of GDP and to 0.0064 percent for Lesotho. In Nepal and Bangladesh the corresponding figures were 0.67 percent and 0.6 percent. In comparison, China spent 1.3 percent of its GDP on R&D and Brazil 0.98 percent.

Source: *The Least-developed Countries Report 2007*. UNCTAD, 19 July 2007

## And Now for the Real Crunch?

Trade diplomats face yet another 'crunch time' in September, when intense negotiations are expected to take place on both agriculture and non-agricultural market access at the WTO.

Discussions will be based on the draft modalities for concluding the Doha Round that were released on 17 July by the chairs of the agriculture and industrial tariff negotiations. Although the numbers suggested for subsidy and tariff cuts have provoked criticism and even outright rejection from some quarters, both chairs stressed that Members would have to change long-held positions, and that the papers would be revised following the weeks of negotiations ahead. The relatively narrow ranges proposed for tariff and subsidy cuts could make it easier for countries to assess potential effects and tradeoffs, and many Member governments have spent much of the WTO's summer recess in analysing the two drafts in detail.

Members' initial comments after the release of the texts hint at the flavour of things to come.

### Agriculture Text Could Serve as Basis for Negotiations

The agriculture draft proposed that the US cut its overall trade-distorting farm support (OTDS) spending limit to US\$13 billion or US\$16.4 billion. While even the lower end of the range remains above the US\$11 billion the United States is estimated to have spent in recent years, both figures would be lower than the US\$22.5 billion ceiling the country has tabled formally, as well as the US\$17 billion figure it has broached unofficially. The G-20 coalition of developing countries insisted in July that the US must accept a figure in the 'very low teens', but chief US agriculture negotiator Joe Glauber said this was 'out of the question'. US Ambassador Peter Allgeier stressed that, in any case, more far-reaching concessions on domestic subsidies would depend upon securing 'significant real increases' in market access. Ambassador Allgeier also criticised the inclusion of steeper cuts in the most trade-distorting support for cotton in the draft modalities paper as premature. The text proposed that Amber Box subsidies for cotton be slashed by over 80 percent even if the standard percentage was substantially lower.

On the offensive front, the US complained that the draft was lopsided, with 'highly developed' language proposed on domestic subsidy cuts and much less precision on market access. The negotiations in September, Ambassador Allgeier said, should prioritise work on tariff caps (not mentioned in the draft modalities); the Special Products that developing countries will be allowed to protect from future disciplines in order to safeguard the livelihoods and food security of their farmers, and their rural development concerns more generally; the Special Safeguard Mechanism that is to be established for the use of developing countries; and the treatment of 'sensitive' agricultural products.

The Cairns Group and several developing countries also focused on the 'sensitive' products that all Members will be able to shield from the full force of tariff reduction, although more market access must be provided through expanded import quotas. The G-20 said that the 4 or 6 percent of tariff lines eligible for designation as 'sensitive' by developed countries were too many, and that the permitted deviation from standard tariff reduction obligations was 'excessive'. Like the US, the developing country alliance called for a cap on all farm tariffs.

In contrast, the G-10 group of countries with heavily protected farm sectors, such as Japan and Switzerland, argued that the draft text's market-opening requirements already went too far.

*Continued on page 2*

# Bridges

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The EU and Japan stated that they would need to be offered substantial tariff reductions in the negotiations on non-agricultural market access in order to contemplate the steep farm subsidy reductions set out for them in the paper (a 75 or 85 percent OTDS cut for the EU, 70.5 or 79 percent for Japan). The G-20 said both options would still leave them with 'considerable amounts of water' between real spending levels and their bound ceiling amounts.

The EU and Switzerland also stressed that the extension of strong protection to geographical indications for food stuffs was a political 'must have' for them. The question was not addressed in the chair's draft due to the continued deadlock between the positions of 'old world' and 'new world' countries on the issue.

EU Trade Commissioner Peter Mandelson told ministers from the Union's member states on 23 July that the agriculture text presented them "with a manageable situation within our red lines, if we can reach a mid-point outcome in the range tabled for cuts." In Geneva the following day, however, top EU agriculture negotiator Jean-Luc Demarty said that parts of the paper had already overstepped some of those red lines.

The G-20 and G-30, which have a partially overlapping developing country membership, called for filling in the gaps in areas left vague in the draft, including Special Products, the Special Safeguard Mechanism and the liberalisation of trade in tropical products. The G-33 expressed disappointment that the chair had not provided modalities for Special Products, and reiterated its position that at least some of those products should be exempt from any tariff cuts. For more details on the paper, see page 6.

### NAMA Draft More Controversial than Agriculture

While the agriculture negotiations have dominated the Doha Round talks since their inception, reaching consensus on non-agricultural market (NAMA) access may prove even more difficult. Two issues of principle stood out in Members' initial comments on the draft modalities proposed by chair Don Stephenson. One was the question of balance in the level of ambition between the proposals for liberalising trade in agricultural and industrial goods. The other revolved around the principle of 'less than full reciprocity' in developing countries' industrial market access commitments. Many developing countries contended that the proposed NAMA text would turn this principle on its head by requiring them to make steeper tariff cuts than developed countries.

These views were particularly strongly expressed by the NAMA-11 group of developing countries, which includes Argentina, Brazil and India. Speaking on behalf of the group, South Africa said the text 'preclude[d] any real negotiation' instead of prompting it. Argentina said the tariff reductions proposed for developing countries would be unacceptable at any point in the Doha Round negotiations. The NAMA-11 stressed that one of the cornerstones of the round's development mandate was that the depth of reform to developed countries' trade-distorting agricultural practices should serve as the baseline for the extent of liberalisation in other areas of the negotiations. Some developing nations, including Mexico, Malaysia, and Costa Rica, said that the paper struck an appropriate balance.

The group of small and vulnerable economies, as well as 12 non-LDC countries with low levels of bound tariffs, complained that the flexibilities proposed for them were insufficient, while China insisted that additional flexibilities would be necessary for recently acceded Members to compensate for the wide-ranging tariff cuts they had to make when joining the WTO.

US Ambassador Peter Allgeier, on the other hand, said that the proposed modalities would not provide the 'magnitude of real new market access' from developing countries that Washington was seeking. The EU went even further, suggesting that the text was biased in favour of the 30-odd developing countries that would have to apply the standard tariff reduction formula. Chair Stephenson, however, said that he would be surprised if Members managed to find consensus on a set of numbers very far from those he had proposed. For further details on the NAMA draft, see page 7.

# Building a Development-friendly World Trading System

Nagesh Kumar

Although they are weaker partners in international trade than the major industrial powers, developing countries have an important stake in the multilateral rules-based trading system. The challenge before them is to make it serve their needs better.

The process of rule-making in the WTO has been dominated by a handful of industrialised nations that have conventionally set the agenda of multilateral trade negotiations in a manner that not only disregards developing countries' genuine concerns, but also actively impairs their ability to implement development policy. Although the Doha Round was launched with the promise of placing the concerns of poor countries at the heart of the process, development is barely visible in the ongoing negotiations or the modalities under discussion. Instead, developing countries are being pushed to accept commitments to provide market access in agriculture and non-agricultural products on a more than full reciprocity basis. There has been little – if any – progress on issues such as making special and differential treatment for developing countries more 'precise, operational and effective'.

Following are some specific proposals for how to build a more sustainable and development-friendly world trading system. The current impasse in the Doha Round talks should be seen as an opportunity for developing countries to work on building consensus within their ranks, so that agreed-upon development issues can be effectively brought to the table at the appropriate occasion.

## Systemic Reforms Necessary

In order to arrive at 'consensus', powerful WTO Members sometimes push poorer states to accept the developed-country position by resorting to aggressive, or even coercive, tactics. To put an end to such bullying, the WTO should adopt a more democratic and participatory system of decision-making based on secret voting and decision by majority. Moreover, draft ministerial texts should contain proposals made by all Members, not simply those of developed countries, and all negotiating texts and drafts should be introduced in open-ended meetings. To compensate for the fact that developing countries usually have smaller negotiating teams than their developed-country counterparts, late-night meetings and marathon sessions should be avoided whenever possible.

## Strengthening Special and Differential Treatment

The objective of special and differential treatment (SDT) provisions should be to retrieve the development policy space squeezed by different WTO agreements. SDT will need to be part of a broader approach that recognises the fundamental interests of developing countries in the trading system to seek fair trade, capacity-building, balanced rules and good governance in WTO. Aid and technical assistance for developing countries should be provided without any conditions and should not be a substitute for SDT.

One of the ways of compensating developing countries for the adverse effects of the strengthened IPR regime is to provide

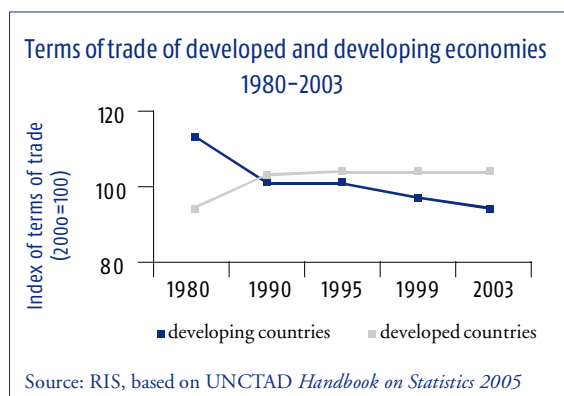
increased technical assistance and international research and development funding to developing country enterprises to help them build local capabilities out of TRIPs dividends. A development-friendly outcome of the Doha Round could also provide flexibility from the TRIPS and TRIMS obligations for transfer of technology to developing countries.

## Policy Lessons for Negotiations in Specific Areas

Agreement on Agriculture: A development-friendly outcome of the Doha Round in agriculture would establish ad valorem tariffs as the main instrument of protection for agricultural goods, within an agreed-upon timeframe, as well as a reduction in these tariffs so as to bring trade in agriculture in line with trade in industrial goods. This general goal should be adhered to subject to the food security, livelihood security and developmental role and large size of the agricultural economy in several developing countries with special consideration for the needs of least-developed countries (LDCs) and of small farmers. The reductions on domestic support should apply to existing levels of support rather than the levels bound at the WTO to achieve meaningful reductions and disciplines. There should be product-specific ceilings based on an agreed upon criterion such as percent of output but not the historical levels. Green Box payments, such as direct income support, insurance against income loss and investment should be permissible only for individual farmers earning an income below a specified level. Such support should exclude wealthy farmers and corporations.

Large cuts in bound rates are required to bring about any improvement in market access given the binding overhang in agricultural tariffs. Tariff peaks applicable to agricultural products should be subjected to caps of no more than twice the average tariff. Sensitive products should be restricted to no more than 1 percent in case of developed countries. In view of the development and poverty implications of agriculture in a large number of developing countries, developing countries should be able to designate an appropriate number of products as Special Products exempted from reduction commitments. An effective Special Safeguard Mechanism (SSM) applicable to all products should be established for use by developing countries.

*Continued on page 4*



Furthermore, developing countries should be free to use trade defence measures such as countervailing duties against dumped subsidised agricultural products. The WTO Agreement on Sanitary and Phytosanitary Measures should be reviewed with a view to obtaining universal application of international food safety standards evolved by the Codex Commission (see box on page 5).

**Non-agricultural Market Access:** A development-friendly outcome of the round would address tariff peaks in developed countries while leaving considerable flexibility for developing countries to employ tariff policy to develop their industries to create jobs and fight poverty and hunger. Such an approach could involve leveling developed-country tariff peaks that apply to products of export interest to developing countries and LDCs. The tariff reduction modalities should ensure the principle of less-than-full-reciprocity in market access provided by developing countries.

The way forward is to determine the extent of reduction by developed and developing countries and work backward to get a formula. An alternative is to use the average tariff rates of the country as the coefficient for applying the formula. Developing countries should also have the flexibility to identify an appropriate number of their tariff lines as sensitive and exempt these from formula cuts. Sectoral approaches for tariff reduction may focus on products of export interest to developing countries, with developing countries reducing their own tariffs to a level they are comfortable with in accordance with the principle on less-than-full-reciprocity.

In view of growing evidence that the flexibilities available in the WTO agree-

ments on sanitary and phyto-sanitary measures (SPS) and technical barriers to trade (TBT) are being exploited for protectionist ends, developing countries should seek a review of both treaties to obtain a universal application of international norms such as Codex standards. Countries could adopt higher standards only with a legally binding commitment to financially compensate the affected developing countries.

**Trade in Services:** A development-oriented outcome of the Doha Round in the trade in services should focus on curbing the protectionist tendencies on Mode 1, as observed on outsourcing in a number of developed countries. Developed countries should also agree to make substantially improved offers under Mode 4 independent of inter-corporate movement of natural persons. They should also bring down limitations and other barriers to movement of natural persons to allow efficiency and welfare gains to be reaped. Besides, a significant liberalisation of movement of natural persons has the potential for increasing the development balance of the Doha Round.

**Trade Facilitation:** In the area of trade facilitation, there is an urgent need to check the tendency of some developed countries to expand the scope of current negotiations beyond the listed contents of the three Articles. Moreover, special and differential treatment provisions in trade facilitation need to extend beyond the granting of traditional transition periods for the implementation of commitments. In particular, the extent and the timing of entering into commitments should be related to the implementation capacities of developing and least-developed Members. To enable the integration of experiences among neighbouring states, the Doha Round should encourage regional co-operation on trade facilitation – especially among developing countries – by involving regional organisations, such as ECOWAS, SAARC and ASEAN, as observers in the negotiations.

**TRIPS and Biodiversity:** In light of the ongoing resistance to key developing-country demands regarding both prior informed consent (PIC), as well as access and benefit-sharing (ABS), it is important for Member states to develop a strategic response that covers both international mechanisms and national policy initiatives. The spirit of the Convention on Biological Diversity may be incorporated in TRIPS and also in the bilateral trade agreements. In addition, developing countries should provide substantial evidence to support their proactive positions on issues related to PIC, ABS and indigenous knowledge systems. The Doha Round should work to restrict the granting of overly broad patents. It should also build a consensus to put a moratorium on further strengthening of IPR regimes for at least the next two decades in multilateral, regional, or bilateral contexts.

**Dispute Settlement Understanding:** The current structure of the WTO's system of resolving disputes puts developing countries at a disadvantage. At present, the period between the start of a dispute and its final settlement can be as long as three years. This period is too long for complainant developing countries, as their capacity to absorb the adverse effects of measures taken against them is considerably low. This situation can be improved by making suitable amendments to the timeframe of the relevant provisions of Articles 4, 5, 6 and 12 of the DSU, especially with regard to complaints brought by a developing country against a developed country.

Developing countries that are dependent on a limited number of export products and markets may suffer heavy trade losses during the course of a dispute regarding a measure taken against them by a developed country. The damage is not limited to foregone exports; the market may be permanently lost to competitors and substitute products. To redress this situation, Article 22 (Compensation and the Suspension of Concessions) of the DSU should be extended to provide for compensation for the loss suffered by a complainant developing country during the pendency of a complaint against a developed country.

Finally, it is important to ensure that the costs associated with using the dispute settlement process do not act as barriers for gaining access to the process. At present, given their limited resources, hardly any developing country is in a position to take retaliatory action against a

To put an end to developed country bullying, the WTO should adopt a more democratic and participatory system of decision-making based on secret voting and decision by majority. Special and differential treatment will need to be part of a broader approach that recognises the fundamental interests of developing countries in the trading system to seek fair trade, capacity-building, balanced rules and good governance in WTO.



developed country, even if it is authorised to do so by the DSB. This seriously limits the implementation of the DSU rulings. The Doha Round should thus seek to ensure the provision of adequate legal assistance to both the complainant and the defendant developing countries by strengthening and expanding the coverage of Article 27.2 of the DSU.

### Renewed Push for South-South Co-operation

Greater economic co-operation among developing countries can go a long way toward enhancing developing countries' bargaining power in multilateral negotiations. Given that the process of decision-making in the multilateral trade negotiations is highly asymmetric, non-inclusive and non-transparent, developing countries must find ways to band together in support of their mutual interests. In the Doha Round, developing countries have strengthened their participation in international trade talks through issue-based coalitions such as the G-20, and G-33 as well as the G-90. The success of these coalitions was evident in their ability to get three (investment, competition policy, and government procurement) of the four Singapore issues dropped off the negotiating agenda of the Doha Round.

More proactive South-South co-operation would be crucial in making the world trading system more responsive to the needs of the developing countries, especially the least-developed countries. As a first step towards greater co-operation, developing countries could set up a Consultative Group to establish a set of comprehensive proposals for ways that the decision-making process within the trading system might be made more equitable and transparent.

Developing countries have undertaken substantial commitments under different WTO agreements, yet they often lack the capacity and resources to implement those commitments. In addition, the proliferation of non-tariff barriers in the form of enhanced environmental and health-safety requirements in the developed countries are affecting a substantial proportion of developing country exports. The technical assistance promised under the SPS and TBT agreements has often proved to be both inadequate and ill-timed. Thus, developing countries should set up a trust fund for assisting Member countries in their compliance with WTO obligations. Such a fund could be augmented by contributions from developed countries and multilateral bodies in the interest of promoting a fair world trade system.

### Promotion of South-South Trade and Investments

A broader and deeper approach to trade liberalisation within the South could further serve to promote the economic interests of developing countries. To achieve this, the ongoing third round of the Global System of Trade Preferences among developing countries (GSTP) negotiations could be transformed by adopting a negative list approach, whereby developing countries would offer concessions to other developing countries on an across-the-board basis, except for a small exclusion list of sensitive products. Also, since the agriculture sector in most developing countries sustains the livelihood of the bulk of the population, liberalisation of agricultural trade could be on a different track. The depth of concessions could be 50 percent of tariffs with eventual elimination subject to appropriate rules of origin. The least-developed countries could undertake tariff reduction of only 25 percent.

A successful outcome of the GSTP negotiations would depend not just on the extent of tariff concessions, but also on widespread participation of members of the G-77 and China. At present, of the 44 countries that have ratified the GSTP Agreement, only about 25 countries have been participating in the third round of negotiations, and just 13 countries have notified their products of export interest. The GSTP could also provide a framework for linking different regional trade agreements among developing countries and exchanging trade concessions to each on a reciprocal basis. In addition, the scope of the GSTP could be extended to cover trade in services, seeing as the service sector has emerged as the most dynamic sector in a number of Southern economies.

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### New Trade Barriers

The past few years have seen a proliferation of a variety of non-tariff barriers (NTBs) in developed countries. In particular, food and environmental safety standards are increasingly threatening a substantial proportion of developing country exports.

The WTO agreements on sanitary and phytosanitary measures (SPS), as well as technical barriers to trade (TBT), aim to ensure that such standards and regulations are not used for protectionist purposes or cause adverse impacts on trade. However, the flexibility in these agreements for WTO Members to impose their own regulations has been exploited by developed countries.

Very minute risk assessments are often used to impose high health or environmental standards. For instance, the adoption of a new aflatoxin standard in the European Union would reduce the health risk to approximately 1.4 deaths per billion a year while there are not a billion people in the whole of the EU.

Another problem is the wide variation in the standards adopted by importing countries, which follow different norms on aflatoxins and pesticide residues, thus increasing the compliance cost of exporting countries. Many of the environment-related standards are imposed in a less than transparent manner and are sometimes accompanied by other requirements, such as 'good manufacturing practice'.

It is clear that the cost of compliance is substantial and often beyond the means of many enterprises, particularly the smaller ones. Although the SPS and TBT agreements have provisions for technical assistance provided by developed countries for compliance, in practice such assistance has not been made available in a timely manner. Developing countries, including India, have therefore proposed mandatory provisions for technical assistance.

Source: Research and Information System for Developing Countries: *World Trade and Development Report 2007*.

## Highlights of the Draft Modalities for Agriculture

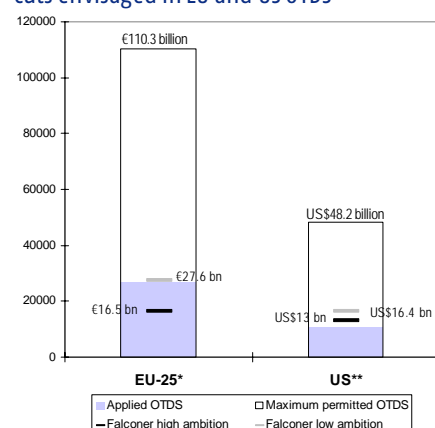
On 17 July, the chair of the Doha Round agriculture negotiations circulated a draft text to the WTO membership aimed at galvanising shifts in countries' bargaining positions by proposing a "compromise that no Member can quite bring itself to articulate."

The text sets out two potential levels of ambition for reducing WTO Members' overall trade-distorting support (OTDS). The EU's current spending ceiling would be cut by 85 or 75 percent, and that of the US by 73 or 66 percent. Although the proposed cuts are greater than those offered by the two countries so far, both options are above the level currently applied by the US, and only the high ambition scenario might require the EU to reduce payments from the level projected for 2008 (see graph below).

Japan would cut OTDS by 79 or 70.5 percent, and other developed countries by 60 or 50 percent. Developing countries would as rule reduce their OTDS limit by a third less than developed countries.

The draft also spells out reductions for each of the components that make up a country's OTDS. For the Amber Box, which comprises the most trade-distorting support, the EU would cut its current ceiling by 70 percent (from €67.16 billion to €20.1 billion) and the US by 60 percent (from US\$19.1 billion to US\$7.6 billion). The ceiling would be lowered by 65 percent for developed countries whose Amber Box support exceeds 40 percent of the value of their agricultural production, while other developed countries would make a 45-percent cut. Developing countries would cut their Amber Box support by two-thirds of the normal cut.

Cuts envisaged in EU and US OTDS



\* EU: OTDS actual spending levels for 2008 are estimated to be €26 billion for EU-25, based on the Fischler CAP reform.

\*\* US: OTDS actual spending levels for 2006 are estimated to be US\$10.8 billion, based on trading partners' estimates.

Amber Box support for individual products must not exceed the average actual payments provided from 1995 to 2000, although the US may take into account the entire period from 1995 to 2004, when its payments were higher.

Of the relatively less distorting components of OTDS, developed countries' Blue Box spending would be capped at 2.5 percent of the value of production, while 'de minimis' entitlements would be reduced either to a similar level or 2 percent. Both would be subject to some rules aimed at preventing spending from being concentrated on a small number of products. Developing country cuts would again be a third smaller, with additional flexibilities to new Members, and an exemption for countries whose 'de minimis' support is predominantly for subsistence and resource-poor farmers, as well as those that are net food-importers.

### Tariff Cuts: More than EU, Less than US

Developed countries would slash farm tariffs higher than 75 percent by 66-73 percent, which is more than the 60 percent that Brussels has described as the most it could tolerate. Although the upper end of this range is close to what the G-20 wanted for industrialised countries, it is lower than the cuts sought by the US. Tariffs lower than 75 percent would be classified into three other bands, each slated for correspondingly gentler rates of reduction.

The two-thirds rule would generally apply to developing countries, although they would be allowed some adjustments to keep their average reductions below 36 or 40 percent. While the 36-percent average corresponds to the G-20's own proposal, the group would have to move up to 40 percent in order to get the higher subsidy cuts from the US. Additional flexibilities would be available to recently acceded Members, and small and vulnerable economies.

The text makes no mention of a cap on farm tariffs, a G-20 objective to which Japan and the other G-10 countries with heavily protected farm sectors are adamantly opposed.

### Flexibilities: Few Details on Special Products

Developed countries could ordinarily designate up to 4 or 6 percent of their tariff lines as 'sensitive', making them eligible for tariff cuts one- to two-thirds lower than that demanded by the formula in return for the creation of new import quotas. For developing countries, the figures for sensitive products would 5.3 or 8 percent.

For the smallest deviation, governments would create new tariff quotas equivalent to 3 or 5 percent of domestic consumption of the product in question. For the full two-thirds deviation from the formula, new market access opportunities would have to equal at least 4 or 6 percent of domestic consumption. If the country is already importing substantial quantities of a sensitive product, quota expansion requirements would be softened.

Due to insufficient progress, the text provides no specific details on the number or treatment of the Special Products that developing countries will be able to shield from tariff cuts to safeguard food and livelihood security and rural development concerns. Chair Falconer suggested that Members could work on the basis of a G-33 proposal to develop verifiable indicators for food and livelihood security and rural development, and possibly identify a minimum number of products that developing countries would be allowed to designate as 'special' irrespective of what the indicators yield.

Other issues on which the chair refrained from commenting in detail included the special safeguard mechanism (SSM), and the conflicting demands between Latin American countries seeking deep tariff cuts for tropical products and states fearing the erosion of the trade preferences they currently enjoy for the very same crops.

# Members Still Differ on the Meaning of Balance in NAMA

The draft modalities on non-agricultural market access circulated on 17 July have angered several influential developing countries in the NAMA-11 group, which maintain that the proposed tariff cuts would require greater efforts from developing than developed countries.

For the critics, it is all a question of balance. They claim that the text does not respect the principle of 'less than full reciprocity in reduction commitments' within the NAMA negotiations, and that the asymmetry of the proposed concessions in agriculture and industrial market access would have a negative impact on developing countries' competitiveness.

NAMA chair Donald Stephenson defended his draft by saying that Members had given him a mandate to "move the negotiations forward by proposing specific outcomes, not rehearsing everyone's position, and challenging all to compromise." Once the proposed modalities have been applied, he said, the EU and the US would have more than 90 percent of their duties below 5 percent, and their tariff peaks would be lowered to between 7 and 8.5 percent. For most of the developing countries that would apply the formula, the average bound tariff would be below 12 percent, and only 'a handful' would have averages above 15 percent.

## Proposed Coefficients Much Closer than Sought by NAMA-11

Import duties would be cut through the 'Swiss formula', which reduces high tariffs more steeply than lower ones. The coefficients, which determine a Member's future tariff cap, would be 8 or 9 for industrialised countries, and between 19 and 23 for developing countries.

A coefficient of 8 would cut the US' average bound tariff rate from 3.3 percent to 2.3 percent. More significantly for trade flows, it would sharply reduce tariffs on the handful of politically sensitive products that Washington has protected throughout half a century of liberalisation – often the very products, such as textiles, that developing countries export competitively. For instance, the highest industrial import tariff applied by the US is 55 percent, according to recent WTO data. A Swiss formula with a coefficient of 8 would slash this to about 7 percent. The EU's top rate would fall from 26 percent to 6.1 percent.

Developing countries would face larger percentage cuts to their bound tariff rates. Brazil's average bound tariff would fall from 30.8 percent to 11.75 percent with a coefficient of 19, and to 13.1 percent with a coefficient of 23. Its current average applied rate is 12.6 percent. The 30 coefficient it was seeking would have yielded a 15.2 percent average bound ceiling. According to calculations carried out by the WTO Secretariat last year, a coefficient of 20 would force reductions to duties currently levied on about half of Brazil's tariff lines; for India the figure would probably rise over 60 percent.

The US, the EU and other developed countries had pushed for coefficients of 10 and 15, arguing that this was necessary for 'real market access', by which they mean a substantial cut in applied tariffs rather than simply the bound ceiling rates that are the standard basis for WTO negotiations.

Brazil and India, in contrast, had sought a coefficient no lower than 30, complaining that industrialised countries' demands would require poor countries to make disproportionately deep cuts to their industrial tariffs. The NAMA-11 bloc, to which they belong together with other developing countries such as South Africa, Indonesia, and Argentina, has argued that coefficients as far apart as 10 and 35 would cut their own bound rates by close to 50 percent, and lead to roughly equivalent 25-percent cuts to the tariffs applied both by them and by rich countries (Bridges Year 11 No.4 page 6).

The figures in the text closely mirror a late-June 'possible middle ground solution' proposed by eight Latin American and Asian nations, in which they called for a developed country coefficient of 'less than 10' and one for developing countries 'between the upper teens and the low twenties'. The NAMA-11 gave the notion a cool response, particularly since most of paper's sponsors – Chile, Colombia, Costa Rica, Hong Kong, Mexico, Peru, Singapore and

Thailand – either have unusually low tariffs to begin with or enjoy duty-free trade with their principal trading partners due to bilateral agreements, and thus are less likely to worry about major dislocation as a result of the Doha Round.

## Flexibilities

Developing countries would be allowed to shield a limited proportion of their manufactured products from increased competition from imports. One option open to them is subjecting up to 10 percent of tariff lines to only half of the regular cut, so long as this does not affect more than a tenth of total manufactured imports. Alternatively, they could exclude 5 percent of tariff lines from cuts altogether, up to a maximum of 5 percent of import volume. Countries electing not to use either flexibility would be eligible for a coefficient three points higher than that agreed to for their peers.

Only 31 developing countries will apply the overall tariff reduction formula. Least-developed countries are exempt from reduction commitments. Different approaches would be used to determine the future tariff ceilings of small economies and countries with a high proportion of unbound tariff lines.

China and other recently acceded Members (RAMs) had asked to be granted a coefficient higher than other developing countries given the far-reaching liberalisation commitments they had to make in order to join the WTO. The text proposes that six RAMs be excused from further tariff reductions due to their very recent accession or economic circumstances, while those with NAMA trade accounting for less than 0.1 percent of the world total should be allowed smaller cuts. Others – including China – would only be granted extended implementation periods.

The NAMA chair said little about sector-specific liberalisation initiatives, suggesting simply that sectoral negotiations would need to be finished in time for Members to reflect them in their commitment schedules.

## Banana Update

The European Union now faces four separate WTO disputes – by Ecuador, Colombia, Panama and the US – on its revised banana import regime. Following the loss of a long-running WTO dispute in 1997, the EU was supposed to eliminate all quotas and establish a single tariff that would apply as of 1 January 2006 to all suppliers except those from the African, Caribbean and Pacific (ACP) Group of States. The new tariff was to be set at a level that would at least preserve the total market access previously enjoyed by most-favoured-nation (MFN) suppliers. When negotiations with trading partners failed, the EU unilaterally set the MFN tariff at €176/tonne, and established a 775,000 tonne duty-free import quota for ACP suppliers.

All complainants allege that the ACP import quota is WTO-inconsistent. The Latin American complainants also maintain that the new tariff is too high.

Compliance panels have already been established on Ecuador's and the United States' claims that the EU has not implemented WTO rulings adopted in 1997. Panelists were appointed on 15 June to hear Ecuador's complaint. Compliance panels should in principle complete their work within three months.

Meanwhile, the EU has reportedly proposed to lower the applied MFN tariff to €123 per tonne over five years provided that there are no more WTO disputes over its banana import regime. According to Reuters, the EU's favoured option would be to solve the problem in the context of the Doha Round negotiations. This would involve binding the tariff somewhere between €273 and €307, depending on the tariff bands and associated percentage cuts agreed in the agriculture negotiations. Without a Doha deal, the EU would bind the duty at €185. In either case, the applied rate would start at €170 per tonne and end at €123 five years later.

At the time of writing it was not clear whether the EU would maintain the controversial ACP quota.

## Brazil & US Square Off on Subsidies

Brazil has initiated dispute settlement proceedings against a broad range of US agricultural subsidies, as well as obtained a new, albeit preliminary, victory in the cotton case.

According to sources familiar with the ruling, a confidential report on the cotton dispute – handed to the governments of Brazil and the United States on 27 July – has found that measures taken by the US to implement earlier WTO rulings in the case are insufficient. Brazilian authorities said that the compliance panel had found that certain export credit programmes, counter-cyclical payments and marketing assistance loans needed further reform to ensure that these subsidies would not suppress world prices to the detriment of Brazilian exporters.

While declining to give any details, US officials expressed disappointment with the interim ruling, and House Agriculture Committee Chairman Collin Peterson has already indicated that the US is likely to appeal if the compliance panel's final report does not amend the findings. That report is expected by October, and will be circulated to the public about a month later.

In the Doha Round agriculture negotiations, the cotton case and new challenges by Canada and Brazil (see below) have pushed the US to step up efforts to obtain a new 'peace clause' that would shield most domestic subsidies from dispute settlement challenges. Many farm exporting countries, including Argentina, remain adamantly opposed to the proposal.

### Brazil Challenges US Subsidies

On 11 July, Brazil requested dispute settlement consultations with the United States, alleging that – with the exception of the year 2003 – the US had exceeded its US\$19.1 billion annual spending cap on the most trade-distorting (Amber Box) agricultural support between 2000-2005, as well as the US\$19.8 billion ceiling for 1999. Brazil's complaint noted that although the failure of the US to notify its agricultural support to the WTO since 2001 made it difficult to assess the precise extent and nature of its farm payments, available public information indicated that its spending exceeded commitments in 2002-2005. In 1999-2001, Brazil alleged that production flexibility contract payments, marketing loan assistance payments and some disaster relief programmes should have been counted as Amber Box support, which would have shown that the US had indeed exceeded its spending limit.

These allegations are similar to those made by Canada in June 2007 (Bridges Year 11 No.4 page 7), and the two countries are likely align their complaints so that a single panel can hear both. The Dispute Settlement Body may establish the panel in October.

### EU Appeal Expected in Retreaded Tyres Dispute

The European Union is poised to appeal the 12 June panel report on Brazil's import ban on retreaded and used tyres. Although the panel found Brazil at fault for implementing the ban in a discriminatory fashion, it ruled that the embargo in itself did not violate WTO rules because the health and environmental reasons leading to its imposition were covered by the exceptions listed in GATT Article XX (Bridges Year 11 No.4 page 7). The contents of the EU's appeal – to be officially notified on 3 September – were not yet public at the time of writing, but sources have conjectured that the European Commission might argue, *inter alia*, that the panel's interpretation of some of the Article XX exceptions was overly broad.

Meanwhile, Brazil is taking steps to eliminate the discriminatory element in the ban's application by halting the continued import of used tyres through injunctions granted by local courts. The Brazilian Solicitor-General has requested the Supreme Court to rule that such injunctions are illegal, thus closing the loophole that has allowed the domestic retreading industry to acquire large quantities of used tyres from abroad despite of the ban. While waiting for the ruling, Brazilian authorities have said they will vigorously oppose any new injunctions and will try to revoke existing ones on a case-to-case basis.



# Biofuels and the Wide World

Ronald Steenblik

Many cultures have aphorisms about ethyl alcohol, some extolling its virtues, others warning against its vices. So it seems natural that similarly conflicting views have arisen in debates over ethyl alcohol's more potent form, fuel ethanol.

At a recent ministerial-level International Conference on Biofuels, Peter Mandelson, the EU's trade commissioner, stated: "Europe should be open to accepting that we will import a large part of our biofuel resources. Even if it theoretically is possible, it is unlikely that our 10-percent target for biofuels in the EU's energy mix could be met without wider sourcing from imports." Backing him up was Sweden's minister for trade, Sten Tolgfors, who called for the "abolishment of tariffs on biofuels such as ethanol." But for every Peter Mandelson and Sten Tolgfors there are half a dozen agricultural ministers ready to shout "*non!*" to any such relaxation of trade barriers.

Despite the inability of most countries to drop tariffs on imported ethanol, biofuels have been heralded as the keys to unlock the negotiations on agriculture in the Doha Round of multilateral trade negotiations. Last September, at the WTO's Public Forum, Ted Turner, US media mogul and benefactor of the UN Foundation, hailed biofuels as ushering in a brave new world in which low commodity prices would be a thing of the past. He recommended that "Developed countries should agree to phase out tariffs and reduce their subsidies for food and fibre crops *and replace them with support for biofuels.*" (my emphasis)

US Ambassador to the EU, C. Boyden Gray, has expressed similar sentiments. "I am very confident that we are going to get a [Doha Round] deal," he told reporters in January. "This whole alternative energy revolution is taking hold. This will take the whole issue of agriculture off the table as a sticking point" between the US and the EU, Gray said.

The theory that, thanks to biofuels, the end of agricultural subsidies is nigh is appealing but untested. In private discussions with government officials, I have yet to find any who would admit that they have in fact changed their negotiating positions on agriculture in light of the current high prices for crops. Generally, either they regard the rise in commodity prices as temporary, or they know that commodities in their own countries will always be more costly to produce than imports.

Admittedly, that does not constitute a scientific survey. But it does suggest that a gap may exist between the wishful thinking of biofuel enthusiasts and the hard realities of trade negotiations.

Perhaps countries which rely more on subsidies than on tariffs to support their arable farmers may be under less pressure to hold the line on cuts in commodity payments. But taxpayers should not break out the champagne just yet. Witness the version of the Farm Bill passed in July by the U.S. House of Representatives: despite hopes that high commodity prices would enable reforms, lawmakers voted overwhelmingly to preserve the status quo.

Consider also that the United States' proposed new renewable fuels mandate – 36 billion gallons (136 billion litres) per year by 2022 – would imply tax-credit subsidies to blenders of biofuels of US\$13-14 billion per year by 2014. Combining these with annual government expenditure on farm programmes of US\$12 billion (assuming they continue at the same rate as expected in 2007), the total of the two from then on would exceed what was paid out during the peak year of 2005. Thus farm payments may have settled at a lower plateau, but they could be more than offset in the future by fast-rising biofuel subsidies.

Meanwhile, import duties on fuel ethanol – some countries' are over 50 percent on an *ad valorem* basis – remain stubbornly elevated. Some of the existing tariff and tariff-like barriers are scheduled to disappear within four years. The US' US\$0.54 per gallon (US\$0.143 per litre) "secondary duty" is due to expire in 2009. And Australia, which levies a A\$0.38143 (US\$0.335) per litre excise duty on both imported and domestically produced ethanol but provides an offset-

ting payment to domestic producers, is expected to end its discrimination against imported ethanol in 2011.

Policies can change, however. The US Congress has repeatedly extended the secondary duty on ethanol (first imposed in 1980), and is currently considering legislation that would prolong the tariff by several years. In Australia, the regime protecting ethanol, introduced in 2002, was initially supposed to last for only one year but has been extended twice.

Biodiesel (fatty acid methyl ester), because it is classified under the Harmonised System as a chemical, rather than as a processed agricultural product, typically attracts a low import tariff – 6.5 percent or less in most OECD countries.

But that does not keep this lubricious fuel from causing trade frictions. Earlier this year some clever biodiesel merchants were found to be benefiting from the US\$1 per gallon US federal tax credit paid to fuel blenders merely by mixing biodiesel with a small amount of petroleum diesel. They would then ship the fuel blend to Europe, where it fetches a much higher price than in the US, thanks to the exemption from excise tax it enjoys in many EU member states. 'Splash and dash', as the practise is called, has become such a problem that, earlier this year, the European Biodiesel Board lodged a formal complaint with the Commission to block such subsidised imports. Also unhappy with subsidising biodiesel exports, the US Congress is expected to close this loophole soon.

Such trade in biodiesel, in fact, is believed to be rather exceptional. The EU's strict technical standards for biodiesel effectively limit the market share of fatty-acid methyl esters derived from oils other than rapeseed. EU norms for iodine, for example, prevent significant imports of soy methyl ester or oil from the world's major soy producers, including Argentina and Brazil.

*Continued on page 10*

These issues are at least amenable to technical solutions. More significant – not only for trade in biofuels but for the whole trade-and-environment debate – are policies being developed by European countries, and the State of California, to apply sustainability standards to biofuels in order for them to qualify as contributing to renewable fuel standards, or for subsidies, or both.

As awareness of the environmental effects of producing biofuels and their feedstocks has spread, several countries and the European Commission have announced that they plan to establish standards for biofuels based on their lifecycle greenhouse gas (GHG) emissions and other criteria. Switzerland, which has passed a law set to take effect next year that would make conformity with minimum sustainability standards a criterion for benefiting from fuel-tax exemptions, will probably be first. Meanwhile, the UK has established a system for voluntary reporting as a prelude to introducing mandatory biofuel regulations. The Netherlands and Germany are investigating how they might implement sustainability standards for biofuels, and the European Commission has indicated that sustainability over the whole lifecycle of biofuels is a *sine qua non* for expanding ethanol and biodiesel use in the EU.

Given that most of the sustainability standards being proposed for biofuels relate to non-product-related processes and production methods (PPMs), it is difficult to imagine that any unilateral mandatory certification scheme (as would be required, for example, if imported biofuels were treated differently according to their estimated lifecycle GHG emissions) would be immune from challenge at the WTO. A considerable amount of effort is therefore being invested in initiatives, such as the recently formed Round Table on Sustainable Biofuels, to establish internationally agreed sustainability standards. The presumption is that these could form a legitimate basis for regulations applied by any or all importers.

A universal scheme could perhaps facilitate trade and improve the environmental performance of biofuels. Whether it could address sustainability issues arising from a displacement of crop production resulting from increased biofuel use is a question still begging for an answer.

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## Novartis Loses Patent Law Challenge

**The Madras High Court has upheld the constitutionality of India's restrictions on 'evergreening' pharmaceutical patents and declined to rule on the provisions' compliance with WTO rules.**

In 2006, the Indian Patent Office rejected a patent application for Glivec, a cancer drug manufactured by Swiss-based pharmaceutical giant Novartis, on the grounds that its subject matter was anticipated and obvious in the light of prior art, and the drug did not show sufficient enhancement of efficacy over the molecule imatinib, on which Glivec is based.

Section 3(d) of the Indian Patent Act prohibits the granting of patents to inventions involving "a new form of a known substance which does not result in the enhancement of the known efficacy of that substance." The provision was adopted in order to curb frivolous patent applications and to avoid unnecessary delays in introducing generic versions of brandname medicines to the market through the 'evergreening' of existing patents based on minor changes in a drug's composition or use.

Consequent to the Glivec patent rejection, Novartis filed a case with the Madras High Court in Chennai alleging that Section 3(d) was: (i) unconstitutional, and (ii) incompatible with the WTO Agreement on Trade-related Aspects of Intellectual Property Rights (Bridges Year 11 No.1, page 15). The company challenged Section 3(d) because the patent denial was based on its provisions. The High Court ruled on 6 August that Section 3(d) was not unconstitutional, vague or arbitrary as alleged by the complainant. Citing 'no jurisdiction to decide on the validity of the TRIPS Agreement', it declined to rule on whether the national law was compatible with the WTO treaty.

### Further Legal Action Unlikely, Novartis Pulls Investment Plans

Novartis deplored the verdict, but said it would not appeal the decision to the Indian Supreme Court. A WTO dispute brought by Switzerland – the only way to clarify the TRIPS-compatibility issue – is also unlikely. However, Novartis CEO Daniel Vasella told the Financial Times on 22 August that the company was shelving its investment plans in India. "This [ruling] is not an invitation to invest in Indian research and development, which we would have done. We will invest more in countries where we have protection," Mr Vasella said.

### Relief in Health Community

Archbishop Emeritus Desmond Tutu, one of the 420,000 signatories of a petition urging Novartis to drop the case, said the court's verdict reflected "what we know in our hearts – that our society's priority must be people's health, not extra profits from patents for rich corporations." Christophe Fournier, International President of Médecins sans Frontières called the decision "critical for us as doctors, who now feel confident that we will be able to continue to rely on India as a source of affordable medicines for our patients." The Secretary-General of the Indian Pharmaceutical Alliance, Dilip Shah, noted that the Philippines had "adopted a similar provision [to Section 3(d)] a few months ago, and more Asia-Pacific countries such as Malaysia, Bangladesh and Indonesia were waiting for this ruling to amend their patent law." He also predicted that at least 2,000 out of the 10,000-odd pending patent applications in India would be disqualified under Section 3(d).

### Glivec Patent Appeal Still Pending

Separately from the High Court challenge of Section 3(d), Novartis has appealed to the Indian Intellectual Property Appellate Board to grant a patent for Glivec. The company claims that Glivec's absorption rate by the body is 30 percent greater than that of the previous 'known substance', and that the new formulation of the drug is more stable under tropical conditions. Consideration of the appeal is currently suspended while the High Court deliberates on Novartis's petition to replace the board's technical member Dr Chandrashekan – former Controller-General of the Indian Patent Office, which denied the original patent request. The next hearing on the petition is set for 10 September.

# WHO Seeks to Strengthen Research on Neglected Diseases

The World Health Organisation has released a revised draft global strategy and plan of action for innovation on diseases that disproportionately affect developing countries.

The 41-page document is a conglomeration of ideas, compiled by the WHO Secretariat on the basis of a text developed by the Intergovernmental Working Group (IGWG) on Public Health, Innovation, and Intellectual Property in December and written comments submitted from 22 countries and regional groups. The strategy aims to “provide a medium-term framework for an enhanced sustainable basis for needs-driven, essential research and development relevant to diseases that disproportionately affect developing countries.” In spite of criticism that the document is vague and unfocused, several stakeholders called it ‘a reasonable place’ to start negotiations.

## Nuts and Bolts of the New Draft

The revised plan of action is structured around eight elements: prioritising research and development needs; promoting research and development; building and improving innovative capacity; transfer of technology; management of intellectual property; improving delivery and access; ensuring sustainable financing mechanisms, and; establishing monitoring and reporting systems. It leaves intact proposals from the previous draft, reorganises and simplifies some of the text, as well as incorporates many – though not all – suggestions by member states. The new draft also presents the plan of action in table format, linking specific actions to stakeholders, time frames and indicators of progress.

The document proposes a focus on 14 diseases, including diabetes, cardiovascular disease, cancer, HIV/AIDS, tuberculosis, chagas disease, dengue, leishmaniasis and malaria. One observer admitted that he was ‘confused’ about where the scope of diseases came from, particularly since it was not raised in the country submissions.

## Weaving It All Together

Where countries such as the US and Australia raised questions about including topics that are dealt with in other international fora, such as TRIPS-plus provisions in bilateral trade agreements, the draft softens the previous draft’s language by replacing “assure that bilateral trade agreements do not seek to incorporate ‘TRIPS-plus’ protection” with “promote bilateral trade agreements that do not incorporate ‘TRIPS-plus’ protection.” The plan of action names only governments as potential stakeholders in this regard.

As highlighted by several country submissions, the draft calls for greater collaboration between the WHO, the WTO and WIPO to strengthen education and training in the management of intellectual property. Sources at WIPO and the WTO have indicated that they are following the IGWG process and providing technical advice to the WHO upon request. However, they have indicated that the implementation of proposals that assign tasks to their organisations might require further reflection since both institutions have their own mandates and accountability structures.

At the same time, the revised text adds items suggested by countries, including Brazil’s proposal to assess the impact of data-exclusivity regulations. Where the Southeast Asian region called for the WHO to compile good practice and lessons on the implementation of TRIPS flexibilities, the new draft highlights the dissemination of best practices as a means of promoting legislation to apply TRIPS flexibilities.

The text does not change the element entitled ‘management of intellectual property’, which the US called ‘unclear’ and Brazil criticised for “mistakenly assum[ing] that the problems faced by developing countries [were] circumscribed to administrative concerns.”

Moreover, the draft leaves out several specific suggestions by countries such as the Southeast Asian region’s call for an ‘operational interpretation’ of ‘inventive steps’ relating to whether

products for which patents have been applied are sufficiently innovative to warrant one. Nor does it adopt Egypt’s suggestion for a set of guidelines for the transfer of technology.

Counsellor Guilherme Patriota of Brazil highlighted two positive elements: (i) the use of flexibilities under the Doha Declaration on TRIPS and Public Health, and; (ii) further work on new models for innovation, especially those that aim to decouple prices from funding, such as the prize fund model.

The draft also calls for further discussion of patent pools, a medical research and development treaty, advanced-market commitments and public-private partnerships. In addition, it makes strong links between trade-related issues and access to medicines, including support for generic production of essential medicines, the removal of tariffs and taxes on health care products, and the use of best manufacturing practices.

While Spring Gombe and Thiru Balasubramaniam of Knowledge Ecology International commended the draft for its approach to access to medicines, support for the use of TRIPS flexibilities and new methods to create incentives for research and development for new medicines, they also called it “vague with neither a clear sense of ownership nor any sense of urgency.” Ellen ‘t Hoen of Médecins sans Frontières also said that the document lacked clear direction and allocation of responsibilities. She added, however, that it was encouraging to see that the plan did not “shy away from including new proposals such as a patent pool to deal with immediate access issues and new rules to incentivise R&D.”

Several delegations declined to comment on the text as negotiations on it were expected to start shortly. Regional consultations are expected to take place in August and September, and the next meeting of the IGWG is scheduled for 5-10 November. In principle, the final plan of action should be ready for adoption at the May 2008 meeting of the World Health Assembly.

# Uncertainties Loom in EU–ACP Fisheries Trade Relations

Moustapha Kamal Gueye

Fisheries are an important source of employment, export revenues and food security in many African, Caribbean and Pacific countries, but the renegotiation of their trade relationship with the EU, as well as negotiations at the WTO, pose serious sustainable development challenges.

Only 50 percent of the EU's enormous demand for fish can be supplied from its own fishing grounds. The growing supply shortfall is met either through imports or through arrangements that enable its vessels to fish in other countries' waters. Fisheries trade relations between the EU and ACP countries are governed by WTO provisions, as well as those of the Cotonou Partnership Agreement between the EU and ACP countries. Both of these trade regimes are undergoing a period of change with the negotiation of new Economic Partnership Agreements (EPAs) between the EU and six ACP regional groups, as well as with the crafting of new fisheries disciplines at the WTO.

At the WTO, ACP countries are particularly concerned about the implications of the expiration of a waiver that allows the EU to provide unilateral market access preferences to their fish (and other) products, as well as the treatment of access payments for fishing rights in possible future WTO disciplines on fisheries subsidies. In the context of EPA negotiations, concerns revolve around addressing tariff escalation and tariff peaks, reforming rules of origin, and possibly establishing rules on fisheries investment.

## Preference Erosion

Under the Cotonou Agreement, the EU provides ACP countries with non-reciprocal market access preferences, which are covered by a WTO waiver that will expire on 31 December 2007. That date corresponds to the deadline by when the EU and the various ACP regions are expected to have concluded comprehensive and reciprocal Economic Partnership Agreements.

Given the importance of fisheries in the relations between the EU and ACP countries, any erosion of the Cotonou trade preferences can have profound socio-economic implications. This is notably so with regard to ACP countries' access to the EU market. By one estimate, the removal of preferences would lead to potential losses of around €73 mil-

lion per year for a country such as Namibia, where fish exports to the EU account for 60 percent of total fish exports.

For those ACP countries that would not be in a position to conclude an EPA before the end-December deadline, Article 37(6) of the Cotonou Agreement requires the EU to identify an alternative regime that would "provide these countries with a new framework for trade which is equivalent to their existing situation and in conformity with WTO rules." As a transitional trade regime, the EU could either include non-LDC ACP countries in its Generalised System of Preferences Plus (GSP+), or extend the Cotonou preferences to countries unable to wrap up their EPA negotiations by end-2007. The continuation of the current preferences would require a new waiver from the WTO's most-favoured-nation obligation, which is rather unlikely, or an extension of the preferences without a waiver, which would expose the EU to possible dispute settlement challenges. The shift to the GSP+ would require its revision to include relevant ACP countries.

## Shielding Access Fees from WTO Subsidy Disciplines

European access to fisheries resources in ACP countries has long been governed by access agreements, later replaced by fisheries partnership agreements (FPAs). These arrangements allow European fleets to fish in ACP waters in return for 'access fees' paid by the EU to the coastal states. Access fees represent a significant portion of government revenue for certain countries. In several Pacific states they account for an estimated 25 percent of total government income; in Guinea Bissau their share is around 40 percent. The high dependence of certain countries on access fees has contributed to the overexploitation of fisheries resources, without delivering a commensurable development benefit. Studying the economics of fisheries agreements, Nick Johnstone (1995) found a positive correlation between the level of public debt and the level of access granted to overexploited resources, and a negative correlation between the level of public debt and the level of financial compensation received.

Given the economic importance of the revenue from access agreements, ACP countries are seeking to ensure that such payments are shielded from any new disciplines on subsidies agreed in the Doha Round negotiations. There now seems to be an emerging consensus among WTO Members that government-to-government payments would not be considered subsidies. However, Members continue to disagree over the treatment of government-to-industry payments. Argentina, Brazil and the US consider the latter to be subsidies based on the discrepancy between the fees paid to the coastal nation and the price paid by the private companies for the acquisition of fishing rights.

## Battle over Raw Material and Value-addition

Accessing raw material is crucial for the survival of the European fish processing industry, which in 2002-2003 was estimated to account for more than one-third of jobs in the EU's fisheries sector. At the same time, ACP coastal states are seeking to develop their own fish processing industries in order to add value and obtain higher benefits from exports. In the context of declining fish resources, there are conflicting interests: trade rules play in favour of the EU processing industry, but low tariffs on raw fish, combined with tariff peaks and tariff escalation on processed fish, have forced developing countries into being the providers of raw material for the EU fishing industry. EU average tariff rates for raw fish stand at 10.3 percent, while that of processed seafood is at 16.3 percent. With increasing demand from the EU, the fish processing industry in ACP countries is now confronted with a persistent decline in catches for their own use.



To keep its industry competitive, the EU is also seeking to diversify its sources of raw material by implementing autonomous tariff reductions and opening import quotas for whitefish, herring, tuna loins and shrimp from non-ACP countries. Certain quantities of fisheries products will be imported at a 0-to-6 percent customs duty instead of the normal rates, which range from 6.1 percent to 24 percent. This will add to the erosion of preferences for ACP products since new quotas cover products that are also exported by the ACP to the EU.

### Rules of Origin

Rules of origin under the Cotonou Agreement determine whether products exported from a country are eligible for duty-free access to the EU. The structure of many ACP fisheries sectors – based on vessel-chartering arrangements, joint ventures and fishing agreements – makes it difficult for them to comply with some of these rules, including those related to ownership of vessels and factory ships, composition of crew, etc. Cotonou rules of origin also prevent ACP exporters from sourcing from non-ACP and non-EU vessels operating in their waters, even when these provide more cost-effective supplies. As a result, the current rules of origin help perpetuate the dependence of ACP countries on EU vessels for access to raw material. In the ongoing review of the rules, ACP countries are seeking provisions that would allow all fish caught in waters under their national jurisdiction to qualify as originating from their countries.

### Investment

With regard to EPA investment negotiations, the EU is seeking to secure favourable terms for EU investors in ACP fisheries. Investment that may lead to the development of joint ventures could contribute to enhancing the host countries' capacity to process, and therefore export, higher value-added products. However, it remains essential for ACP countries to ensure that the new fishing capacity will not drive European fishing overcapacity into their waters, which could further exacerbate the problem of overexploitation. Moreover, increased competition with the growing artisanal fishing sector would need to be addressed.

In its agreements with South and Central American countries, the EU has sought rules on investment in the fisheries sector. For example, the EU-Chile Association Agreement of November 2002 includes a separate protocol on fishing enterprises that establishes conditions, on a reciprocal basis, for European investment in the Chilean fisheries sector. European investors are also seeking to facilitate their exports back to the EU.

### Seeking a Regional Approach to Fisheries Partnership Agreements

The Economic Partnership Agreements have been praised by their proponents as a way of strengthening the process of integration in the ACP regions. However, while the EPA negotiations take place between the EU on the one hand and the six ACP groupings on the other, fisheries partnership agreements have remained at the bilateral level between the EU and individual ACP countries. This enables the EU to negotiate from a position of strength, not least because of the intrinsic imbalance in negotiations between a large bloc such as the EU and any of the individual ACP countries, but also because of the nature of stocks to which European fleets are seeking access. Since species such as tuna and shrimp straddle the exclusive economic zones of neighbouring countries, the EU is able to seek access to these resources from any of the coastal states, thereby increasing competition within the region. These concerns have prompted calls for a regional approach to negotiations on fisheries agreements. The Economic Community of West African States, for instance, has recently proposed the formulation of a framework agreement that would set guiding principles on fisheries negotiations with a view to aligning future agreements with the objectives of regional integration.

Certain ACP industry representatives have demanded that fisheries agreements be included in the EPA negotiations. While a regional approach to fisheries management is desirable, concerns have been raised that access to fisheries resources may be sacrificed in order to gain trade preferences. Given the importance of EU trade preferences to many ACP countries, such a scenario could result in unsustainable levels of fishing.

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## In Brief

- **EU-Asia:** European and Korean negotiators are scheduled to meet for the third time in September. In July, the EU offered to lift all tariffs on Korean exports provided that Korea makes a 'similarly ambitious' offer, which will provide the basis for the September talks. The EU has requested Korea to eliminate import duties on 95 percent of its agricultural tariff lines over three years, but Seoul wants to keep current tariffs on rice and 250 other products, or at least obtain a much longer implementation period for reductions. The future free trade agreement is billed as a 'complement' rather than an 'alternative' for multilateral Doha Round negotiations. The EU is particularly keen to remove restrictions on investment and to obtain WTO-plus concessions in services. It is also targeting Korea's non-tariff barriers, including "regulations that are unnecessary, complicated, and may in some cases present greater obstacles than tariffs."
- **EU-Latin America:** Negotiations for an Association Agreement between the EU and five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua) will start this fall. According to the European Commission, Panama will be 'fully involved' in the negotiations once it takes a decision to join the Central American economic integration process. The parties have already agreed that a functioning Central American customs union must be in place before the Association Agreement can enter into force. Like all such EU agreements with developing countries, the pact will cover political dialogue, development co-operation and trade.

Despite persistent doubts about Bolivia's commitment to a free trade agreement with Europe (Bridges Year 11 No.4, page 14), Association Agreement negotiations are also expected to kick off in September between the EU and the Community of Andean Nations, which comprises Bolivia, Colombia, Ecuador and Peru.

## Developments in US Trade Policy

This fall, the US Congress is expected to start consideration of free trade agreements finalised in June with Peru, Colombia, Panama and South Korea, as well as tackle the new farm bill that has already been approved by the House of Representatives.

Changes made to the agreements reflect the new FTA template agreed between the administration and congressional Democrats in May (Bridges Year 11 No.4 page 13). They include provisions on labour and the environment, as well as intellectual property. The four FTA partners must adopt, maintain and enforce basic international labour standards rather than just enforce their own laws, as well as adopt and implement six multilateral environmental agreements. Violations of these obligations will be subject to the same dispute settlement rules as the core commercial provisions, provided that the complainant can demonstrate that trade has been affected. The agreements also clarify that foreign investors in the US will not have greater rights than its own investors do, which is expected to discourage foreign firms from challenging US health or environmental regulations.

In addition, Peru's agreement includes a 22-page annex on forest governance, which commits the government to take a large number of measures – most within 18 months of the FTA's entry into force – to combat trade associated with illegal logging and illegal trade in wildlife. The measures range from increasing the number and effectiveness of law enforcement personnel – including through the implementation of an anti-corruption plan – to increasing criminal and civil penalties. Peruvian authorities must also conduct periodic audits of producers and exporters of timber products exported to the US to verify that the timber was legally harvested, as well as investigate any exporter or producer upon a written request by the United States.

The FTAs with Panama, Peru and Colombia (but not Korea) also contain five significant changes in intellectual property protection designed to promote public health and access to affordable medicines (see page 15).

Despite these amendments, the Democratic leadership is in no hurry to start consideration of the agreements in Congress. The US Trade Representative, on the other hand, is

keen to get all four treaties ratified as soon as possible, starting with Peru, followed by Colombia, Panama and South Korea, in that order. Democrats have warned that they will oppose the Colombian FTA until the level of violence against trade unionists has been significantly reduced in the country. Hearings on the Peru and Panama agreements could start this fall.

There is no timetable yet for considering the Korea pact, which is likely to face a tough battle. The business lobby generally supports it while labour groups are opposed. Senator Hillary Clinton, House Speaker Nancy Pelosi and other influential Democrats have said they will not support the agreement because it does not offer enough market access for US cars and Korea's continued restrictions on US beef.

### Andean Preferences Extended Until February 2008

On 30 June, the US Congress approved an eight-month extension for the Andean Trade Promotion and Drug Eradication Act. The expiry of the legislation would have cut preferential access to the US market for Bolivia, Colombia, Ecuador and Peru. The decision to prolong it was a qualified success for the Bush administration and the Democratic majority in Congress, both of which had called for a two-year extension. Opposing that proposal were a number of Republican politicians who, led by Iowa's Senator Charles Grassley, wanted to terminate the benefits for Bolivia and Ecuador on the grounds that they were not upholding the interests of US investors and, more generally, sought to reinforce state control over the economy. Senator Grassley said he would keep a 'close eye' on the two countries in the coming months and warned that unilateral preferences should not be taken 'for granted'.

### House Approves New Farm Bill

In other news related to US trade policy, the House of Representatives approved a new farm bill in July, which would by and large maintain the level of government support to farmers under the current legislation due to expire on 30 September. The changes made include more money for conservation and nutrition programmes, as well as renewable energy. The new bill would also authorise a permanent disaster relief programme and, for the first time ever, provide support to fruit and vegetable growers.

The bill retains the administration's proposal to make counter-cyclical payments dependent of fluctuations in revenue per acre instead of prices (Bridges Year 11 No.1 page 3), but only proposes this as an option that farmers could choose. It also imposes a US\$1 billion income limit for individuals eligible for subsidies, and requires those with incomes between US\$500,000 and US\$1 billion to derive at least 66 percent of their revenue from farming.

While US Agriculture Secretary Mike Johanns has charged that bill's increases for target prices and loan rates for some commodities would augment the likelihood of WTO challenges, the legislation's supporters say the US would 'probably' stay within its current US\$19.1 billion Amber Box cap because key commodity prices are so high that subsidy payments would not kick in. Some analysts have also noted that a shift from directly supporting the price of milk to setting target prices for butter, cheese and non-fat milk would allow the administration to shave off US\$2.5 billion from its reported Amber Box payments because other uses of milk, such as the production of cream, would not be counted. The effective support for milk, however, would not change.

The Senate is set to start consideration of the bill in late September or early October. President Bush has threatened to veto it unless one of its key provisions is struck out. The provision would pay for an extended nutrition programme through eliminating a tax break currently available to US subsidiaries of foreign firms.

# A Shift in Intellectual Property Policy in US FTAs?

Pedro Roffe and David Vivas-Eugui

The revised template for US free trade agreements with developing countries contains a number of important changes that respond to concerns expressed by scholars and civil society actors about the expansion of private rights on intellectual property, particularly in the area of public health.

Since the conclusion of the Uruguay Round negotiations and the adoption of the WTO Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS), the US has pursued new and expanded commitments in the area of intellectual property (IP) with a number of its trade partners. As of 1994, the US has sought such provisions in more than 15 free trade agreements (FTAs) containing standards that go beyond the requirements of the TRIPS Agreement.

One of the major critiques raised against FTAs has been that they impinge upon the flexibilities established in the TRIPS Agreement. The sector most affected has been public health. Specifically, critics have contended that FTAs “upset an important balance between innovation and access by elevating intellectual property at the expense of public health,” thus marginalising the Doha Declaration on the TRIPS Agreement and Public Health, which confirms the right of all countries to protect public health and promote access to health for all.<sup>1</sup>

In a substantial departure from past practice, the US recently relaxed several patent-related IP rules in revised versions of its FTAs with Colombia, Panama and Peru. This note examines the main elements of the amended agreements with the three countries, and raises some questions regarding the potential impact of such changes on third-party states where older, more restrictive IP rules have already entered into force.

## New Health-related IP Provisions

In early May 2007, US congressional leaders reached a compromise with the Bush administration regarding the country’s position on issues related to IP, labour standards and the environment in its trade pacts. As a result of the deal, which was intended to facilitate ratification of pending FTAs, negotiated trade agreements with Colombia, Panama and Peru were required to be amended to reflect newly agreed guidelines.

The original IP chapters of the Colombia, Panama and Peru FTAs included provisions similar to those contained in the agreements that the US had negotiated earlier with Chile, as well as in the Dominican Republic-Central America Free Trade Agreement (DR-CAFTA). With respect to IP and access to medicines, the deal required changes in five areas: data exclusivity, patent extensions, linking drug approval to patent status, as well as special provisions on both public health and economic development.

**Data Exclusivity.** The exclusive protection of data for ‘at least 5 years’ has been one of the most controversial TRIPS-plus provisions. The stipulation relates mainly to the regulatory hurdles that generic competitors must overcome before their pharmaceutical products reach the market. More specifically, the protection of test data prevents producers of generic drugs from relying on information provided by the person that submitted the original data to sanitary authorities. This special protection is in addition to the regular protection provided by a patent; the rationale for the additional measure derives from the complexities of bringing a pharmaceutical product to market.

In the case of Peru, for example, the changes introduced include the notion that the protection of undisclosed test or other data should not exceed ‘a reasonable period of time’. The relevant provision clarifies that for this purpose, such a timeframe shall normally mean five years, taking into account the nature of the data and the degree of effort and expenditure required to produce it. The provision further clarifies that parties shall be allowed to implement abbreviated approval procedures for such products on the basis of bioequivalence or bioavailability studies. The revised text of the Peru FTA is indeed much more flexible than the

original version, which did not condition the five-year protection rule on the quality of the data or the economic investments made in producing it. Contrary to, for example, the DR-CAFTA, the revised text leaves room for a balanced domestic implementation of the norms including, for example, a protection for less than five years when the origination of such data has not involved considerable efforts and costs.

In another important departure, the text of the revised Peru FTA provides that the reasonable period of exclusive use shall begin when the drug was first approved in the US (a so-called ‘concurrent period’), provided that Peru grant its approval of the compound within six months of an application. This new mechanism provides an incentive for rapid marketing approval in exchange for a period of protection that starts in the country where the drug was first approved, generating a shorter period of effective protection. This change responds to a criticism of the original version of the FTA, which allowed for a period of five years within which the innovator could claim exclusivity in the other country. Such a priority right could generate a *de facto* extension of the period of protection of up to 10 years.

**Patent Extensions.** In the revised version of the FTAs each party ‘may’ extend the term of a patent for a pharmaceutical product to compensate for unreasonable delays in the patent- or marketing-approval process. In other words, the mandatory obligation to compensate for those delays laid out in the original version of the FTA is transformed into an option for the parties. The revised text gives parties the option to compensate for unreasonable delays in the issuance of a patent for a pharmaceutical product by restoring the patent term or patent rights. In all the above circumstances, however, the parties need to make a best effort to process patent and marketing approval applications expeditiously with a view to avoiding unreasonable delays.

*Continued on page 16*

### [Linking Drug Approval to Patent Status.](#)

Another major controversial provision in the earlier US FTA template is the obligation of the agreements' signatories not to grant marketing approval to any third party prior to the expiration of the patent term without the consent or acquiescence of the right holder. This stipulation has been perceived as an unnecessary burden on sanitary authorities, as it would require them to determine whether a private right exists on a particular pharmaceutical product. Such a requirement would effectively transform the regulatory agencies into patent enforcement authorities. In the case of Colombia, Panama and Peru, the amended FTAs do not include any such 'linkage', and in particular do not require sanitary authorities to withhold approval of a generic until they can certify that no patent would be violated if the generic were marketed.

Instead, the revised FTAs require parties to provide procedures and remedies for adjudicating expeditiously the validity of any patent infringement claim or dispute concerning a product for which marketing approval is sought. The revised texts also require greater transparency in these processes, calling on parties to the FTA to make available (i) an expeditious procedure to challenge the validity or applicability of the patent (so as to break the 'link' in appropriate cases), and (ii) effective rewards for a successful challenge to the validity or applicability of the patent. In other words, the revised FTAs try to balance the rights of patent holders with opportunities for generic producers to challenge patented products that might prevent competing products from entering the market.

[Side Letters on Public Health.](#) Most of the FTAs recently negotiated by the US, including the original agreements with Peru, Colombia and Panama, have contained side letters with reference to the health solution of paragraph 6 of the Doha Declaration on TRIPS and Public Health, which allows countries with insufficient or no manufacturing capacity to make effective use of compulsory licenses. The revised FTAs, departing from the earlier ones, call on the parties to affirm their commitments to the declaration, particularly emphasising that the provisions on data exclusivity should be subordinated to the right of a party to take measures to protect public health. The

revised texts further oblige the parties to respect existing waivers granted by WTO Members regarding provisions of the TRIPS Agreement. These changes put both the declaration and existing waivers at the same level as other provisions in the FTAs, thus facilitating a pro-public health interpretation of the provisions on regulated products, as well as other sections of the FTA. This change may have a positive interpretative effect on certain TRIPS-plus standards in US free trade agreements, such as those on patents, enforcement and dispute settlement.

[Economic Development.](#) An interesting new provision in the revised FTAs calls for a periodic review of the implementation and operation of the IP chapter, and gives parties an opportunity to conduct further negotiations. Such deliberations could serve to incorporate modifications to the agreement in response to an improvement in a party's level of economic development.

### Some Conclusions

The recent developments suggest an interesting shift in IP policies in US FTAs. The criticisms related to some aspects of the agreements, particularly those concerning the reduction of TRIPS flexibilities, have produced concrete results. The revised FTAs provide clarifications on a number of obscure aspects of the texts and leave space for innovative implementation of the treaties. Moreover, the amended deals emphasise these flexibilities much more clearly than did the original texts as negotiated by Peru, Panama and Colombia.

This shift is also taking place on the other side of the Atlantic in relation to the Economic Partnership Agreements (EPAs), in which provisions on patent and test data protection have been omitted from recent EU trade proposals to African, Caribbean and Pacific (ACP) countries. Furthermore, the European Parliament has recently adopted two resolutions on the matter, one calling for the EU not to include IP provisions in the EPAs, and the other expressing concern over the incorporation of TRIPS-plus provisions in those agreements.

One lesson that could be drawn here is that developing countries still occupy weak bargaining positions vis-à-vis their more powerful trading partners. Especially in the cases of Colombia and Peru, even competent and well-prepared negotiators were unable to obtain in the original agreements the development-friendly provisions that were eventually incorporated thanks to the intervention of US legislators.

Another lesson is that developing countries continue to face important challenges in complex areas such as IP. In many instances, multilateral negotiations have proven to be better fora for striking deals that take into account broader considerations as illustrated by the TRIPS and Health Declaration. In the past, free trade negotiations have typically been guided by an overly simplistic political and mercantilist rationale. This has been the case in the IP field, where powerful industrial sectors have wielded considerable influence. However, the new template suggests that consumers' and users' rights are starting to be taken into consideration in the crafting of IP rules in FTAs. Nevertheless, the new provisions will clearly generate adjustment and implementation costs for developing country partners, showing again that perhaps nothing in the trade world is free.

Finally, an important issue remains open for debate as we advance in the understanding of this new shift: how will the revised FTAs affect third parties? Could other countries benefit from the revisions the US FTAs with Peru, Colombia and Panama? Could DR-CAFTA countries be exposed to higher obligations in the area of pharmaceutical products than those recently agreed for Peru, Colombia and Panama? Could weaker partners, such as those in DR-CAFTA, request a renegotiation in line with changes made to Colombia, Peru and Panama FTAs? Could countries be exposed to unilateral sanctions for non-compliance with the 'linkage' obligation even when the requirement has been removed from the recent agreements?

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### ENDNOTE

<sup>1</sup> Letter dated March 12, 2007 to the US Trade Representative signed by 12 US congressmen.



# The Economic Implications of the Rise of China and India

*Debapriya Bhattacharya and Syeed Ahamed*

The economic prowess of China and India, the two drivers of Asia's current resurgence, is expected to increasingly define global growth prospects for the near and medium term. The implications are of particular concern to neighbouring low-income countries.

While recent analytical literature dealing with the economic consequences of the rise of China and India has mainly focused on their impact on the international economy in general, and developed countries in particular, a recent study by the Centre for Policy Dialogue (CPD)<sup>1</sup> looked into the effects of the two countries' economic dynamism on the development prospects of their low-income Asian neighbours.

Findings the study paint a mixed picture. On the one hand, the increase in Chinese and Indian exports does not appear to have reduced the exports low-income Asian countries (LIACs). On the other hand, however, in most product categories where Chinese – and in some cases Indian – exports have experienced a major upsurge, these countries' export performance has remained modest. In addition, since the coming of age of the two Asian giants, most of their low-income neighbours have failed to substantially increase their exports to either China or India.

## Low-income Asian Countries

While a new set of Asian economies were taking off during the eighties and nineties, a number of other South and Southeast Asian economies remained outside of this growth pole, struggling to maintain moderate growth while slowly moving toward economies led by industry rather than agriculture. The LIACs covered by the study include Bangladesh, Cambodia, Laos, the Maldives, Mongolia, Myanmar, Pakistan, Sri Lanka and Vietnam. Notwithstanding the fact that these countries have varied benchmark conditions and diverse levels of capacity of economic integration, they share a number of characteristics when it comes to dealing with the rise of their two overwhelmingly large neighbours.

## China and India's Economic Resurgence

Existing literature shows a tendency for China's consumer goods exports to crowd out those from other Asian countries in third markets. Less-developed countries of this region are competing with both China and India, which have a comparative advantage in the markets of labour-intensive manufactured goods due to their cheap skilled labour force and advanced technologies. Investors from other Asian economies have responded by investing directly in China, with a resulting loss of employment at home.

An alternative hypothesis holds that the rapidly expanding trade volume of China and India has become a major engine of growth in the Asian region, and exports from countries producing goods that are in high demand in either country are likely to benefit. Scholars holding this view argue that China has started shifting from an export-oriented economy to one more driven by domestic demand, and that this shift will open up its huge domestic market to other

regional economies. Some researchers have also noted that Asian economies have important complementarities.

In short, the rise of China and India may result in at least the following consequences:

- crowding out LIAC exports in third markets;
- providing new opportunities to LIACs through the growth of their domestic markets;
- making other developing countries more attractive as platforms for producing for the Chinese and Indian markets and integrating them into supply chains that produce goods for the global economy; and
- making LIAC exporting industries more competitive by providing them with lower-priced intermediate goods.

## Methodology

CPD carried out a number of tests in order to identify the potential effects of China and India's new-found economic clout on their low-income neighbours.

First, we analysed the exports of these countries to the US and the EU, which represent their largest foreign markets. This permitted the identification of the top five product categories for each of these countries (at Harmonised System two-digit level during 2005). Then, a list of categories that figured in the top five of at least two of the countries was compiled. This exercise yielded two lists of nine product categories – one for the EU and the other for the US. These were merged into a single list containing the five products that topped the lists in both markets, i.e. fish- and fish-related products, knitted and unknitted apparel, other made-up textiles and various types of footwear (see table opposite).

In 2005, these five categories accounted for 74 and 68 percent of LIAC exports to the US and the EU markets respectively. In the

Share of key products in LIAC, China and India's total exports to the US and the EU

HS Code	Product description	% of total exports to the US			% of total exports to the EU		
		LIACs	China	India	LIACs	China	India
HS03	Fish & crustaceans, molluscs and other aquatic invertebrates	3.8%	0.4%	2%	3%	0.5%	2%
HS61	Articles of apparel and clothing, knitted	25.1%	2.7%	5%	24%	4.4%	8%
HS62	Articles of apparel and clothing, not knitted	32.9%	4.2%	11%	20%	6.7%	9%
HS63	Other made-up textiles articles	7.5%	1.6%	5%	5%	1.1%	4%
HS64	Footwear, gaiters & parts of such articles	4.3%	5.2%	1%	15%	3.1%	4%

Source: CPD Database 2006

*Continued on page 18*

same period, they made up 14 percent of Chinese and 25 percent of Indian exports to the US. The corresponding figures for the EU market were 16 percent for China and 27 percent for India.

### Exports to the US & EU

Our analysis shows that LIAC exports to the US and the EU for the five major product categories increased from 1996 to 2005. Depending on the category, the expansion in the US market ranged between 27 and 116 percent per annum, while the figures for the EU varied between 14 and 27 percent. A large part of LIAC export growth in Europe during the period under review may be explained by the duty-free access offered by the EU to least-developed countries under the Everything but Arms (EBA) initiative.

Similar trends were seen in both these markets for Chinese and Indian exports, although former's growth was stronger. Except for fish-related products (HS03), China's exports soared after its WTO accession in 2001, and even fisheries trade recovered in 2002.

While LIAC exports grew at a moderate rate from 1996-2005, the growth of Chinese exports from 2001 onwards in both US and EU markets should be of concern to policy-makers. Although the surge of China has not caused LIAC exports to fall, China's likely further expansion may lead to a depreciation of prices in low-income Asian countries, which could render their producers uncompetitive.

With regard to the US, LIACs export growth outstripped that of India between 1996 and 2005 except for the category of 'made-up textiles' (HS63). In the EU market, India's export growth of product categories examined has also been slower than that of the LIAC over the same period. Apparently, India has not posed a major challenge to its low-income neighbours as yet.

### Exports to India & China

We also examined low-income neighbours' performance in China and India. Due to inconsistencies in data, the analysis was not homogenous. However, it provided important insights based on which it is possible to make some informed comments.

Between 1995 and 2005, LIAC exports into China increased at an average rate of 36 percent per annum, largely due Vietnam, whose exports grew at an average of 61 percent per annum. The annual average growth of exports from Pakistan (25 percent) and Mongolia (49 percent) also contributed to the overall increase.

In the Indian market, between 1997 and 2004, LIAC exports increased at an average of 29 percent per annum. The major contributor to this growth was Sri Lanka, whose exports rose by US\$331 million at a yearly rate of 183 percent, thanks to the India-Sri Lanka bilateral free trade agreement. The second biggest contributor was Myanmar, which saw its export rise by US\$172 million at an average rate of 13 percent per annum.

As seen above, just two or three LIACs' exports performed well in the Chinese and Indian markets between 1995 and 2005; Vietnam, Pakistan and Mongolia for China, and Sri Lanka and Myanmar for India. The poor performance of the other four LIACs in these markets corroborates that not all low-income countries are getting benefits from the surge of India and China.

### Concluding Observations

The impact of the rise of China and India on other countries can be seen both from complementary and competitive perspectives. While it is not evident from the statistical analysis of historical performance, it is however predicted that in future most countries will be affected on several fronts – both directly and via substitute/complementary products, and these effects may be reinforcing or offsetting. The LIAC export performance shows that more advanced economies may experience a complementary relation, while low-income countries may face competition.

To take advantage potential opportunities for regional co-operation, low-income Asian countries need to put more emphasis on examining ways and means to foster closer ties between their product and factor markets. Since export compensation is mainly observed in markets for capital goods, where China's income elasticity of import demand is the highest, LIACs should explore the potential opportunities of low value-added and lower-end export-oriented industries. During the initial phase, they could promote horizontal co-operation by developing an industrial structure based on low-tech, labour-intensive industries with a regional specialisation. However, integrated infrastructure facilities (such as an integrated Asian transport network) are essential for regional and horizontal integration among low-income Asian countries.

Since there is a great variety in the Asian nations' stages of development and economic integration, they could, for a number of years at least, follow a systemic competitiveness globally while being supportive locally, following the flying-geese pattern of development. For instance, if China and India were to relinquish some of their labour-intensive and comparatively low value-added industries (such as textiles and one-dollar stores), new opportunities for could open up their low-income neighbours. However, given that a large rural portion of the Chinese and Indian economies is yet to be integrated into the modern manufacturing sector, this transfer is not likely to place in the short term.

It is thus important to ensure that low-income countries are able to participate in the substitute or complementary product cycle of the Asian value chain and counterbalance the challenges generated from the rise of China and India. Co-operation with the two leaders could be helpful in facilitating strengthened global integration of these countries.

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### ENDNOTE

<sup>1</sup> Centre for Policy Dialogue. 2006. *The Rise of China and India: Economic Implications for Their Low-income Neighbours*. Observer Research Foundation. New Delhi

# The Rebound of the Mauritian Textiles Industry

L. Amédée Darga

Many conjectured that massive disruption of textiles and clothing trade would follow the elimination of quotas in 2005 and that countries such as Mauritius would be among the losers. These predictions have not, overall, proven accurate.

Indeed, it is clear that China is not the only winner in the post-quota textiles and clothing trade although, as expected, its share of the world market has increased substantially. For India, indicated to be the other big winner from the quota phase-out, the rise in exports has been less dramatic and slower to develop (up by 22 percent to the US, and 36 percent to the EU during the fiscal year ending 31 March 2006). Speculation concerning probable 'losers', such as Cambodia, Bangladesh, Nicaragua, Peru and others, has proven incorrect.

However, the assumptions have largely been borne out for most sub-Saharan African countries, which have lost significant market shares since the quotas ended. Madagascar and Mauritius are nevertheless holding their ground and even experiencing a good rebound.

Lesotho, Mauritius and South Africa are the largest sub-Saharan exporters of clothing to the US, while Mauritius, Madagascar and South Africa are the largest to the EU. Exports are almost entirely focused on these two preferential markets and are – except for Mauritius as shall be explained later – mainly basic items that face the most ruthless competition.

Despite the margin of preference, total apparel exports in value terms from countries eligible to preferential access to the US under the African Growth and Opportunity Act (AGOA) fell in 2006 to 73.5 percent of their 2004 level. The biggest losers were Mauritius and South Africa since neither was eligible for a derogation from the AGOA yarn forward rule, which requires yarn and fabric to be manufactured either in the African region or in the US. With the exception of Botswana, even least-developed countries, which do benefit from a derogation, have seen their exports decline from the 2004 level.

## Evolution of Mauritian Textiles Trade

After a 12-percent dip in exports in 2005, Mauritius is showing clear signs of a quick and strong rebound. Total gross output of garment production increased by 15.4 percent in 2006 and exports grew by 24 percent after a contraction of 18.1 percent in 2005. Data for the first quarter of 2007 compared to the same period in 2006 further confirm the trend with a 30-percent increase in export value.

Mauritius has diversified garment export markets, with the US leading at 29.3 percent, followed by the UK at 28.4 percent, France at 24.1 percent and others (Spain, South Africa, Netherlands, etc.) at 18.2 percent.

Mauritius has 30 years of experience in garment production, and quota elimination is not the

first challenge it has had to face. While the industry started with the investment of Hong Kong firms, local investment soon followed and quickly became dominant both in capital and management. Although both founded their business strategies on the Lomé Convention's preferential market access to the EU, local industrialists were more concerned with ensuring long-term sustainability. They invested in consequence and, more importantly, interacted with the state to ensure an

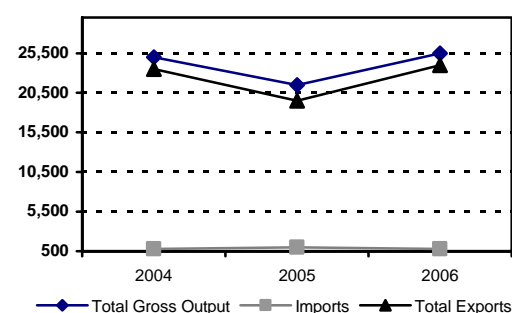
appropriate business environment to support the industry.

From 1982 to 1990, the number of textiles and garment firms increased from 90 to about 300, and employment in these companies quadrupled to 80,000. About 70 percent of apparel exports, which totaled over US\$770 million in 1990, went to the EU. To gain market share, Mauritian garment producers focused on assembly, as well as at least one pre-assembly operation (spinning and/or weaving/knitting), which qualified their exports to preferential access under EU rules of origin. Labour productivity grew significantly thanks to the country's high level of education and appropriate support for training. Exports to the US benefited from Mauritian apparel makers' process-related competencies, as well as the functional versatility they had acquired through supplying the European market.

However, having assured market access under EU-ACP agreements and protected by quotas under the WTO Agreement on Textiles and Clothing, many industry operators tended to rest on their laurels. Indeed, both private sector operators and governments in developing countries have often wished the devil away rather than build capacity to compete on a non-preferential basis, and have believed in the goodwill of developed countries to maintain preferences. However, while this attitude did delay the industry's response, Mauritian firms eventually put to use experience gained earlier with the challenge of the Everything But Arms (EBA) initiative. Importantly, local ownership of industry gave manufacturers the management capacity to react.

Responding to competition from countries such as Sri Lanka or Bangladesh, which had full duty- and quota-free access to the EU under the EBA, Mauritian textiles and garment companies started to move the production of basics to lower labour-cost neighbour Madagascar and developing the in-

Mauritian apparel industry data 2004 –2006\*



\* Value: millions of Mauritian rupees  
Source: Central Statistical Office Mauritius data

Continued on page 20

intermediate and more up-market products in Mauritius. At the same time, most Mauritian garment producers centred on diversifying their customer portfolios.

Nevertheless, many textiles exporters did pin their hopes on Mauritius obtaining a derogation from the AGOA yarn-forward rule. Since this did not happen and the WTO's quota regime expired, most Asian companies pulled out during 2004 and 2005, causing a dramatic drop in employment and export value, particularly to the US.

### The Post-quota Strategy

In February 2006, a major forum brought together government and industry operators of all sizes to debate and draw out a three-year action plan for restructuring the sector. The determination of the appropriate strategy was premised on a number of indicators.

African countries face a clear and inexorable trend of preference erosion through non-agricultural market access negotiations (NAMA) at the WTO and the proliferation of bilateral and preferential agreements. The EU's NAMA proposals in Hong Kong implied a reduction to 6 percent from the present 12-14 percent tariff protection that countries like Mauritius enjoy vis-à-vis their competitors, most likely over four years starting in 2009. While current Economic Partnership Agreement (EPA) negotiations might expand African countries' export markets, any additional tariff preferences will nevertheless erode over time. The conclusion is clear: countries that rely on preferential margins are threatened by competition from other highly productive nations.

Although price continues to influence the sourcing decisions of the majority of buyers, there are a number of other factors that determine the competitive advantage of countries. From the buyers' perspective, the most important of these are outlined below.

Buyers favour regions where they can source a critical mass and wide range of items. This view is supported by the US Department of Commerce, which estimates that the number of countries from which major items would be sourced by US buyers will drop to 25 percent of current levels by 2010.

Buyers' preferences are increasingly in favour of suppliers who can cover all stages of the value chain, ranging from product design to input sourcing, manufacturing, packaging and shipping of the final product.

After two days of deliberations, the Mauritian textiles forum came out with a strong determination to restructure the industry and support the development of required competitive assets. The following are the salient conclusions and strategy decisions:

Government and the private sector will continue to lobby for change in AGOA rules of origin in favour of value addition, as well as to ensure that the reduction of market access preferences is spread over an extended period in the NAMA negotiations and maintained as long as possible in the EPAs with the EU. At the same time, a strong drive for restructuring has already been engaged to address both factory and non-factory competitiveness factors.

European and US textile and clothing markets are shrinking relative to the world market due to the demographics in these countries. In countries like India, South Africa and Middle Eastern nations, however, the market is expanding with the emergence of a middle class with increasing buying power and a strong demand for fashion clothing. Government has negotiated a bilateral trade agreement with India wherein has been secured preferential access for a small quota of Mauritian garments. Major marketing efforts have been engaged in South Africa, where exports have increased by 40 percent, reaching US\$35 million over the last fifteen months. As the COMESA and SADC regions move closer to a customs union, the regional market will open an important space for smaller and medium-size companies that have been domestically oriented.

To deal with Chinese competition in EU and US markets, Mauritius needs to achieve 'full-package' supply capacity, as well as focus on quality in the higher end products, including design. Mauritian firms also need to diversify into new product lines to increase the country's attractiveness as a sourcing option. Potential new product lines could include lingerie, beachwear and seawear.

In order to draw new customers, the garment industry also needs to be able to offer more services, such as design assistance and logistical solutions. This implies adopting the Chinese approach to partnerships with buyers, 'you pay, we take care of the rest'. This will not only appeal to clients, but will also capture more of the value chain.

Further investment in capital-intensive raw material production is necessary to ensure better integration of the supply chain for improved response to clients. Mauritius has in the last two years successfully mobilised more than US\$200 million of investment from China to modernise the industry, mainly in spinning – the capital-intensive missing link in the region's supply chain capacity – which now is close to bridging its deficit in yarn production. This would immediately provide cheaper inputs to garment production, give flexibility and fast response capacity through the development of a major industrial zone, where spinning, weaving and production of accessories will feature prominently.

A number of support measures have been taken to address factory competitiveness, namely through financial resources given under an Enterprise Development Fund for capacity-building and marketing. Logistics remain the one unresolved factor.

### Conclusion

Upgrading can be pursued along different paths, including the development of full-package capabilities, vertical integration, diversification of export networks and moving into marketing and design, but none of these by itself guarantees success. Flexibility and adaptability in changing economic and political conditions are essential for sustained competitiveness. Progress in those areas is what will allow Mauritius to thrive in the global textiles market.

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# Building Coalitions and Consensus in the WTO

Mayur Patel

Developing country coalitions have emerged as an integral part of the consensus-building process in the WTO. The implications of this shift for debates on transparency, participation and institutional reform demand greater attention.

Concerns about developing country representation have been a long-standing feature of debates about the multilateral trading system. In 1999, the dramatic breakdown of the Seattle Ministerial placed their marginalisation in key deliberations as one of the central political challenges facing the international trade regime. Member states, NGOs and scholars put forward several proposals to reform the transparency and inclusiveness of the WTO. Although this ongoing debate has to date yielded no formal institutional changes, the actual practices of negotiation and consensus-building have gradually shifted. The most significant of these shifts has been the rise of developing country coalitions and their inclusion as platforms for joint representation in the WTO.

Although coalition bargaining is not new to trade negotiations, what is striking about today's groupings is their unprecedented proliferation and institutionalisation. Many coalitions are now highly visible, formalised and co-ordinated. This is most notably so for the G-20, the G-33, the Least-developed Countries (LDCs) Group, the African, Caribbean and Pacific (ACP) Group, the African Group, the Small and Vulnerable Economies (SVEs) Group, CARICOM and the Cairns Group, all of which meet regularly to establish and defend common positions. The differences in the types of informal groups that exist in the WTO were enumerated in last month's Bridges (see page 21). Building on that analysis, this article examines the extent to which the rise of coalitions has altered the transparency and inclusiveness of WTO decision-making processes.

## Access to Decision-making Processes

As developing country coalitions have become more organised, the informal pattern of consensus-building in the WTO has also gradually changed. Previously, under the 'club-like' system of the GATT, developing countries were largely excluded from the green room process, where negotiators hammer out compromises that are later submitted to the membership at large. Even in the early days of the WTO, the handful of developing countries that were included in green rooms were invited only in their individual capacity, rather than as representatives of wider groupings. More recently, it has become customary for some developing countries to be included in inner circle consultations in their *ex officio* capacity as co-ordinators of coalitions.

This shift to explicitly include coalitions in WTO decision-making began with preparations for the Doha Ministerial in 2001, and has since become further institutionalised. At the Ministerial in Hong Kong, the green room process, re-labelled the Chairman's Consultative Group, functioned as a 'pseudo-parliamentary' system with different country constituencies represented through their co-ordinators. In this manner, the African Group (represented by Egypt), the ACP/G-90 (Mauritius), the LDCs (Zambia), the G-20 (Brazil) and the G-33 (Indonesia) were all active participants in inner circle consultations.

What then accounts for these gradual changes in patterns of decision-making? One interpretation is that the increase in developing country membership of the WTO and the economic growth of emerging markets has altered the material balance of power in the negotiations. Certainly, developing country membership of the GATT/WTO has increased. At the start of the Uruguay Round in 1986 only 63 developing countries were members of the GATT, while at the launch of the Doha Round in 2001 over two-thirds of the 144 member states were developing countries.

Over the past 15 years there has also been significant growth in the market shares of the G-20 and G-33, largely due to China's expansion. However, little change has occurred in the material power of other developing country groups, notably the African, ACP and LDC

groups. In spite of this stagnation, these coalitions have also secured greater institutional access.

This evidence suggests that the shifts in consensus-building may also be partly explained by the *process* of coalition bargaining. To take advantage of having representation in the green room, coalitions now host internal meetings where co-ordinators debrief their members on the discussions that occur within 'closed consultations'. This information dissemination has improved the internal transparency of the negotiations, particularly given that records of informal meetings are not kept, and hence, unlike official meetings, they cannot be followed without an actual presence in the discussions or an established line of communication.

The changes in WTO decision-making are also due to 'pull' factors. Member states and the WTO Secretariat now deliberately incorporate developing country coalitions in key decision-making activities, perceiving them as useful vehicles for managing the complexity of multilateral negotiations. Indeed, reaching out to coalitions has become the favoured means by which to build consensus, to bolster the legitimacy of outcomes and to satisfy the desires of developing countries to be included in discussions.

There is no doubt that developing countries have secured greater 'virtual access' to previously exclusive and restricted patterns of decision-making through coalition-building. However, this form of representation also raises a new and important set of challenges – most notably in terms of accountability and the internal dynamics of coalitions – that warrant greater consideration.

## Joint Representation

Historically, the divergent interests of members have tended to undermine the coherence of developing country groupings. Even where there is strong common interest, this may not be enough on its own to secure joint representation. In a system where one

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country bargains on behalf of a group, the critical question is whether states are able to regulate the behaviour of their co-ordinator to prevent the possibility of deviation or defection from the group's mandate.

In coalitions where the co-ordinating post is assigned on a rotational basis, members can sanction their leaders by relieving them of their positions. However, in coalitions where the co-ordinating post is fixed this form of electoral accountability is less readily available. Aside from this, countries may be able to monitor their co-ordinator's behaviour when other members of the same coalition are also present in the green room, either in their individual capacity or as 'Friends of the Chair'.

In both types of coalitions, the co-ordinating delegation (whether fixed or not) often provides the technical expertise and political authority that many members depend upon. While sharing resources can be an asset, this situation also increases the possibility that members may be reluctant to challenge the authority of their co-ordinators. This dilemma raises issues about the trade-offs that states accept within joint representation arrangements, whereby their 'nationally-determined' positions may be set aside in order to agree to elements of a 'common platform'.

### Transparency and Participation

While the rise of coalitions may well have improved the virtual access and lobbying capacity of many weak states, to what extent does the inclusion of developing country groupings in consensus-building respond to criticisms about transparency and participation in the WTO?

Some commentators regard the increased opening of WTO decision-making activities as a welcome shift towards the inclusion of developing countries on an equal footing in the negotiations. Yet, more sceptical analysts contend that the extension of representation in green room meetings is merely an attempt to use a 'handpicked group of developing countries' to give the semblance of institutional legitimacy. The truth lies somewhere in the middle.

The proliferation of coalition representation in the green room improves some aspects of the internal transparency of WTO

decision-making processes but far from all. Indeed, since the conclusion of the July Package in 2004 much of the focus of consensus-building has shifted to small group discussions between the G-6 (EU, US, Japan, Australia, India and Brazil) and the G-4 (EU, US, India and Brazil), excluding the vast majority of developing countries and their coalitions.

### Implications for Institutional Reform Debates and Future Prospects

Do these informal shifts in consensus-building processes – and in particular the rise of developing country coalitions – compensate for the lack of formal reform of WTO negotiations?

Member states and the Secretariat have certainly tried to use coalitions as the means by which to manage the pressures of the concentric-circle model of decision-making, while ensuring all members feel sufficiently represented. Coalition-based representation does indeed have significant merit and may be a far more workable adaptation than grappling with proposals for the formal restructuring of the green room. The way in which coalitions are included in the consensus-building process allows for flexibility – members remain free to shape the features of their coalitions and alliances are able to change in response to shifts in the negotiations. By contrast, attempts to introduce formal country groupings, such as exist in the IMF, run the risk of reducing this responsiveness.

Although the existing WTO coalitions are largely tactical groupings that have emerged in response to the Doha trade agenda, the process of coalition-building is not necessarily immutable or inimitable. Various permutations are possible: regional-based groups may become more unified; bloc coalitions may dissipate as the bargain moves towards establishing detailed modalities; and new issue-specific groups may emerge as the trade agenda shifts focus. Therefore, while the specific features of groupings may change, there is no reason to assume that coalitions will cease as the way to structure developing country participation in the WTO.

The continued viability of attempts to draw on coalitions as the dominant means to manage the complexity of multilateral negotiations will rest on the durability of processes within coalitions and on whether developing countries perceive sufficient returns on their efforts to devise and defend common positions. In this regard, coalitions face certain organisational and substantive challenges that will need to be addressed to make them more sustainable as negotiating platforms.

First, the time constraints and pressures of multiple negotiations that often run in parallel have tended to undermine the practice of feedback between co-ordinators and their constituent members. For coalitions to provide meaningful joint representation, sufficient time must be provided to allow them to harmonise positions, particularly during periods of intense deliberations.

Second, the responsibility for co-ordinating coalitions often places a large burden on the limited resources of delegations. As a result, co-ordination in the ACP, LDC and African Groups has tended to rotate amongst only a handful of members. Additional financial and material resources should be allocated to support the post of co-ordinator to enable more developing countries to take on leadership positions in their respective groupings.

Third, the lack of expertise and analytical resources within developing country delegations often hinders the ability of coalitions to establish and lobby for detailed positions. In order to build the networks of information and analysis available to countries, more technical assistance programmes must be targeted at the level of coalitions. The capacity of regional secretariats that support developing country groupings must also be bolstered.

While the rise of coalitions has improved developing country participation in the WTO, the debate about the responsiveness and inclusiveness of the negotiations will and should continue. Reforming the WTO is as much about the substantive trade agenda – the increasing regulatory burden of agreements and the question of the 'single undertaking' – as it is about new faces in the green room.

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# Indicators for Trade and Sustainable Development

The Marrakesh Agreement establishing the World Trading Organisation recognises that trade and economic relations between Members “should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand [...] while allowing for the optimal use of the world’s resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development.”

The conceptual construct of *sustainable development* highlights equity aspirations as determined by allocation of resources and the dynamics of wealth formation, in at least three dimensions: intergenerational equity, intra-generational equity within nations and intra-generational equity between nations. The adoption of sustainable development as a public policy objective of trade policy requires articulation of the many environmental, social and growth policy agendas pursued by individual societies and an enabling global economic governance structure.

The multilateral trading system traditionally – and, rather unsuccessfully – addresses underlying factors of inequality between trading partners through ‘special and differential treatment’ (STD) provisions based on simplistic expressions of differentiation, such as national income. Today’s complex web of international trade regulatory frameworks, including the WTO in its current Doha negotiations, is seeking more effective ways to address the equity imperative. In this context, it has become clearer that to anchor responses and interventions firmly in sustainable development, a broader set of indicators and thresholds than a Member’s gross domestic product (GDP) is needed to determine whether a country’s public policy objectives require particular modulation or flexibilities in trade rules, or call for adjustment assistance.

To address specific constraints, comprehensive, targeted and holistic indicators are imperative. This means that most of the currently available raw data on production, consumption, health, employment, exports and imports, as well as many other areas, should be translated into information that captures sustainable development trends. It also involves linking, in a comprehensive manner, primary data and secondary indicators. Facts such as the knowledge, or natural resource, content of exports become more revealing of actual competitive conditions and, therefore, more relevant in defining rules of engagement in an equity-concerned trading system.

The treatment of small and vulnerable economies in the multilateral trading system provides another example. Such economies suffer from a combination of characteristics that impede their ability to integrate into the global economy, including natural resource endowment, absorptive capacity, ecosystems resilience, smallness, geographical isolation from markets, dispersion of small pockets of population, and characteristic of human development. There is, however, no single and recognised criterion to define smallness, vulnerability and remoteness. Therefore, indicators would have to be a combination of factors adapted to addressing issues such as vulnerability. This in turn requires a more comprehensive measurement to target flexibilities in line with the heterogeneity of developing countries.

In order to understand the different development situations of and within countries, ICTSD is developing a computational tool with over 139 indicators, collated from a number of UN agencies and other research organisations, that could be used to construct multiple combinations of criteria and thresholds to simulate every conceivable competitive situation. This information is crucial to support strategic analysis and policy-oriented research. It could, for instance, be used to produce trade and sustainable development assessments and country profiles that would assist political decision-makers in prioritising their needs and areas to negotiate. The data could also provide a broader basis for anchoring effective sustainable development responses in the multilateral trading system.

The International Centre for Trade and Sustainable Development (ICTSD) is an independent non-profit organisation that upholds sustainable development as the goal of international trade and promotes participatory decision-making in the design of trade policy.

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- Sep. 14 Working Group on Trade, Debt and Finance
- Sep. 17-28 Services Weeks
- Sep. 25 Dispute Settlement Body
- Sep. 25 Committee on Trade and Development
- Sep. 28 Council for Trade in Services, Special Session
- Oct. 1 Negotiating Group on Trade Facilitation
- Oct. 2 Committee on Rules of Origin
- Oct. 4-5 WTO Public Forum: "How Can the WTO  
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### Other Meetings

- Sep. 17-21 19<sup>th</sup> Meeting of the Parties to the Montreal  
Montreal Protocol  
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### New Publications from ICTSD

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- Bureau, Jean-Christophe; Disdier Anne-Célia and Ramos, Priscila. 2007. A Comparison of the Barriers Faced by Latin American and ACP Countries' Exports of Tropical Products.
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- Plasai, Virachai. 2007. Compliance and Remedies against Non-compliance under the WTO System: Towards a More Balanced Regime for All Members.
- Stevens, Christopher; Kennan, Jane and Meyn, Mareike. 2007. South-South Trade in Special Products.

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- Committee on Agriculture – Special Session. 1 August 2007. Revised Draft Modalities for Agriculture. (TN/AG/W/4)
- Committee on Trade and Development – Special Session. 25 July 2007. Report by the Chairman to the Trade Negotiations Committee. (TN/TE/17)
- Committee on Trade and Environment – Special Session. 25 July 2007. Report by the Chairman to the Trade Negotiations Committee. (TN/CTD/20)
- Council for Trade in Services – Special Session. 24 July 2007. Report by the Chairman to the Trade Negotiations Committee. (TN/S/32)
- Council for TRIPS – Special Session. 23 July 2007. Report by the Chairman to the Trade Negotiations Committee. (TN/IP/17)
- Negotiating Group on Non-agricultural Market Access. 17 July 2007. Chairman's NAMA Modalities Draft. (JOB(07)126)
- Negotiating Group on Rules. 27 July 2007. Report by the Chairman to the Trade Negotiations Committee. (TN/RL/21)
- WTO. July 2007. Annual Report 2007. WTO. Geneva

### Other Selected Resources

- AccountAbility. July 2007. The State of Responsible Competitiveness 2007: Making Sustainability Count in Global Markets. AccountAbility. London
- European Centre for Development Policy Management. July 2007. Concluding EPA Negotiations: Legal and Institutional Issues. ECDPM. Maastricht
- Organisation for Economic Co-operation and Development. June 2007. Policy Brief: Globalisation, Jobs and Wages. OECD. Paris
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- United Nations Environment Programme Division of Technology, Industry and Economics. June 2007. Global Trends in Sustainable Energy Investment 2007. UNEP DTIE. Paris
- United Nations Conference on Trade and Development. July 2007. The Least-developed Countries Report 2007. UNCTAD. Geneva and New York
- Zhao, Renfeng. June 2007. China and India: A Comparison of Trade, Investment and Expansion Strategies. Chatham House. London

