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LEAD STORIES

WIPO MEMBERS AGREE ON DEVELOPMENT AGENDA

Members of the World Intellectual Property Organization (WIPO) last week reached an agreement on recommendations for reforms aimed at ensuring that development concerns are placed at the heart of the work of the UN agency.

In the fourth and final session of the committee dealing with the 'development agenda' talks, held in Geneva from 11-15 June, representatives from over 100 governments successfully negotiated a series of proposals to forward to the 2007 General Assembly, WIPO's top decision-making body. They also agreed to create a new Committee on Development and Intellectual Property.

Many delegates praised the continuation of a cooperative spirit from the previous session of the Provisional Committee on Proposals Related to a WIPO Development Agenda (PCDA) in February, where they had managed to agree on a set of initial recommendations. A developing country delegate said a "good mood" prevailed last week, with all members "flexible and constructive towards an outcome." That the 111 reform proposals submitted by governments over the past two and a half years had been digested into agreed and workable recommendations was widely seen as a giant step forward from the deep divisions a year ago (see BRIDGES Weekly, 5 July 2006, <http://www.ictsd.org/weekly/06-07-05/story1.htm>).

The recommendations address controversial subjects including WIPO's provision of technical assistance, as well as broadening the organisation's focus on issues such as public domain, competition, and access to knowledge. However, the US released a statement following the conclusion of the meeting stating that whilst the proposals "reinforce WIPO's commitment to the needs of developing countries" they also "reaffirm WIPO's clear mandate as the specialised UN agency that promotes the protection of intellectual property worldwide."

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An African delegate described the accord as “a breakthrough by all standards [that] really reflects the level of conviction among all member states on the need to address the existing imbalance between intellectual property rights and the public interest.”

Brazil and Argentina originally proposed a Development Agenda for WIPO at the 2004 General Assembly (WO/GA/31/11). They have been joined by 13 other countries – Bolivia, Cuba, Dominican Republic, Ecuador, Egypt, Iran, Kenya, Peru, Sierra Leone, South Africa, Tanzania, Uruguay, and Venezuela – to form a group dubbed the ‘Friends of Development’ (see BRIDGES Weekly, 6 October 2004, <http://www.ictsd.org/weekly/04-10-06/story1.htm>). The 2005 General Assembly created the PCDA and charged it with drawing together a cohesive package from the 111 proposals. The committee’s mandate was extended for a further year in 2006 after members were unable to make meaningful progress.

Meeting focused on the toughest proposals

The PCDA’s final session last week had the task of working through 71 proposals towards an outcome document that could be forwarded to the General Assembly. These proposals were what remained after the committee’s February meeting, when delegates boiled down 40 of the 111 proposals into 24 recommendations (see BRIDGES Weekly, 28 February 2007, <http://www.ictsd.org/weekly/07-02-28/story1.htm>). However, the current set of proposals, contained in ‘Annex B’ of a working document prepared by previous General Assembly Chair Ambassador Manalo (Philippines), addressed more controversial issues, such as access to knowledge, competition, and collaborative innovation models.

A developed country delegate said that expectations had been surpassed in finding agreement on all aspects of Annex B.

Chairman Clarke guides process with informal sessions

PCDA Chair Ambassador Trevor Clarke (Barbados) continued the ‘green room’ process – informal negotiations limited to the regional coordinators and a representative selection of key delegations – that had facilitated the breakthrough in February. Clarke had aimed to finish discussing the substantive proposals by mid-week to allow two days to discuss their implementation. However, substantive discussions continued until the final day, with implementation issues receiving attention only at the end; the final plenary accordingly concluded at 10pm. For the rest of the week, plenary sessions were short and spare, with

most time invested in regional group sessions and the green room process.

The proposals in Annex B were divided into five issue clusters on technical assistance; norm setting, flexibilities, public policy, and public domain; technology transfer, information technology, and access to knowledge; evaluation; and institutional matters including mandate and governance. A sixth, on ‘other issues’ present in Manalo’s paper, was incorporated into the preamble of the final recommendations. Each cluster was assigned to a different regional group; the coordinators were then tasked with preparing draft proposals in advance of the PCDA. These then became the basis of negotiations in the green room sessions.

The preamble of the text setting out the recommendations calls for the immediate establishment of a WIPO “Committee on IP and Development.” The institution’s inconsequential Permanent Committee on Cooperation for Development Related to Intellectual Property (PCIPD), into which the US and other Group B (industrialised) countries have previously sought to push the Development Agenda, will cease to exist. The Friends of Development were wary that locating their concerns in the PCIPD would marginalise their objective of mainstreaming development into all of WIPO’s activities. The PCDA’s work is complete, but a final one-day meeting will be held prior to the General Assembly in September to approve the Chair’s report and a list of proposals for immediate implementation.

Civil society groups expressed delight with an outcome that seemed unfeasible not long ago. James Love, director of Knowledge Ecology International, welcomed “a meaningful and welcome new vision for WIPO” that promised to consider “a range of topics, including measures to protect or promote access to knowledge, the implications and benefits of a rich and accessible public domain, and strategies for dealing with abuses of rights, or other measures to protect the public interest.” Though compromise was reached by watering down much of the final text, it was important to introduce concepts that WIPO had never broached before, a developing country official said.

Tom Goodwin, UK delegate, said that whilst the outcome does not give WIPO a new mandate, it “sets out a clear message from members, to each other and the secretariat, as to how they want that mandate executed on IP and development.” He noted that members had affirmed the validity of development concerns relating to IP and had recognised that WIPO needed strategies to address what he termed “an emerging area.”

Goodwin also praised the efforts made by developed and developing country members alike, in their

preparation and willingness to engage both before and during the official sessions. Informal meetings in Delhi in February and Singapore earlier this month had “focussed people and helped to get ideas in order ahead of time.” The tenor of exchanges between the Friends of Development and the Group B industrialised countries had improved markedly. “Trust was an ingredient in the success of the PCDA that had perhaps been lacking before,” he said.

Immediately after the accord, members got an early indication of the difficult work ahead for WIPO and its new Committee on IP and Development. In particular, the US renewed its calls for “ambitious plans for substantive patent law harmonisation,” progress on which has been linked to the development agenda negotiations. Developing countries have generally been wary of attempts to harmonise patent rules.

ICTSD reporting; “WIPO Committee Reaches Breakthrough Agreements on Development Agenda,” INTELLECTUAL PROPERTY WATCH, 15 June 2007.

G-4 MEETING UNDERWAY IN POTSDAM; OTHER MEMBERS AWAIT CONVERGENCE, CHAIRS’ TEXTS

Trade ministers from the EU, Brazil, India, and the US have kicked off a new attempt to resolve their differences in the deadlocked Doha Round negotiations in order to bolster chances of salvaging a multilateral agreement by the end of the year.

Talks among the so-called G-4 got underway in Potsdam near Berlin on 19 June. They are scheduled to continue through 23 June; an additional day has been budgeted for in case officials want to keep bargaining.

The four trading powers, which represent a wide spectrum of interests in the talks, are hoping to be able to bridge enough gaps on agriculture and industrial goods trade to help the broader WTO Membership strike a framework ‘modalities’ deal with specific formulae and figures for tariff and subsidy cuts before the Geneva-based institution’s August holiday. Such an accord is thought necessary to conclude the round by the end of the year.

Expectations lowered for Potsdam

Expectations for the meeting in Potsdam have been lowered. As recently as last week, US Trade Representative Susan Schwab was talking about moving the talks forward “dramatically.” However, officials reject suggestions that this is the last chance for a rapprochement. EU Trade Commissioner Peter

Mandelson told EU foreign ministers on 18 June that the ongoing gathering might achieve only “incremental progress,” with the possibility of another G-4 summit in July, reports Agence France Presse.

Nevertheless, even though a breakthrough seems unlikely, a total breakdown – like the acrimonious collapse of a similar summit last July – could be fatal to the multilateral talks, or at least put them into a prolonged coma (see BRIDGES Weekly, 26 July 2007, <http://www.ictsd.org/weekly/06-07-26/story1.htm>).

Mandelson said that the meeting of “G-4 negotiators cannot finish the Doha Round, but it will determine if Doha can be finished.”

The negotiations have not wanted for deadlines or “now or never” moments since their launch in late 2001. Most have been forgotten, let alone successfully met. But this time could well be more serious: the US presidential elections in 2008 will make lawmakers in Washington even more reluctant to grant politically-sensitive concessions in order to reach a trade accord. India is set to follow with elections in 2009. If a Doha Round agreement cannot be reached by early next year, the talks could well be put into deep freeze for years – if not forever.

G-4 representatives have met repeatedly in recent months for quiet, technical talks aimed at finding ways out of the impasse in the negotiations. Most recently, senior officials met last week in Paris to prepare for Potsdam. Little of substance has been confirmed about the G-4’s discussions, with contradictory rumours of convergence and deadlock. Indeed, the secrecy has led some observers to wonder whether the governments are on their way to an unavoidably controversial compromise, or simply trying to manage the political fallout from a collapse that they know to be inevitable.

The nature of the impasse in the talks has remained broadly unchanged since early 2006: while many Members want the US to agree to deeper cuts to its farm subsidies, Washington insists that it will not do so unless the EU agrees to greater agricultural market access and developing countries such as India and China accept tight limits on their ability to shield ‘special’ farm products from tariff reduction for food and livelihood security concerns. Meanwhile, the EU and the US want Brazil, India, and other developing countries to cut their industrial tariffs by much more than they have offered thus far.

There is little apparent overlap in the positions that each government espouses in public. Nevertheless, this may not be the case in closed-door informal discussions, where negotiators generally feel more comfortable talking about potential concessions.

Spotlight on NAMA, ag subsidies

The Potsdam meeting will address both farm and manufactureds trade, as well as services.

Although differences on agriculture have bedeviled the talks almost from the start, the divisions on non-agricultural market access (NAMA) were recently brought into sharp relief (see BRIDGES Weekly, 13 June 2007, <http://www.ictsd.org/weekly/07-06-13/story1.htm>). Brazil and India reiterated their opposition to US and EU demands in the negotiations, arguing that they would force developing countries to cut their bound tariffs by greater percentages than industrialised countries.

USTR Schwab complained last week that the gentler tariff cuts India and Brazil seek would leave the duties that they actually levy on manufactured goods largely untouched. Such demands by developing countries, she told Reuters, could “be the deathknell of the [Doha] development round.” “I’m hoping that the serious players in this negotiation understand if you want a development outcome, you really have to cut into applied rates,” she said.

Other G-4 members will spend substantial time in Potsdam trying to convince Schwab to bring Washington’s bound spending limit for trade-distorting domestic farm subsidies into closer alignment with the payments it actually doles out, if Indian Commerce Minister Kamal Nath has his way. “I do hope the US comes with a bag full of things [on farm support] tomorrow,” he said in Montreal before leaving for Germany. Nath said that he hoped for movement on the issue “because you cannot be talking of fair trade and continue with domestic subsidies.”

Differences on domestic support remain deep, despite the recent hints of convergence on some issues in the agriculture talks. The US’ offer to cap its trade-distorting farm subsidies at USD 22.5 billion is still well above the USD 19 billion it paid out to farmers in 2001, let alone the USD 11 billion that some of its trading partners estimate it spent last year.

Brazil and India’s G-20 bloc want the US’ spending entitlement capped at about USD 12 billion; the EU is seeking a USD 15 billion limit. Initial press reports from Potsdam suggest that Washington has suggested that it might be able to consider a USD 17 billion ceiling. Before going to Germany, Schwab had reiterated that the US would consider greater subsidy reduction if offered expanded market access.

The bulk of US government payments to farmers – worth over USD 50 billion in 2001 when last notified to the WTO – will not face any reductions in the Doha

Round, since they have been deemed not to distort trade and production. Many developing countries allege that some of these ‘green box’ subsidies in fact affect both.

Ag, NAMA chairs’ texts to come soon

Whether or not the G-4 countries manage to agree on anything, discussions at WTO headquarters in Geneva are set to heat up later this month, when the chairs of the agriculture and NAMA talks are to present Members with draft agreement texts for further negotiation. These texts are expected to contain formulae and figures (whether precise or a limited range) for where they think a compromise might be found on subsidy and tariff cuts, as well as on the often-contentious exceptions to these. Both chairs had indicated that they would welcome input from the G-4 when preparing their papers.

WTO Director-General Pascal Lamy has described the process led by agriculture Chair Ambassador Crawford Falconer (New Zealand) and NAMA Chair Ambassador Don Stephenson (Canada) as an “insurance policy” against another failure by the G-4 to resolve their differences. In recent months, other governments’ patience for the G-4 has waxed and waned; many delegates have expressed relief that a parallel multilateral track exists for pushing the talks along.

Even if the trading powers in Potsdam converge to a significant extent, they will have to figure out how to feed this into the multilateral talks in a way that does not seem as though they are trying to foist a deal on to the wider WTO Membership.

As it is, several civil society groups from around the world have criticised the G-4 as illegitimate, unrepresentative and undemocratic. They fear that small developing countries will feel forced to accept any compromise the four come up with. The G-4 has been likened by some to the less diverse quartet of countries – the US, the EU, Japan, and Canada – that played a dominant role during the Uruguay Round negotiations.

Oxfam warns that excessive haste could produce a deal that is harmful to development concerns – the precise opposite of the round’s original purpose. Marita Hutjes, acting head of Oxfam’s Make Trade Fair campaign, called for an end to trade-distorting subsidies. The last thing poor countries need, she said, “is a deal done at any cost, that exposes them to further dumping, and undermines future development prospects.”

Describing the process in recent months as neither “transparent, accountable [nor] inclusive,” she said that “the danger now is that as momentum builds towards a

deal, the poorest countries will be pressured into accepting a text which does not serve their development needs.”

Delegates say that if a modalities deal appears to be within Members’ reach in July, Lamy could summon ministers to Geneva towards the end of the month to hammer out an accord.

ICTSD reporting; “US should be open to farm subsidy cuts: Kamal Nath,” INDIAN EXPRESS, 19 June 2007; “Trade powers launch new WTO push, US hopeful,” REUTERS, 19 June 2007; “US trade chief eyes dramatic progress in WTO talks,” WASHINGTON POST, 18 June 2007; “US, Brazil wrangle over farm subsidies as top WTO powers start talks,” ASSOCIATES PRESS, 19 June 2007; “‘Decisive’ talks in Potsdam,” AGENCE FRANCE PRESSE, 19 June 2007.

BRAZIL LOSES RETREADED TYRES DISPUTE, BUT HAPPY WITH PANEL’S MIXED RULING

Brazil has lost a WTO challenge against its import restrictions on retreaded tyres. The EU had contended that the import limitations were motivated by a desire to protect the local tyre industry rather than to pursue genuine public health objectives. The dispute settlement panel’s report, released on 12 June, confirmed a confidential interim ruling (see BRIDGES Weekly, 14 March 2007, <http://www.ictsd.org/weekly/07-03-14/story2.htm>).

Despite the panel’s call for it to change its policies, the Brazilian government welcomed the decision. Officials noted that the panel had accepted the health- and environment-related justifications for restrictions on the import and stockpiling of used and retreaded tyres, objecting only to the way in which the measures were applied.

Indeed, some trade lawyers expressed surprise at the extent to which the panel agreed with Brasilia’s arguments and left the door open for it to maintain many of the limitations with only minor modifications.

The case, which represents the first-ever challenge against trade restrictions imposed by a developing country for health and environmental reasons, has been closely watched by environmental groups.

Panel agrees that restrictions are justifiable...

The panel ruled that Brazil’s restrictions were justifiable under GATT Article XX(b), which allows governments to

limit trade when necessary in order to protect human, animal, or plant life and health.

It agreed with Brazil’s argument that retreaded tyres – used tyres that are reprocessed for a second and final use – had a shorter life span than new ones and therefore contributed to a faster accumulation of waste tyres. These growing piles of waste tyres in turn provide fertile breeding grounds for disease-carrying mosquitoes, and their sheer volume is already beyond the country’s capacity for environmentally responsible disposal, the panel accepted. It also agreed that the risk of dengue, yellow fever, and malaria increased in proportion to the accumulation and transport of waste tyres. Notably, the panel found that, although proper management could significantly offset these risks, the ‘reality’ in Brazil meant that this was unlikely to occur to the extent necessary to meet the government’s health objectives. In sum, it said that the import restrictions and associated fines were necessary to meet the public health goals.

The three members of the dispute panel did not, however, closely examine the EU’s complaint that certain low-quality new tyres unsuitable for retreading were exempt from the import ban, even though they became waste as quickly as retreaded tyres.

...but their application was discriminatory

Although the panel admitted that the restrictions might have been motivated by health and environmental considerations – and that there were no clear alternatives -- it concluded that the way the measures were applied amounted to an unjustified and discriminatory restriction of trade. The so-called ‘chapeau’, or introductory paragraph, of GATT Article XX specifies that restrictions otherwise prohibited by WTO rules are only permitted if they “are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination... or a disguised restriction on international trade.”

The principal reason for this conclusion was that Brazil’s retreaded tyre industry had actually imported large quantities of otherwise-banned used tyres between 2000 and 2005 after receiving numerous court injunctions that allowed them to do so.

When the restrictions were established in 2000, Brazil imported 1.4 million used tyres a year. By 2005, the figure had grown to nearly 10.5 million, more than 8 million of which were sourced in the EU itself. Meanwhile, the EU’s exports of retreaded tyres – once over 2 million per year – had ground to a halt.

The result of the court injunctions, the panel argued, was that “used tyres of foreign origin from which

retreaded tyres are made are in fact allowed to enter Brazil, with at best the same adverse impact or, at worse, a more negative impact on the objective Brazil asserts than the importation of retreaded tyres themselves would have, directly defeating the objective of the import ban itself."

In addition to undermining the health and environmental objectives Brazil claimed to pursue, the panel noted that, as a result of the court injunctions, domestic retreaders had been "able to continue to benefit from the importation of used tyres as material for their own activity in significant amounts," while their competitors from non-Mercosur countries were kept out of the Brazilian market.

"The restriction on international trade inherent in the banning of imports of retreaded tyres has thus operated to the benefit of domestic retreaders, while the fulfilment of the purpose for which it has been justified is being significantly undermined," the panel concluded.

The Brazilian government has opposed – sometimes with success – court injunctions allowing used tyre imports. The panel recognised that there were "practical difficulties that may be associated with the prevention of such imports within Brazil's domestic legal system." Nevertheless, it noted that "the fact that the imports arise from court rulings does not exonerate Brazil from its obligation to comply with the requirements of Article XX. Rather, [...] a Member of the WTO bears responsibility for acts of all its department of government, including its judiciary."

Another point of contention in the case was Brazil's exclusion from the import ban of far smaller numbers of retreaded tyres from Mercosur partner countries Argentina, Paraguay, Uruguay, and Venezuela, on the basis of a binding regional arbitration decision. In its ruling against Brazil's overall policy, the panel refrained from addressing the issue beyond noting that the number of tyres was currently not significant, choosing instead to exercise "judicial economy."

Throughout the case, Brazil-based manufacturers of new tyres strongly supported the government's restrictions, which have shielded them from competition from imported retreads. In fact, the EU submitted evidence claiming that at least one company had even lobbied for the introduction of the import ban.

In a 12 June press statement, Brasilia declared that it would not appeal the panel's decision. The Brazilian government had already filed a case with the country's Supreme Court in an attempt to stop the lower court injunctions allowing the tyre imports to which the WTO panel objected. Sources say that it has submitted the

WTO panel's ruling to the top court in support of its case.

Brussels, for its part, said that the decision confirmed its view that the import ban was "protectionist and discriminatory." "The EU is strongly in favour of environmental and public health protection," it said, "but Brazil's measures do not serve those objectives." Although sources suggest that some within the European Commission have misgivings about aspects of the ruling, it may not appeal either.

Past WTO rulings have found several trade restrictions to be justifiable under the health, environment, and other goals set out in the Article XX exemptions, but relatively few have met the test of non-discriminatory application.

Brazil and the EU will have 60 days to appeal before Members adopt the panel's report.

The 245-page WTO report (WT/DS332/R) is available on <http://docsonline.wto.org/>

ICTSD reporting; "Panel Faults Brazil in Tyres Dispute," BRIDGES Monthly Review 11(4), June 2007 (forthcoming).

OTHER NEWS

MEMBERS CLASH OVER HOW TO DISCIPLINE FISHERIES SUBSIDIES

Members clashed over the shape of future WTO rules on fisheries subsidy spending during a 14 June meeting of the Negotiating Group on Rules.

In particular, a new proposal from Japan, Korea, and Taiwan was criticised by countries that argued that far broader restrictions on subsidy payments would be necessary in order to counteract the rapid depletion of marine fish stocks.

Delegates had a similarly mixed reaction to a new paper from the African, Caribbean, and Pacific (ACP) states focussing on access fees and the industry's economic impact in the developing world.

Japan, Korea, Taiwan proposal called insufficient

The Japan-led proposal appealed to Members to prohibit specific types of subsidy payments as opposed to the blanket ban with some exceptions supported by

countries including the US, New Zealand, and Brazil (see BRIDGES Weekly, 6 June 2007, <http://www.ictsd.org/weekly/07-06-06/wtoinbrief.htm#1>).

Japan, Korea, and Taiwan argued that this 'bottom-up' or 'positive list' framework would be enough to sufficiently lessen overfishing, and would be more workable than sweeping eliminations. Korea contended that delegates' priority was to reach consensus on fisheries disciplines, and that this proposal represented the strongest compromise. Taiwan echoed this sentiment, praising the paper for striking the right balance.

Countries including Australia, Chile, New Zealand, and the US contested this supposed 'balance' and reiterated their calls for more extensive disciplines. New Zealand asserted that the Asian nations' approach, which would permit some subsidies for building and purchasing fishing vessels, did not go far enough and failed to "follow the momentum of the negotiations." It further argued that Japan's exemption for payments to small-scale fisheries amounted to a "get out of jail free" card given that 90 percent of the country's fishing fleet was accounted for by ships of less than five gross tonnes and thus likely to fall under this categorisation. Taking a similar view, the US said the proposal contained too many loopholes enabling circumvention.

Both New Zealand and the US are members of the 'Friends of Fish' group, a loose coalition of countries that have long supported a blanket ban with a list of specific negotiated exceptions.

Some delegates fell between the two groups. Notably Norway, which has co-sponsored papers with the 'Friends of Fish' before, and the EU, which is not a member of the group, expressed support for the positive list approach but hesitation about other aspects of the proposal. Norway welcomed the proposal but expressed concern that it contained too many exemptions. The EU applauded the proposal, but criticised it for being insufficiently developed.

Defining subsidies divides Members

Fisheries conservation aside, access fees have been another pressing concern for many delegations. These are payments that a government offers another nation – typically a small coastal state – in exchange for the right to fish in that nation's waters. The access-granting state receiving the payment generally lacks the capacity or resources to capitalise on its fish stocks.

Heeding a call from rules group Chair Ambassador Guillermo Valles Galmes (Uruguay), to increase discussions on this issue, the ACP group earlier this month distributed a communication on the importance

of access fees to developing nations (see BRIDGES Weekly, 13 June 2007, <http://www.ictsd.org/weekly/07-06-13/story6.htm>).

At the recent meeting, the Solomon Islands presented the proposal on behalf of the group. It reiterated the ACP bloc's call for government-to-industry access payments to be shielded from new rules, just like government-to-government fees. While the latter are not widely considered to artificially lower the cost of fishing, some countries argue that government-to-industry fees are de facto subsidies, since remote governments often sell access rights to private fishing fleets below cost – i.e., for less than the amount of access fees paid to the coastal nation.

The ACP group wants all access fees to be exempt from WTO challenge, noting that such payments account for 25 percent of total government revenues in several Pacific island countries. Several members of the bloc spoke in favour of the proposal, including coastal countries Mauritius, Barbados, Fiji, Cuba, Egypt, and Cote d'Ivoire. The EU likewise expressed full support for the ACP position.

Raising the issue of balance once again, India said the most important objective would be to optimise revenue protection and marine conservation.

The US and New Zealand opposed the paper, calling attention to sustainability concerns. New Zealand cited an independent study that demonstrated how the transfer of rights from governments to private industry at subsidised rates has led to overfishing; it argued, therefore, that such transfers should be banned. If these fees were permitted, it continued, the coastal nations would have to cope with the subsequent ecological -- and economic -- effects. Thailand, Chile, Australia, and Costa Rica backed this point of view, and noted their support for disciplines on the transfer of access rights.

Looking ahead

Much of the focus of the next rules meeting, scheduled for the week of 9 July, will be on establishing disciplines for developing countries that will balance conservation and economic concerns. The chair will not put down a draft agreement text before the upcoming meeting, but it is unclear whether such a text might appear before the WTO's August holiday. One delegate said that the "one certainty is that [a] rules [text] will not be out" before NAMA or agriculture.

Sources say that the timing of a comprehensive rules text – which will also address anti-dumping rules and industrial subsidies – could depend upon the US administration and the prospects for the renewal of its

trade promotion authority (TPA). Anti-dumping rules are controversial in the US Congress, and some lawmakers may be reluctant to renew the administration's negotiating mandate if they fear major changes to the US' ability to impose additional duties on dumped imports. At least in terms of anti-dumping, some delegates do not want a rules text before the Bush administration's TPA is renewed, which is thought possible if Members manage strike a framework deal on tariff and subsidy cuts on agriculture and industrial goods.

Thus, although much is unknown, Members expect that the future course of the negotiations will become clearer in July.

ICTSD reporting.

DOHA ENVIRONMENT NEGOTIATIONS MOVE SLOWLY, HINGING ON PROGRESS ELSEWHERE

With their eyes on the ongoing push for a breakthrough in the Doha Round talks, WTO delegates met to discuss the trade and environment negotiations from 11-12 June.

Progress has been slow in talks on expedited trade liberalisation for environmental goods and services, as well as the relationship between multilateral environmental agreements (MEAs) and the WTO. However, this is expected to change if Members manage to break the current deadlock on trade in agricultural and industrial goods, setting the stage for a conclusion of the round by early next year.

Environmental goods unresolved

Broadly speaking, developed countries would like Members to agree to a 'list' of specific environmental goods to be subjected to accelerated tariff liberalisation. Many developing countries are sceptical of this approach, fearing that such a list would mainly feature goods of export interest to developed countries. One alternative 'project' approach, suggested by India, would temporarily liberalise trade in environmental goods and services used for approved environmental projects. Supporters claim that this would help ensure that the imported products are used for environmental purposes.

During the recent meeting, India and Argentina made a joint submission [JOB (07/77)] outlining a multi-step approach to environmental goods and services liberalisation that incorporated aspects of both the 'list' and 'project' approaches.

Under this proposal, Members would first identify and agree on a list of environmental activities. These could include air pollution control, water and wastewater management, soil and soil conservation, solid waste management, environmental monitoring and analysis, energy saving management, and renewable energy. All of these sectors have featured prominently in the talks thus far.

Next, governments would develop a list of public and private entities that carry out the agreed activities in their territories, and, following negotiations, formally notify the list to the WTO. Those companies would then become eligible for preferential tariff treatment on all goods and services used for the environmental activity in question, following the introduction of audit systems to ensure that they are not being put to other purposes. Periodic negotiations would serve to update countries' lists of companies eligible for the lower duties.

In terms of special and differential treatment, India and Argentina proposed that developed countries could offer duty-free access for such goods, while developing countries could offer a less substantial margin of preference. Least-developed countries would be free to decide individually on concessions or preferences.

Argentina had originally proposed a compromise that would have temporarily lowered tariffs on environmental goods listed as necessary for environmental projects.

The new paper called for the WTO Secretariat to boost monitoring and reporting on Members' technology transfer activities, arguing that in order to achieve a truly environmentally friendly outcome, developing countries must gain unrestricted access to alternate and clean environmental technologies.

With regard to another obstacle to commerce, the proposal suggested that domestic regulatory requirements could serve as non-tariff barriers (NTBs) even to environmental technologies, and recommended that Members consider relaxing them to the extent necessary for the agreed environmental activities to be carried out effectively.

Argentina and India noted that, unlike a simple list of environmental goods, their approach covered both goods and services, ensured that they were used for environmental purposes alone, and addressed key areas of concern to developing countries such as transfer of technology and non-tariff barriers.

Proposal meets mixed response

One trade source told Bridges that the joint paper was an attempt by India and Argentina to address reservations that other Members had expressed about

the transparency, predictability, and operational aspects of the project approach.

Nevertheless, the proposal met with a mixed response. Egypt and Ecuador, for instance, welcomed it, while 'list' proponents – notably the 'friends of environmental goods' -- were generally critical. Many developing countries that are otherwise supportive of the 'project approach' also raised questions of a more technical nature.

Supporters of the 'list' method asked about the criteria that would be used to identify the entities that receive favourable tariff treatment. Would they be domestic companies alone, or would multinationals be eligible too? Would it be consistent with the 'national treatment' principle if some entities could import goods duty free while others could not? What legal issues might arise? One issue raised by China and others was the number of entities that would be involved. Would the number and types of entities eligible for liberalised imports of environmental goods and services be negotiated at the multilateral level, or would it be for the national authorities to take a decision and then notify the WTO? The 'friends' said that the proposal would involve too much 'bureaucracy'.

One trade source noted that there could potentially be thousands of entities within a single country. China said that its expanding economy was creating many such entities every year. Would an ever-changing list be enforceable in the context of the WTO rules-based system? The capacity of developing countries to implement the approach was also questioned.

Brazil, the world's largest exporter of ethanol, once again demanded that biofuels be included in any classification of environmental goods. However, sources reported that discussion of the issue did not 'take off' during the meeting, although they expected Brazil to raise the issue again.

If there is indeed a breakthrough in the overall negotiations before the WTO's August holiday – with framework deals on tariff and subsidy cuts for agriculture and non-agricultural market access – Members will have only a few months in which to finalise agreements on several other issues in the talks, including the environment mandate. In this scenario, sources suggest that some developing countries might be willing to consider a substantially shortened list, even if otherwise sceptical of the approach.

Discussions on information exchange between MEA secretariats and WTO committees, along with the criteria for granting MEAs observer status, focused on a draft text circulated by the chair. The text proposed measures such as more frequent information exchange

sessions with MEAs, possibly using the internet. The text also suggested possible criteria to judge an MEA's relevance for observership status.

One trade delegate noted that there was general agreement on the issue of information exchange, and that most Members appreciated the document produced by the chair. The observership issue, in contrast, remained contentious, with most Members disagreeing with the EU's suggestion to automatically grant the status to MEAs that met certain criteria.

One developing country delegate told Bridges that the mandate on observership simply called on Members to develop criteria that each WTO committee could use when considering applications from MEAs for such status. Any automatic grant of Membership, even ad hoc, was beyond the scope of Paragraph 31 (ii) of the Doha Declaration, which sets out the mandate on the issue.

The chair has reportedly called for further informal consultations on observership in order to iron out differences standing in the way of an agreement on the issue, widely perceived to be a 'likely deliverable' within the trade and environment mandate.

The next Committee on Trade and Environment Special Session is reportedly due for 17-18 July.

ICTSD reporting.

IN BRIEF

ANDEAN NATIONS REACH COMPROMISE ON TRADE NEGOTIATIONS WITH EU

Bolivia, Colombia, Ecuador, and Peru have struck a compromise that promises to reinvigorate their trade talks with the EU. The four-member Andean Community's negotiations with Brussels, which have proceeded sporadically since 2004, stalled last month as a result of divisions within the group.

The announcement of the compromise signalled a softening on the part of Bolivian President Evo Morales, who in May indicated that he was not prepared to make concessions on state control of public services, intellectual property, government procurement, or international arbitration of investment disputes as part of a trade deal with the EU. Ecuador had similarly indicated its opposition to measures that would limit state intervention in the economy. In response,

Colombia and Peru, strong supporters of open trade, had threatened to launch independent negotiations with Brussels.

Under the compromise announced last week, the Andean nations have agreed to "recognise the different levels of development and economic approaches" that exist within the group, and to allow each "the right to express their differences and to negotiate different levels of coverage and of depth" in the prospective trade agreement.

The resolution of the deadlock was hailed as an important step forward for the trade negotiations.

"Bolivia's effort to make its position more flexible is a brotherly gesture demonstrating a desire for integration, one the other countries are thankful for," said Peruvian President Alan Garcia.

EU envoy Thomas Dupla del Moral welcomed the compromise, but warned that the trade talks still face significant challenges. "The negotiations between the two regions will be complicated and put our commitment to the test," he said.

Freddy Ehlers, Secretary General of the Andean Community, indicated that negotiations, which are set to resume within the month, could last up to three years.

Trade between the four Andean nations and the EU currently totals USD 15 billion dollars per year.

"South American leaders give nod to EU trade talks," EUBUSINESS.COM, 14 June 2007; "Bolivia offers compromise at trade summit," ASSOCIATED PRESS, 14 June 2007; "Andean countries agree to launch CAN-EU negotiations during the Andean Summit," ANDEAN COMMUNITIES PRESS RELEASE, 8 June 2007; "Bolivia intent on commercial suicide?" OPEN VEINS, 18 June 2007; "CAN launches official trade talks with EU," XINHUA ONLINE, 15 June 2007.

CITES: COMMERCIALY VALUABLE SPECIES IN THE BALANCE

Tensions between economic and environmental interests came to the fore at a recent wildlife meeting, pitting supporters of trade bans for endangered species against those who favour carefully monitored 'sustainable trade' for less-threatened plants and animals.

The first camp argues that bans are necessary for conservation. The latter point to significant potential

benefits and incentives for the communities that play a stewardship role for endangered species.

Meeting every three years, the Conference of the Parties of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) convened for the fourteenth time in The Hague, the Netherlands, from 3-15 June. Issues discussed included a strategic plan for the future, as well as whether to ban or restrict trade in individual plant and animal species (by placing them in different CITES appendices).

The fate of ivory, the highest-profile issue of the meeting, was settled through a compromise that allowed for a one-off sale of legal stockpiled ivory from four southern African countries to Japan, in return for a nine-year "resting period" for any sales. Botswana, Namibia, and South Africa argued that their elephant populations were healthy and growing, and said they would use the trade revenues to strengthen conservation programmes (Zimbabwe was also allowed to sell stockpiled ivory). Countries such as Kenya, struggling to stem poaching, had opposed this and called for a 20-year moratorium, arguing that legal trade would open doors for illegal trade.

High-value timber and marine resources have increasingly featured on the CITES agenda in recent years. However, to the disappointment of conservationists, trade in many of these species was left unregulated, in spite of proposals to do so. A new ministerial segment of the gathering focused on this growing area of concern, however, and numerous observers noted that trade in endangered timber and marine species are not issues that will disappear -- rather, they will likely become more important with time. They noted that the CITES process was becoming politicised.

Jochen Flasbarth, who headed up the EU delegation, said: "If you look for the real problems of biological diversity around the world, it's clear that they lie in the forests and the marine environment, and as soon as you interfere in these areas you are confronted with huge economic interests."

For further coverage of the CITES meeting, see the upcoming issue of BRIDGES Trade BioRes, <http://www.ictsd.org/biores/index.htm>

For daily reporting and a summary of the meeting, see IISD's Earth Negotiations Bulletin at <http://www.iisd.ca/cites/cop14/>

ICTSD reporting; Earth Negotiations Bulletin, Vol. 21 No. 61, 18 June 2007; "CITES Decisions Map the Future of Wildlife Trade," ENS, 15 June 2007; "New

Trends at Wildlife Trade Conference," GUARDIAN UNLIMITED, 16 June 2007; "Cash row at wildlife trade forum," BBC, 16 June 2007.

WTO IN BRIEF

SERVICES NEGOTIATORS INCH FORWARD WHILE WAITING FOR AG, NAMA BREAKTHROUGH

WTO services negotiators are continuing their attempts to make progress in the shadow of the stalemate in the agricultural and non-agricultural market access (NAMA) talks.

At a Special Session of the Council for Trade in Services held on 8 June, 'demandeur' countries, such as the EU and the US, repeated their calls for expanded market access commitments from their trading partners and urged other Members to match the level of ambition in services to that in agriculture and NAMA. At the same time, Uganda and Bangladesh, on behalf of the LDC Group, reiterated its call for more meaningful progress on their interests, particularly the temporary labour mobility (so-called Mode 4).

Many developing countries have been loath to contemplate new market access offers until they have a clearer sense of what will happen in other areas of the talks. Sources acknowledge that new offers are unlikely until Members agree on tariff and subsidy cuts for agriculture and NAMA.

Nevertheless, services Chair Ambassador Fernando de Mateo (Mexico) will hold the next in his series of informal high-level political discussions among a group of about 20 ambassadors -- dubbed the 'enchilada' talks -- on 26 June. The gathering will focus on plurilateral requests made in the sectors of financial, air transport, environment, construction, legal services, and architecture and engineering services, as well as cross-border services supply. The next 'cluster' of services meetings will follow in early July.

De Mateo's meeting comes quick on the heels of the ongoing meeting between trade ministers from the EU, the US, Brazil, and India in Potsdam, Germany. Some delegates hope that the so-called G-4 will bridge enough of their longstanding differences to pave the way for the broader WTO Membership to strike a framework 'modalities' agreement on agriculture and industrial goods trade. If such a deal is within reach, negotiators expect a broader ministerial-level meeting

of representatives from at least 40 countries to be called at the end of July to finalise it. Sources indicate that certain members would try to use this gathering to obtain pledges from selected trading partners to substantially improve their services market access offers in their areas of interest.

ICTSD reporting.

EVENTS & RESOURCES

EVENTS

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

Coming Up: 21 - 27 June

25-26 June, London, UK. CLIMATE CHANGE: POLITICS VERSUS ECONOMICS. Climate change is global, both in cause and consequence, and the response requires international action. Yet environmentalists, scientists, economists, foreign policy and security experts and investors all speak different languages and have different understandings of how best to tackle the issue. The aim of this conference, hosted by Chatham House, is to bring together well-respected representatives from each of these fields to discuss the connections and to debate whether it is international politics or economics or a mixture of both that will deliver a measurable progress in the global response to climate change. For information on the conference contact conferences@chathamhouse.org.uk.

25-26 June, Macau, China: 8th IEEM INTELLECTUAL PROPERTY SEMINAR ON INTERNATIONAL INTELLECTUAL PROPERTY LAW AND PHARMACEUTICALS. This seminar, hosted by the Institute of European Studies of Macau (IEEM), will feature lectures on the pharmaceutical industry in Asia, antitrust laws, and the effects of medicinal patents on public health in developing countries. For more information contact Beatrice Lam at beatrice@ieem.org.mo. internet: <http://www.ieem.org.mo/courses/ipl/index.html>.

25-27 June, Stanford, California. INTERNATIONAL ENERGY WORKSHOP (IEW). IEW is a network of global energy experts that meet annually to discuss a wide range of topics, with particular emphasis on global

as well as regional energy issues. The annual IEW meetings focus on energy assessments and try to understand the reasons for diverging views of development in the energy sector. For more information contact John Weyant at weyant@leland.stanford.edu. internet:

http://www.internationalenergyworkshop.org/Workshop_2007.html

WTO Events

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

25 June: COMMITTEE ON BUDGET, FINANCE AND ADMINISTRATION

27 June: TRADE POLICY REVIEW BODY – INDONESIA

27-28 June: COMMITTEE ON SANITARY AND PHYTOSANITARY MEASURES

Other Upcoming Events

2-7 July, Rome, Italy. CODEX ALIMENTARIUS COMMISSION MEETING. This meeting, jointly hosted by the World Health Organisation and the UN Food and Agriculture Organisation, will consider proposed draft standards, the implementation of standards assessments, as well as relations between the Codex Alimentarius Commission and other international organisations. For more information contact the WHO/FAO office at +39 06 57051, or email at codex@fao.org. internet: <http://www.codexalimentarius.net/web/current.jsp?lang=en>

3-12 July, Geneva, Switzerland. 11TH SESSION OF THE WIPO INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE. This meeting, organised by the World Intellectual Property Organisation, will be the Committee's final working session before it reports to the WIPO Assemblies meeting in late 2007. For more information contact the IGC Secretariat at +41-22-338-8161 or email grtkf@wipo.int. internet: <http://www.wipo.int/tk/en/>

26-29 July, Ravello, Italy: 11th INTERNATIONAL CONFERENCE ON AGRICULTURAL BIOTECHNOLOGIES: NEW FRONTIERS AND PRODUCTS - ECONOMICS, POLICIES AND SCIENCE. Topics that will be discussed at this conference include the impact of agricultural biotechnology on international trade, biotechnology and developing countries, and regulation of biotechnology. The conference is being organised by the International Consortium on Agricultural Biotechnology Research (ICABR), Catholic University of Leuven, CEIS-University of Rome, Rutgers University, and the Economic Growth Center, Yale University. internet: <http://www.economia.uniroma2.it/conferenze/icabr2007/>

27-31 August, Vienna, Austria: UNFCCC DIALOGUE AND KYOTO PROTOCOL AWG 4. This will be the fourth workshop of the 'Dialogue on long-term cooperative action to address climate change by enhancing implementation of the Convention' and the fourth session of the Ad Hoc Working Group on Further Commitments for Annex I parties under the Kyoto Protocol (AWG). internet: www.unfccc.int

RESOURCES

WORLD TARIFF PROFILES. By the World Trade Organisation, the UN Conference on Trade and Development, and the International Trade Centre, June 2007. Numbers play a fundamental role in key areas of trade negotiations; perhaps more than in any previous multilateral round of talks, tariffs and formulas are at the core of the Doha negotiations. Up to now, access to these data was often limited to a closed circle of trade specialists. The present publication attempts to fill that gap by offering a comprehensive picture of tariff profiles of the 150 WTO Members in an abridged format. The full publication is available at http://www.wto.org/english/tratop_e/tariffs_e/tariff_profiles_2006_e/tariff_profiles_2006_e.pdf.

FAO BIOTECHNOLOGY GLOSSARY ON CD-ROM. By the UN Food and Agriculture Organisation, June 2007. The FAO has released a CD-ROM containing the Arabic, English, French, and Spanish versions of the FAO Glossary of Biotechnology for Food and Agriculture, with cross-referencing among the four languages. The glossary provides definitions of over 3,000 terms and acronyms that are used regularly in biotechnology and related fields. To request a copy of the CD-ROM, contact sandra.tardioli@fao.org. The glossary is also available online at http://www.fao.org/biotech/index_glossary.asp.

THE CHANGING LANDSCAPE OF REGIONAL TRADE AGREEMENTS: 2006 UPDATE. By Roberto V. Fiorentino, Luis Verdeja, and Christelle Toqueboeuf

(WTO, June 2007). The number of Regional Trade Agreements (RTAs) as well as the world share of trade covered under them has been steadily increasing over the last ten years; this trend is being further strengthened by the many RTAs currently under negotiation. The promotion of free trade through preferential agreements can foster trade liberalization and help integrate developing countries into the world economy, yet the development of such trade networks will increase discrimination and may well undermine transparency and predictability in international trade relations. This paper provides an update of recent developments and trends relating to RTAs and analyses the WTO-RTA relationship and its systemic implications for the multilateral trading system. The paper is available at http://www.wto.org/english/res_e/booksp_e/discussion_papers12a_e.pdf

BIOTECHNOLOGY IN CROP PRODUCTION AND THE BIOSAFETY PROTOCOL – IMPLICATIONS FOR CEREAL TRADE. By the UN Food and Agriculture Organisation, 2007. This paper, which was prepared for a recent joint meeting of the Intergovernmental Group on Grains and the Intergovernmental Group on Rice, describes international legal instruments that regulate or offer guidelines on genetically modified crops and highlights challenges and implications for the global trade in cereal crops. The paper maintains that the adoption of the Cartagena Protocol on Biosafety has created a strong demand in many developing countries for establishing effective biosafety systems and concludes that there is a need to provide long-term, continuous technical and financial support to allow the full development of national capabilities in this sector. The paper is available online at <ftp://ftp.fao.org/docrep/fao/meeting/011/J9312E.pdf>.

“Scale, Technique, and Composition Effects in the Mexican Agricultural Sector: the Influences of NAFTA and the Institutional Environment” by Silvina J. Vilas-Ghiso and Diana M. Liverman in *INTERNATIONAL ENVIRONMENTAL AGREEMENTS* 7(2), 2007. More than a decade after NAFTA (North American Free Trade Agreement) entered into force, the environmental effects of agricultural trade liberalization in Mexico are still controversial, emerging, and not fully understood. This paper contributes to the literature that aims to explore trends in input use in the agricultural sector in Mexico during the post-NAFTA period among both commercial/industrial and traditional farmers, and examines the influence of the national and multilateral institutional framework on these outcomes.

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