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LEAD STORIES

G-4 TALKS IN POTSDAM BREAK DOWN, DOHA ROUND'S FATE IN THE BALANCE ONCE AGAIN

Prospects for concluding a Doha Round trade deal in the foreseeable future took yet another blow last week when talks among the EU, the US, Brazil, and India broke down amidst persistent divisions on cutting industrial tariffs and farm subsidies.

Ministers and top negotiators from the so-called 'G-4' -- the four WTO Members that have been at the heart of the negotiations -- had arrived in Potsdam, Germany on 19 June for at least five days of discussions aimed at bridging enough gaps to boost chances for a broader multilateral agreement. However, the meeting ended on 21 June when differences proved irreconcilable.

The collapse was followed by the traditional round of finger-pointing. The EU and the US blamed Brazil and India for walking out after tabling nothing new in terms of non-agricultural market access (NAMA), in the face of new concessions on farm sector reform. The developing countries countered that Washington's offer on farm subsidy cuts and Brussels' on agricultural market access both amounted to a pittance that did not justify any changes in position.

Moreover, Brazilian and Indian officials insist that the flexibility to which their EU and US counterparts professed after the summit was never apparent inside the negotiating rooms.

Irrespective of what might have been said in Potsdam, the G-4's dramatic failure to narrow their differences makes it even less likely that WTO Members will be able to agree on framework agriculture and NAMA agreements before August. Such an accord is thought necessary to conclude the round by early 2008, before the US election campaign begins in earnest.

The recent breakdown closely mirrors last July's acrimonious collapse of talks among the same four countries together with Japan and Australia, although that setback was sparked primarily by differences on

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farm trade (see BRIDGES Weekly, 26 July 2006, <http://www.ictsd.org/weekly/06-07-26/story1.htm>).

However, while last year the talks drifted in limbo for months following the core group's meltdown, this summer there is an alternative multilateral process for Members to fall back on: in parallel to the G-4's discussions, the chairs of the agriculture and NAMA talks at WTO headquarters in Geneva have been preparing draft agreement texts for further negotiation.

It is to this chair-led process that governments must now turn their attention, Director-General Pascal Lamy told a hastily convened meeting of the Trade Negotiations Committee on 22 June, the day after the Potsdam summit ended. He said that convergence among the G-4 would have been helpful for producing a multilateral agreement, but "helpful is not indispensable." The WTO chief stressed that the Doha Round "is not a negotiation among just four players, it is a collective endeavour" among all of the organisation's Members.

Lamy asked delegations to "engage fully in the multilateral process led by the Chairs, and put your cards on the table over the coming weeks in Geneva so that we can reach full modalities." Progress has been made since last summer, he insisted. "The numbers I hear here and there, or those that I pick up in the media, are much closer than last year," he said.

Do 'red lines' overlap?

Nevertheless, the high-profile failure of four major players to forge a meaningful degree of consensus raises real questions about whether any overlap exists among Members' so-called 'red lines' – the absolute minimum beyond which each would walk away from a deal. Negotiators from the US and India went home to applause from industry groups and politicians for having stood firm.

EU and US ministers said after the meeting that there had been a substantial degree of convergence on agriculture, but utter intransigence from India and Brazil on NAMA. Brazilian Foreign Minister Celso Amorim and Indian Commerce Minister Kamal Nath, in contrast, complained that Washington and Brussels appeared to have reached some sort of bilateral compromise on agriculture, and had banded together to demand disproportionate liberalisation from developing countries.

"In a way, we are having sort of a Cancun Act II in which the two developed countries or entities found common levels of comfort for them ... but keeping, of course, a very high ambition [in NAMA] for us," Amorim said, according to Reuters. Developing country

opposition to an EU-US compact on agricultural reform helped sink the WTO's Cancun Ministerial Conference in September 2003. US Trade Representative Susan Schwab and Agriculture Secretary Mike Johanns vehemently denied that they had struck a deal with the EU, pointing to substantial outstanding differences.

Specific details about the discussions in Potsdam vary based on which country is doing the talking, but it appears that the US had agreed to lower its cap on trade-distorting farm subsidies to just over USD 17 billion, from its previous offer of about USD 22.5 billion. Sources suggest that the EU had offered to cut the highest farm tariffs by 60-65 percent – still 10-15 percent shy of the cuts that Brazil and India's G-20 bloc had been seeking.

As for industrial tariffs, the EU and the US wanted developing countries to apply a 'Swiss formula coefficient' of 15, which would cap most duties at 15 percent along with an across-the-board reduction. For industrialised nations, they wanted a coefficient of 10. Brazil and India have insisted, along with the rest of the NAMA-11 bloc, that there should be a gap of at least 25 points between the coefficients for the two groups, in order to meet the negotiating mandate for 'less than full reciprocity' in reduction commitments by developing countries (see BRIDGES Weekly, 13 June 2007, <http://www.ictsd.org/weekly/07-06-13/story1.htm>).

The EU and the US dismissed Brazil and India's proposed coefficient of 30 -- down from 35 -- as insufficient. EU Trade Commissioner Peter Mandelson complained that it would not lead to "any substantive or commercially meaningful changes in the tariffs of the emerging economies." "We are prepared to pay a lot – and more than others – [but] we cannot do so for nothing in return," he said.

Bound vs. applied, again

The G-4 members' arguments actually resemble each other to a significant extent. This reflects the tension between the WTO's standard negotiating 'currency' of bound subsidy and tariff ceilings, and governments' desire for trading partners to make changes that go beyond existing policy.

Two decades of autonomous domestic liberalisation have left Brazil and India with theoretical maximum levels for customs duties on manufactureds that are in many cases substantially higher than the tariffs that they actually levy. According to the WTO Secretariat, India's bound average for industrial tariffs is close to 40 percent, but its applied rate is closer to 13 percent. Thus, a coefficient of 30 would only cut its average applied rate by 4 to 8 percent.

Meanwhile, the 70-percent cut to trade-distorting farm support Brussels has offered does not surpass its ongoing reforms to domestic agricultural spending. Indian minister Nath complained last week that the US' proposal to cap similar payments at USD 17 billion would actually allow it to increase support by more than 50 percent above the USD 10.8 billion it spent last year.

However, the mathematical structure of the 'Swiss formula' used in the NAMA negotiations means that even a coefficient of 30 would force down applied rates on about a quarter of Brazil's tariff lines, and close to a fifth of India's. A coefficient of 15 would require both to reduce their bound average tariffs by over 60 percent, and would compel India to reduce applied tariffs on roughly 80 percent of all manufactured products. "The exchange rate being asked was too high," Amorim said of the agriculture offers and NAMA demands.

Notably, the biggest component of support that rich country farmers receive from their governments is not on the block in the negotiations: these 'green box' payments (deemed not to affect production and trade) dwarf the amounts of trade-distorting support over which Members are currently haggling.

Some trade analysts argue that if nothing else is achievable, even locking in existing tariff and subsidy levels would enhance predictability for businesses, since it would be a bulwark against backsliding in the future.

The road from Potsdam

Prior to the summit in Potsdam, Mandelson said that the gathering of "G-4 negotiators cannot finish the Doha Round, but it will determine if Doha can be finished" (see BRIDGES Weekly, 20 June 2007, <http://www.ictsd.org/weekly/07-06-20/story2.htm>). This has apparently not been the case. In fact, the four governments have reiterated their support for continuing talks in Geneva. One trade diplomat expressed surprise at the matter-of-fact way in which Members seemed to be dealing with the breakdown. "The G-4 failed, and it is as if nothing happened," the delegate said. Another negotiator suggested that delegations were simply eager to move on from the G-4 process, which even Kamal Nath had proclaimed dead.

The chairs of the agriculture and NAMA negotiating groups have nevertheless decided to push back the release of their draft compromise texts, initially expected this week, in order to allow the dust to clear. "I don't know any farmer who plants his field in the middle of a hurricane," said agriculture Chair Ambassador Crawford Falconer (New Zealand), explaining his decision to do so. Delegates anticipate receiving the papers within two weeks.

In order to present negotiators with something resembling a potential agreement, the chairs will have to speculate about where compromise might lie on many divisive issues. Although signs of convergence from Potsdam might have helped them do so, they at least no longer run the risk of being accused of complicity in trying to foist a G-4 agreement onto the rest of the Membership. Much will hinge on how they arbitrate Members' differences, delegates say.

Many NAMA negotiators believe that Chair Ambassador Don Stephenson (Canada) will include ranges of numbers in his paper, rather than precise figures.

Eight countries propose NAMA 'middle ground'

Even before the G-4 disintegrated, several developing countries had started to express unease with the group's secret talks.

On 21 June, the 'G-90 Plus' – a coalition of the African, Caribbean, and Pacific (ACP) group, the least-developed country (LDC) group, the Africa Group, Bolivia, and Venezuela – issued a statement criticising the lack of transparency and representativeness of the G-4 process. "The vast majority of Members have little or no knowledge of the progress and content of different stages of the negotiations," they said. "Although two developing countries are part of the G-4, we cannot expect them to carry the responsibility of representing the views and positions of all developing countries."

One delegate suggested that the G-4 suffered from a fundamental structural flaw: while Brazil and India had a clear mandate from the G-20 when it came to agriculture, they had no such mandate from a representative group of developing countries when it came to industrial tariffs.

The first implicit rebuke to the negotiating positions taken by Brazil and India in the name of developing countries came on 25 June, when eight Latin American and Asian nations – several of them G-20 members -- circulated an informal paper pointing towards a "possible middle ground solution in NAMA."

"The losses and missed gains associated with a failure or freezing of the [Doha Development Agenda] far outweigh the costs of a less-than-perfect agreement," argued Chile, Colombia, Costa Rica, Hong Kong, Mexico, Peru, Singapore, and Thailand. "Concrete shows of flexibility have been scarce even at this late stage of the negotiations." They called for the developed country coefficient to be "less than 10," and that for developing countries to be "between the upper teens and the low twenties."

Some developing country negotiators said that the proposed compromise was simply unacceptable, since it would go against the negotiating mandate.

Others praised the conciliatory impulse, though describing the numbers as unsatisfactory. A major developing country complaint in the NAMA negotiations has been that even though rich states' industrial tariffs are generally low, of the order of about 4 percent, they tend to levy considerably higher duties to protect sectors such as textiles, clothing, and footwear – precisely the products in which poor countries are often able to compete. One negotiator noted that a coefficient of close to 10 for developed countries would not bring these 'tariff peaks' sufficiently into line with their average. The same source added that both 15 and 30 appeared to be "out of the convergence zone" for the developing country coefficient.

Implementing the proposal would mean no change for co-sponsors Hong Kong and Singapore, services-dominated economies that place no tariffs on industrial imports. Chile and Costa Rica already apply relatively low NAMA tariff rates in general, and thus face low cuts. Imports from Mexico's biggest trading partner, the US, enter its market duty free, under the North American Free Trade Agreement. Peru and Colombia have negotiated free trade agreements with Washington that will ultimately eliminate import duties on goods from their principal source of imports, though these have not entered into force. Thailand is party to similar accords with key trading partners Japan and China. Nevertheless, a coefficient in the upper teens or low twenties would require Peru, Colombia, and Mexico in particular to substantially lower applied tariffs on goods from MFN trading partners such as China, a competitive and rapidly growing exporter to Latin America.

Whispers of eventual 'Lamy draft' grow louder

Both Falconer and Stephenson have suggested that the draft agreements they come up with could be revised, possibly more than once, to account for Members' reactions. If, however, this fails to bring countries closer to an agreement, delegates report growing rumours that Lamy might attempt to break the deadlock by putting together a comprehensive compromise text of his own.

As at other times of crisis in the talks, discussion of the so-called 'nuclear option' of international trade negotiations has picked up. Responding to journalists' questions in Geneva on 22 June, USTR Schwab said that "if the Director-General wants to move a text, that's fine," although she said that the timing and content would be for him to decide.

The precedent for this comes from 1991, when the then-Director-General of the GATT, Arthur Dunkel, drafted a comprehensive agreement text in an ultimately successful attempt to break a deadlock in the Uruguay Round negotiations.

Lamy has previously described drafting such a text as a "very risky" last resort that he would only consider if asked to do so by the Membership.

ICTSD reporting; "FICCI hails stand on WTO," THE HINDU, 23 June 2007; "Farm, manufacturing clash causes G4 trade collapse," REUTERS, 21 June 2007; "India needs to 'do more' in WTO talks: US," REUTERS, 27 June 2007; "Potsdam meet an encore of earlier WTO meetings," BUSINESS STANDARD, 25 June 2007; "WTO Deadlock: Nath blames developed nations," BUSINESS STANDARD, 22 June 2007; "WTO Talks Break Down Over Farm Aid," BLOOMBERG, 21 June 2007.

WIPO BROADCAST TREATY TALKS COLLAPSE

Ten years of discussions on an international treaty to update broadcasters' rights in the internet age came to a standstill last week, after members of the World Intellectual Property Organisation (WIPO) failed to agree on what the agreement should protect.

A 'diplomatic conference' to finalise a treaty, scheduled for this November, has been called off with no indication that it will be revived any time soon.

WIPO's Standing Committee on Copyright and Related Rights (SCCR), meeting 18-22 June, was mandated by the organisation's 2006 General Assembly to agree "the objectives, specific scope and object of protection" of a "signal-based approach" to a broadcast treaty, in preparation for the diplomatic conference (BRIDGES Weekly, 4 October 2006 <http://www.ictsd.org/weekly/06-10-04/story1.htm>).

In a statement, the US said members were "far apart on fundamental issues related to the new treaty, including the nature and extent of protection needed to address signal piracy and whether such protection should extend to the Internet." They also noted that since discussions began, "technology and business models have continually evolved, making precise definitions and some complex concepts difficult to pinpoint."

The EU and Japan, backed by Senegal, Mexico, Colombia, and El Salvador, have pushed for a more expansive approach to give broadcasters copyright-like "related rights" over the content they transmit. The US, Brazil, Chile, India, and South Africa, among others,

sought a less ambitious agreement on protecting broadcast signals to tackle piracy issues. An Indian delegate described the differences as “deep fault lines,” dating back to earlier talks in the committee (BRIDGES Weekly, 24 January 2007 <http://www.ictsd.org/weekly/07-01-24/story3.htm>). After intensive informal consultations, the US told members on 21 June that it was “difficult to think of a single issue upon which agreement has been reached.”

SCCR Chair Jukka Liedes (Finland) tried to salvage the talks by producing a draft outcome document of recommendations to the General Assembly in September, calling for a special session of the committee followed by a diplomatic conference in 2008. Many delegations objected, and ultimately agreed that discussions on a broadcast treaty should only be a regular item on the SCCR’s agenda, receiving no special consideration. The text they adopted at the end of last week specified that a diplomatic conference should only be considered after member states have agreed on the objective of a treaty, as well as the scope and nature of protection that it would offer.

One of the distinguishing features of the broadcast treaty talks has been the number of lobbyists descending on WIPO from sectors as diverse as professional sports leagues, the music industry, and public interest groups. Large broadcasters advocated for the rights-based approach favoured by the EU and Japan. In contrast, other telecoms and technology companies, such as Intel and Verizon, were concerned by the potential threats such a treaty would pose to the internet and, for instance, the effect of technological protection measures on future innovation. Sports leagues feared giving broadcasters greater rights over footage. The US sided with the second camp, joining developing countries like Brazil and India in supporting the “signal-based approach” to the treaty. However, a source said that the US joined other Group B (industrialised) countries in playing down the importance of provisions on competition, cultural diversity, and access to knowledge that the developing nations had been seeking.

Public interest civil society groups welcomed the apparent demise of the broadcast treaty. Earlier in the week, nine groups, including Third World Network, Knowledge Ecology International, and library associations, released a statement claiming the negotiations had been an unnecessary and hazardous undertaking. “Piracy of broadcast signals is already adequately dealt with under existing laws and treaties,” they said, adding that granting broadcasters the exclusive rights they were demanding would “harm both the creative communities and the public,” particularly regarding access to knowledge on the internet.

It is unclear when efforts would next be made to continue talks, given that the agenda for the SCCR will be set at the WIPO General Assembly in September. Chile has proposed that future attention be directed to exceptions and limitations to copyright for education, libraries, and disabled people, whilst India suggested that addressing access to knowledge and education would be a better use of the committee’s time than resuscitating the broadcast treaty.

ICTSD reporting; “WIPO Broadcasting treaty talks sent back to committee,” INTELLECTUAL PROPERTY WATCH, 22 June 2007.

OTHER NEWS

OECD: DANGERS OF GLOBALISATION REAL BUT PERCEPTIONS EXAGGERATED

Trade and investment liberalisation, long viewed with ambivalence in much of the developing world, is facing growing scepticism in rich countries. The heightened concern has been prompted in part by fears of job losses, wage stagnation, and growing inequality. However, a recent analysis by the Organisation for Economic Cooperation and Development (OECD) suggests that, while the dangers of economic globalisation are real, they have been greatly exaggerated.

In its annual ‘Employment Outlook’ report released last week, the OECD, a Paris-based research organisation financed by the world’s 30 richest countries, claimed that such concerns, though not wholly unfounded, have been overblown. According to OECD Secretary General Angel Gurría, public attitudes do not accurately reflect reality. “Millions are benefiting from globalisation, but at the same time there’s a feeling something’s wrong with the process,” he said at a news conference. The report warned that policymakers would face continued resistance to greater international economic integration “if the perception that many workers do not benefit from it takes root.”

“The story has to be told better,” Gurría said.

The introductory section of the study suggested that the ‘globalisation paradox’ – greater feelings of insecurity despite greater prosperity – had intensified due to outsourcing and the increased integration of major developing countries into the global economy.

Trends in offshoring, wage inequality

The OECD report acknowledged that “offshoring is indeed a potential source of vulnerability for workers,” largely because “jobs and wages have become more vulnerable to external shocks.” The very possibility of outsourcing was credited with having contributed to slowed wage growth in developed countries, as employers use the threat of offshoring to pressure workers into deeper wage concessions.

Despite these measurable effects, actual growth in offshoring was modest, and unemployment fell in all but five of the OECD’s 30 member countries in 2006, the report noted. Indeed, joblessness in OECD countries fell much more sharply last year than in 2005, a trend projected to continue at least through 2008.

The report did find a growing disparity in wages: in 17 of the 20 OECD countries for which data were available, the incomes of the highest earners grew slightly more quickly than the incomes of the lowest earners between 1995 and 2005. However, the report argued that, while offshoring may have partially contributed to the growing gap, the trend has been primarily driven by technological advances that have reduced the demand for human labour in the manufacturing sector.

Protect people, not jobs

Building on its empirical findings, the report proposed ways for OECD governments to mitigate some of globalisation’s negative effects on their citizens, and thus “help strengthen public support for freer trade and investment policies.”

The recommendations focused on social welfare nets, flexible labour markets, and incentives for entrepreneurial behaviour. Governments should reduce barriers to hiring and firing, the report said, but provide ample resources to help citizens start businesses, change jobs, or even switch industries. At the same time, states should provide generous compensation for the unemployed. Moreover, the report recommended that governments expand worker-training programmes, especially those aimed at the very low-skilled workers most seriously threatened by foreign competition.

Overall, governments should aim to help workers be more flexible in their employment search, while also providing them with a sense of financial and social security should their current job end. “The thing now is to protect people, but not protect jobs, because some jobs have no future,” said Raymond Torres, the report’s head author.

The OECD further recommended that states such as Belgium, France, and Sweden that rely on hefty employer contributions to finance their domestic social programmes reduce those charges while increasing consumption-based taxes to make up for the lost revenue. Relieving a portion of employers’ financial burden, the report maintained, would both stimulate hiring and encourage companies to build their domestic workforces.

Public resistance runs high

Such policies, however, may prove unpopular. Indeed, a recent proposal by the government of new French President Nicolas Sarkozy to increase the consumption-based value-added tax in exchange for a reduction in employer charges was blamed for diminishing the margin of victory of his conservative party in recent parliamentary elections. Detractors, including Socialists, trade unions, and some economists, claimed that a higher VAT would raise prices, increase unemployment, slow economic growth, and ultimately fuel inflation.

In the US, some senior Democrats have conditioned their support for renewing the president’s fast-track trade-negotiating authority on reform of the forty-year-old Trade Adjustment Assistance (TAA) programme, which provides vocational education for workers whose jobs have moved overseas as a result of foreign competition. In 2002, when granting the White House the right to submit trade deals to Congress for a straight yes-or-no vote without the possibility of amendments – a critical tool for trade liberalisation, including the faltering Doha Round talks – lawmakers nearly tripled funding for the programme. Critics argue, however, that TAA remains underfunded and ineffective.

Concerns over globalisation appear particularly widespread in the US. A recent poll showed that, while nearly two-thirds of US citizens believe that trade is good for the economy, more than half think the country has lost more than it has gained from increased economic integration. Some economists counter that these anxieties are more a function of the structure of the US’ social safety net than of globalisation per se. They argue that, because employers directly provide so much of the US system of social protections, any new trade agreement that might send jobs overseas will be seen as a threat to the average US worker. Thus, the argument goes, any push for further trade liberalisation will face stiff opposition from some quarters until the government finds a way to boost support for the unemployed and guarantee basic social benefits independently of the employment system.

The latest setback in the imperiled Doha Round negotiations might be viewed as another symptom of a

wider malaise over economic globalisation. Those talks took a possible fatal blow last week when top negotiators from Brazil, India, the EU, and the US came to an impasse on the liberalisation of trade in agricultural and industrial goods (see related story, this issue).

The new players: Brazil, Russia, India, and China

The OECD also considered employment conditions in Brazil, Russia, India, and China (the so-called BRIC countries), stressing that the continued integration of these rapidly expanding economies into the global marketplace was critical to the economic health of members of the rich country club.

Thanks in part to the effects of economic integration, the BRICs, which currently account for 45 percent of the global labour supply and one quarter of world GDP, are enjoying both reduced poverty levels and substantial employment gains, the study found. With their economies growing at breakneck speed, the BRICs have quickly become major players in the world trade system: since the early 1990s, total trade (as a percentage of GDP) has grown by 50 percent in Russia, almost doubled in China, and more than doubled in India and Brazil.

Yet the benefits of this increased economic integration have not been evenly distributed. Mirroring a similar trend among developed countries, wide wage inequalities persist in BRIC countries; in the cases of India and China, such disparities are growing. Moreover, rates of underemployment – especially among women and the elderly – remain high despite the recent rapid job growth.

The report also showed that informal employment, which avoids both taxation and regulation, continues to dominate in the BRIC countries, accounting for about 45 percent of total employment in Brazil, 53 percent in China, and more than 90 percent in India. Such high rates of informal employment translate into substantial losses of government tax revenue and indicate that a large segment of the labour force is unprotected by government-provided social security programmes.

To address these challenges, the report recommended that BRIC governments offer expanded educational opportunities for workers and implement measures to help their citizens transition into formal-sector employment.

Instead of feeling threatened by economic globalisation, the report concluded, OECD governments should focus on developing a “comprehensive strategy policy” that “enhances benefits from globalisation while addressing some of the adjustment and distributional concerns.”

ICTSD reporting; “Governments must do more to help workers adapt to new global economy, says OECD,” OECD PRESS RELEASE, 19 June 2007; “Dangers of globalisation overblown says OECD in move to calm fears,” THE FINANCIAL TIMES, 20 June 2007; “OECD jobs report shows darker side of globalisation,” REUTERS, 19 June 2007; “How to handle globalization,” FORBES.COM, 20 June 2007; “Free-trade alert: a warning on globalization backlash,” THE WALL STREET JOURNAL, 20 June 2007; “French Socialists’ first couple disclose a parting of ways,” NEW YORK TIMES, 19 June 2007; “Socialists seize on Sarkozy’s VAT rise,” THE FINANCIAL TIMES, 14 June 2007; “Economic view; why wage insurance is dividing Democrats,” THE NEW YORK TIMES, 18 March 2007; “Trade and the home front,” THE NEW YORK TIMES, 17 March 2007; “Trade good, globalization bad for Americans,” ANGUS REID GLOBAL MONITOR, 6 March 2007; “Doha round receives boost as US Congress approves fast-track; groups question environmental impact,” BRIDGES WEEKLY, 6 August 2002; “The jobs challenge,” THE BUSINESS STANDARD, 22 June 2007.

RATIFICATION OF TRIPS HEALTH AMENDMENT LANGUISHES, WITH FIVE MONTHS TO GO

One and a half years after governments agreed on how to amend WTO intellectual property rules to allow poor countries to import cheap generic versions of patent-protected medicines, only seven of the global trade body’s 150 Members have ratified the controversial amendment.

For the amendment to enter into force on schedule, two-thirds of WTO Members – some 100 countries – need to ratify the changes through their respective domestic political procedures by 1 December. Thus far, only 5 percent have done so: the US, Switzerland, El Salvador, Korea, Norway, India, and the Philippines.

Members agreed on the formal changes to the WTO Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) in December 2005. Although supporters hailed the deal as proof that the trading system could address humanitarian and development concerns, Médecins sans Frontières (MSF) warned at the time that the amendment, which would take the form of an ‘Article 31bis’, was “based on a mechanism that has failed to prove it can increase access to medicines” (see BRIDGES Weekly, 7 December 2005 <http://www.ictsd.org/weekly/05-12-07/story1.htm>).

The mechanism in question was the temporary ‘30 August 2003 Decision’ -- a waiver that spells out the

conditions under which Members are allowed to issue compulsory licences to produce and export cheap generic copies of drugs still under patent to developing countries that lack the capacity to manufacture the medicines they need (see BRIDGES Weekly, 4 September 2003, <http://www.ictsd.org/weekly/03-09-04/wtoinbrief.htm#1>). These administrative conditions have been criticised for being so complex as to render the system useless: in the nearly four years since its adoption, the 30 August 2003 Decision has not once been used to import drugs, although some argue that it has strengthened governments' hand when negotiating lower drug prices with pharmaceutical companies.

The 30 August 2003 Decision was supposed to be replaced by a negotiated amendment to the TRIPS agreement within six months. The amendment that was finally agreed to more than two years later essentially makes permanent a questionably effective – but changeable – status quo, by translating the temporary waiver into WTO law.

Until the amendment is ratified by enough Members, the 30 August Decision will remain in force, even past the 1 December deadline. If missed, it is possible that this deadline could simply be extended.

The European Parliament is now debating whether to ratify the TRIPS amendment. Several parliamentarians are unhappy with it, albeit for opposite reasons: some want the rules tightened to prevent cheap generics from being diverted into rich country markets; others want to ease the administrative burden for countries trying to use the amendment, so as to safeguard access to medicines.

The EU and its parliament do not have the power to unilaterally change the amendment; this would involve a new negotiation with all other WTO Members. However, Frederick Abbott, a professor of international law at Florida State University, told Bridges that “the most likely result of an attempted re-negotiation would be an impasse.” Moreover, he said that it was far from clear that a new compromise would make it easier for poor countries to import affordable drugs. “There is about an equal chance, if there were renewed negotiations, that the rules would become more or less restrictive,” he opined.

Abbott pointed out that the amendment's lack of restrictions on the scope of diseases covered represented a major victory for developing countries, which could otherwise have seen their ability to import generics limited to drugs for, say, HIV/AIDS, malaria, and tuberculosis. The open scope of the amendment, he added, would be even more controversial in renewed negotiations following the Thai government's January decision to issue a compulsory licence for

Plavix, a blood thinner used to treat a non-communicable heart disease (see BRIDGES Weekly, <http://www.ictsd.org/weekly/07-01-31/story2.htm>).

Nor does support from some members of the European Parliament mean that Brussels would push for relaxing the amendment's stringent administrative conditions -- indeed, the EU pushed for many of these restrictions during the original negotiations at the WTO. However, Abbott predicted that if the EU, with its 27 member states, ratified the TRIPS amendment -- pushing the total number of WTO Members that have done so to 34 -- more countries would follow.

In a report on access to medicines commissioned by the EU, Abbott and Jerome Reichman, a law professor at Duke University, acknowledged that the TRIPS amendment was “not the straightforward and expeditious solution initially sought by developing countries.” Nevertheless, they said that ratification by the EU would provide a “net benefit” in terms of access to medicines in developing and least-developed countries. Pointedly, they expressed “serious concerns that industry interests and supporting governments would use delay or failure of acceptance of the amendment as the basis for an aggressive lobbying campaign intended to undercut the vitality of the waiver.”

The two legal scholars warned that making Article 31bis functional would require vigilant and deliberate government action, including a “combination of political will, good lawyering, financial support for appropriate implementation efforts and collective action.” They said that the effectiveness of the amendment could be enhanced through regional cooperation on procurement and compulsory licencing, as well as the creation of funding mechanisms other than patent rights to encourage the development of new drugs.

MSF's Alexandra Heumber urged the European Parliament to postpone ratification while negotiating with the Commission and EU member states to put in place policies to promote access to medicines. Echoing a point made by Abbott and Reichman, she said that WTO Members seeking to assist developing countries could use Article 30 of the TRIPS Agreement, which authorises governments to make limited exceptions to patent-holders' rights (so long as they do not “unreasonably conflict” with the patent's exploitation).

Irrespective of whether the amendment enters into force on time, Heumber noted that explicit political support from Western governments for the use of compulsory licencing would be essential.

Despite clear WTO rules protecting Members' ability to issue compulsory licences suspending patents (set out

primarily in TRIPS Article 31), developing countries face considerable pressure from the pharmaceutical industry and some governments not to do so. This was demonstrated by the uproar over Thailand's and Brazil's separate decisions to issue compulsory licences for a handful of drugs (see BRIDGES Weekly, 9 May 2007, <http://www.ictsd.org/weekly/07-05-09/story4.htm>). Some European governments and political parties, including France, the UK, and Spain, did express support for the action taken by Brazil and Thailand.

Importantly, neither Brazil nor Thailand had to resort to the 30 August Decision to issue the licences: Brazil had the capacity to manufacture the HIV/AIDS drug efavirenz, and Thailand was planning to import generic copies of the same drug from India – where it is not patented – until generic production came online (see BRIDGES Weekly, 13 December 2006, <http://www.ictsd.org/weekly/06-12-13/story2.htm>).

In any event, Greg Perry from the European Generic Medicines Association points out that for the TRIPS amendment to have “any hope of success,” developed countries will have to truly recognise that governments do not need to consult with patent holders when issuing a compulsory licence for national emergencies or public non-commercial use, and that governments have the right to define what constitutes an emergency.

ICTSD reporting.

IN BRIEF

WHITE HOUSE, CONGRESS FINALISE NEW TRADE PROVISIONS

The Bush administration and US legislators from both parties have finalised formal legal text for incorporating stronger environmental, labour, and access-to-medicine provisions in bilateral trade agreements, officials said on 25 June.

In a joint statement, representatives Charles Rangel (D-New York), chair of the House Ways and Means Committee, and Sander Levin (D-Michigan), chair of the Subcommittee on Trade, praised the template, saying that it “achieves the goals” for trade policy that the Democrats had set out in March (see BRIDGES Weekly, 28 March 2007, <http://www.ictsd.org/weekly/07-03-28/story2.htm>).

The text, which builds on a framework compromise that Congressional Democrats, Republicans, and the administration struck last month, is expected to improve the prospects of the US' pending free trade agreements with Colombia, Panama, Peru and South Korea (see BRIDGES Weekly, 16 May 2007, <http://www.ictsd.org/weekly/07-05-16/story2.htm>). However, those countries must agree to the changes before the trade deals can be put to a vote in Congress.

Peruvian officials have already moved to approve the new slate of legally binding provisions. On 26 June, Trade Minister Mercedes Araoz signed off on the amendments and expressed confidence that the Peruvian Congress, which was set to debate the amendments the following day, would also agree to the changes. Araoz told reporters that the provisions call for new legislation to rein in illegal logging, as well as stronger enforcement of existing labour laws.

US Trade Representative Susan Schwab expressed optimism that the accords would be approved. “I now look forward to Congressional action on the Peru agreement in July, and the agreements with Colombia, Panama and Korea as soon as possible,” she said in a statement.

While the Peru deal is progressing rapidly, the Colombian and Korean agreements continue to face serious challenges in Congress. Many senior lawmakers have expressed deep concern over Colombia's history of violence against trade unionists, and have argued that the Korean deal would hurt US autoworkers.

In related news, Congressional leaders announced on 26 June that they had reached a bipartisan agreement on terms for an eight-month extension of trade preferences that allow most exports from Bolivia, Colombia, Ecuador, and Peru to enter the US duty free. At time of writing, lawmakers were set to vote on renewing the Andean preferences; supporters expressed high hopes for passage.

The final text of amendments to the Peru FTA is available at <http://waysandmeans.house.gov/MoreInfo.asp?section=19>

“USTR, Congress settle on changes to trade deals,” REUTERS, 25 June 2007; “U.S. reaches accord on Peru trade deal,” ASSOCIATED PRESS, 25 June 2007; “Peru trade minister signs amendments for US free trade agreement,” CCTV INTERNATIONAL, 26 June 2007.

WTO IN BRIEF

BANANA FIGHT RESURFACES, WITH NEW PANEL TO EXAMINE EU'S COMPLIANCE

The latest chapter in the decade-long battle over banana trade unfolded earlier this month, when a WTO dispute panel was named to review an Ecuadorian complaint that the EU has yet to comply with previous WTO rulings and that its tariffs on the fruit remain too high.

Although the 'compliance panel' was established at a March meeting of the Dispute Settlement Body, Ecuador and the EU proved unable to agree on its composition. As per standard WTO practice in such cases, Director-General Pascal Lamy on 15 June named the three panelists whose task it will be to assess whether Brussels has indeed brought its banana regime into compliance with its WTO obligations.

Since the mid-1990s, Latin American banana producers, joined by the US, have won a series of challenges against the EU's trade preference scheme for bananas from members of the African, Caribbean, and Pacific (ACP) group of states. In 2001, they struck a compromise, under which Brussels was allowed to maintain its preferences for ACP exports until the end of 2005, in return for replacing its system of duties, quotas, and import licences with a 'tariff-only regime' in January 2006. As per the 'understanding', this new regime would result in "at least maintaining total market access" for the most-favoured nation (MFN) banana suppliers that did not benefit from preferences (see BRIDGES Monthly Review, <http://www.ictsd.org/monthly/bridges/BRIDGES10-8.pdf>, December 2006-January 2007 and BRIDGES Weekly, 22 November 2006, <http://www.ictsd.org/weekly/06-11-22/story4.htm>).

After proving unable to reach a mutually acceptable figure with Latin American banana exporters, Brussels in early 2006 unilaterally set an overall banana tariff of 176 euros per tonne, along with a duty-free quota of 775,000 tonnes for ACP bananas.

At issue now is whether those changes went far enough to eliminate discrimination against MFN banana suppliers. Ecuador claims that, despite the EU's revised import policies, its share of the EU banana market fell by more than two percentage points between 2005 and 2006, a point that Brussels refutes, arguing that banana imports from Ecuador actually increased in 2006.

Seventeen nations, the majority of which are ACP countries and Latin American MFN suppliers, have reserved third-party rights with the panel.

Ecuador's panel request (WT/DS27/80) is available at <http://docsonline.wto.org>.

ICTSD reporting; "WTO agrees to hear Ecuador's banana gripe," TAX-NEWS.COM, 23 March 2007; "WTO panel to rule on EU-Ecuador banana import spat," EUBUSINESS.COM, 20 March 2007.

TRADE AND DEVELOPMENT COMMITTEE LOOKS AT AID FOR TRADE

The WTO's work on aid for trade is moving slowly forward, independently of the imperiled Doha Round negotiations. The Committee on Trade and Development (CTD) met twice last week to look at upcoming attempts to mobilise donor support and discuss how assistance programmes could be most effectively implemented.

Delegates discussed a new Egyptian paper (WT/COMTD/AFT/W/3) on priorities for making aid for trade effective. Aid for trade should be a tool for developing and least-developed countries to build capacity, competitiveness, and institutions, Egypt stressed, adding that it should also help them cope with the cost of trade liberalisation.

Egypt said that effective aid for trade was a "mutual responsibility" of donors and recipients, and that a key objective was to create a monitoring and evaluation mechanism to make sure that spending was having the expected results. It said that would-be beneficiaries would benefit from the support of donors when identifying their needs and priorities, and called on Members to develop burden-free systems for countries to request assistance for trade-related projects.

Other priorities that Egypt pointed to included the importance of national-level coordination between the public and private sectors in structuring aid for trade efforts; the need to integrate trade into national development and poverty reduction strategies; and the creation of national aid for trade committees. With regard to assessment, Egypt called for a detailed reporting system that would allow donors and recipients to describe whether objectives were met – which would in turn inform future programmes.

Sources report that delegates at a 19 June meeting welcomed Egypt's contribution to the debate, and urged countries to share their experiences on trade-related assistance.

Several international organisations, including the World Bank, the UN Food and Agriculture Organisation, the World Health Organisation, and the World Organisation for Animal Health (OIE), made presentations on their work to help developing countries meet sanitary and phyto-sanitary (SPS) standards, which can block exports even when duties are otherwise low.

On 21 June, WTO officials briefed an informal CTD meeting on three regional events scheduled for September and October in Peru, the Philippines, and Tanzania that will aim to mobilise donor support and bring together senior government officials, the private sector, and academics to discuss aid for trade priorities and the need for effective monitoring.

ICTSD reporting.

US DELAYS CREATION OF WTO PANEL IN FARM SUBSIDY DISPUTE WITH CANADA

The US last week postponed the creation of a WTO dispute panel to examine Canada's allegations that it has, in recent years, paid out farm subsidies in excess of its legal spending limits.

It blocked Canada's request for the creation of a panel at a 20 June meeting of the Dispute Settlement Body. WTO rules prevent it from doing so again should Ottawa repeat its request next month.

At issue are US subsidies to support a range of crops, principally corn, wheat, soybeans, pulses, and sugar. Canada claims that in 1999, 2000, 2001, 2002, 2004, and 2005, Washington provided heavily trade-distorting 'amber box' support to farmers that exceeded its binding WTO limit of USD 19.1 billion annually. Furthermore, it claims that some export credit guarantees provided by the US government have the effect of illegally subsidising the export of products including corn and soybean.

Ottawa initiated the case in January, and requested the creation of a panel on 8 June when consultations proved unable to resolve the disagreement (see BRIDGES Weekly, 13 June 2007, <http://www.ictsd.org/weekly/07-06-13/wtoinbrief.htm#1>).

US officials maintain that subsidy spending never violated the country's WTO commitments. At the meeting, they pointed out that some of the challenged payment programmes had already been cancelled.

By filing the complaint, Canada is seeking to ratchet up pressure on Washington to cut trade-distorting farm

subsidies, both as part of the Doha Round negotiations and as Congress writes new legislation this year mapping out future agricultural spending.

Canada's case closely mirrors Brazil's successful WTO suit against US support for cotton growers in 2005. Many trade lawyers anticipate a wave of similar litigation to ensue if the faltering Doha talks collapse without establishing new rules for farm spending.

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: 28 June - 4 July

2-6 July, Paris, France. 12TH MEETING OF THE CBD SUBSIDIARY BODY ON SCIENTIFIC, TECHNICAL, AND TECHNOLOGICAL ADVICE. Delegates to this meeting, organised by the Convention on Biological Diversity Secretariat, will consider proposals for the integration of climate change activities within the Convention's programmes of work, as well as new and emerging issues relating to the conservation and sustainable use of biodiversity. internet: <http://www.cbd.int/meetings/default.shtml>

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/>

5-6 July, Geneva, Switzerland. GLOBAL COMPACT LEADERS SUMMIT. The Leaders Summit is a triennial gathering of the top executives of all Global Compact participants and other stakeholders to discuss the Global Compact and corporate citizenship at the highest level, and to produce strategic recommendations and action imperatives related to the future evolution of the initiative. For more information email Birgit Errath at errath@un.org. internet: <http://www.globalcompactsummit.org/>

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.

28 June: SUBCOMMITTEE ON LEAST DEVELOPED COUNTRIES

28 June: WORKING PARTY ON THE ACCESSION OF CAPE VERDE

29 June: TRADE POLICY REVIEW BODY – INDONESIA

29 June: COMMITTEE ON BUDGET, FINANCE, AND ADMINISTRATION

4 July: WORKING GROUP ON TRADE AND TRANSFER OF TECHNOLOGY

5 July: WTO INTRODUCTION DAY

Other Upcoming Events

9-11 July, Brussels, Belgium. GLOBAL FORUM ON MIGRATION AND DEVELOPMENT. The First Global Forum on Migration and Development, organised by the Government of Belgium, aims to discuss the mutually beneficial interaction of migration and development. The forum will start with a day dedicated to meetings of civil society representatives, which will be followed by governmental discussions on 10 and 11 July. The Forum will focus on opportunities and risks of labour

mobility; remittance and diaspora resources; and the promotion of partnerships. internet: <http://www.gfmd-fmmd.org/lang.html>

17-19 July, Geneva, Switzerland. INTERGOVERNMENTAL GROUP OF EXPERTS ON COMPETITION LAW AND POLICY. Every year, the UN Conference on Trade and Development hosts the Intergovernmental Group of Experts on Competition Law and Policy, a forum for consultations on competition issues of common concern to member states and informal exchange of experiences and best practices. At this year's meeting, participants will discuss competition at national and international levels, competition policy and the exercise of intellectual property rights, and criteria for evaluating the effectiveness of competition authorities. internet: <http://www.unctad.org/competition>

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

NATIONAL DEVELOPMENT STRATEGY POLICY NOTES. The United Nations Department of Economic and Social Affairs (DESA), June 2007. These six notes, which were commissioned by DESA, cover major areas relevant to national development strategies: macroeconomic and growth policy, trade policy, investment and technology policy, financing development, social policy, and state-owned enterprise reform. The notes, which were prepared by experts in these fields, provide suggestions on how state governments can work toward the development goals set forth in the United Nations Development Agenda.

The policy notes may be downloaded at <http://esa.un.org/techcoop/policyNotes.asp>.

WORKING TOGETHER: IMPROVING REGULATORY COOPERATION AND INFORMATION EXCHANGE. International Monetary Fund, June 2007. Globalization requires enhanced information flows among financial regulators, but financial sector assessments have found that problems in cooperation and information exchange constrain cross-border supervision and financial integrity oversight. This book brings together papers from a recent IMF conference in which participants discussed information exchange for an effective anti-money laundering/combating the financing of terrorism (AML/CFT) regime; the standards for cooperation in the insurance sector; and the experiences of regulators from banking, securities, and unified regulatory agencies with international cooperation. The book is available at <http://www.imf.org/external/pubs/cat/longres.cfm?sk=18505.0>

TRADE NEGOTIATIONS IN THE WEST AFRICAN REGION: ISSUES FOR CONSIDERATION. South Centre, May 2007. This analytical note explores some of the main challenges that the countries of the West African region face as they negotiate an economic partnership agreement (EPA) with the EU, particularly with respect to the agreement's interfaces with WTO negotiations. The paper highlights the region's interests and aims to increase negotiators' understanding about the developmental implications of both the EPA and WTO processes. The paper is available at http://www.southcentre.org/publications/AnalyticalNotes/Other/2007May_West_Africa_Background_Note.pdf

CHINA AND INDIA: A COMPARISON OF TRADE, INVESTMENT, AND EXPANSION STRATEGIES. By Renfeng Zhao. Chatham House, June 2007. This paper summarises the conclusions of a recent workshop, hosted by Chatham House and the Japan Economic Foundation, which considered the opportunities and risks resulting from the economic expansion of China and India, with an emphasis on the implications for Japan, the UK, and the world economy. The paper concludes that India and China have come to play an increasingly weighty role in the world economy and that their expansion is having a noticeable impact on global growth, through a number of channels, with trade being arguably the strongest and most direct. The paper further asserts that, despite their very different approaches to economic development, the two countries can learn from each other in many ways. The paper is available at <http://www.chathamhouse.org.uk/pdf/research/ie/010607workshop.pdf>

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