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### LEAD STORIES

BREAKTHROUGH ON WIPO DEVELOPMENT AGENDA	1
AG NEGOTIATORS TWIDDLE THUMBS AS TRADING POWERS SAY NO PROGRESS MADE IN LONDON	3
NAMA TALKS BLOCKED DUE TO STANDSTILL ON AGRICULTURE: CHAIR	5
<b>OTHER STORIES</b>	
PUSH FOR PROGRESS IN DOHA TALKS PROCEEDING SLUGGISHLY	6
US AND SOUTH KOREA MAKE PROGRESS IN FTA TALKS AMID PROTESTS	8
<b>WTO IN BRIEF</b>	
ECUADOR ASKS FOR WTO DISPUTE PANEL TO EXAMINE EU'S BANANA IMPORT REGIME	9
<b>EVENTS &amp; RESOURCES</b>	
EVENTS	9

### LEAD STORIES

#### BREAKTHROUGH ON WIPO DEVELOPMENT AGENDA

Delegates from 105 governments have made a breakthrough in negotiations on integrating development concerns into the functioning of the World Intellectual Property Organisation, by agreeing on a set of initial recommendations for reforms.

Both government officials and civil society groups praised the deal, which was reached after a week of discussions in the WIPO committee responsible for the 'development agenda' talks. The recommendations touch upon a wide range of WIPO's activities, from rule-making to technical assistance and the protection of the public domain.

During the 19-23 February meeting of the Provisional Committee on Proposals related to a WIPO Development Agenda (PCDA), negotiators focused on 40 proposals for integrating developmental considerations into WIPO's mandate and functioning. These were drawn from a total of 111 proposals that have been made since October 2004, when a group of developing countries led by Brazil and Argentina first called for a 'development agenda' for the organisation (see BRIDGES Weekly, 6 October 2004, <http://www.ictsd.org/weekly/04-10-06/story1.htm>).

After five days of discussions, the PCDA was able to refine the 40 proposals it was considering into a list of 24 recommendations for action. They will be submitted to the September session of the General Assembly, WIPO's senior decision-making body.

As per an earlier decision by WIPO member states, the PCDA will address the remaining 71 proposals at its next meeting in June (see BRIDGES Weekly, 4 October 2006, <http://www.ictsd.org/weekly/06-10-04/story1.htm>).

#### Members work out differences on proposals

During the recent meeting, delegates batted their discussions on a document (PCDA/3/2) prepared by former General Assembly Chair Ambassador Enrique Manalo (Philippines), in which he organised the 111

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proposals into six issue-based clusters in an attempt to facilitate negotiations.

PCDA Chair Ambassador Trevor Clarke (Barbados) assigned five of the six clusters to the coordinators of WIPO's different member groupings, retaining control of the sixth himself.

Cluster A, which dealt with proposals on technical assistance and capacity building, was assigned to Algeria, coordinator of the African Group. Discussions on Cluster B, which addressed issues including norm-setting, flexibilities (exceptions), public policy and the public domain, were led by the Kyrgyz Republic. Cluster C, which covered technology transfer and information and communication technology, and access to knowledge, was handed to Asian Group chairs Bangladesh and China. Cluster D, dealing with assessment, evaluation and impact studies, was guided by Poland, which chairs the group of Central European and Baltic States. Talks on Cluster E proposals, which focused on institutional matters including WIPO's mandate and governance, were the responsibility of Italy, chair of the so-called 'group B' that includes most developed countries. Cluster F, which Clarke himself led, dealt with a single proposal on enforcement.

Each coordinator was charged with holding intensive consultations to refine the proposals in their respective cluster, to bridge differences and remove any overlaps so as to arrive at concrete recommendations. They did this in a number of ways. For instance, some proposals were rephrased to make them less specific and thus easier to accept; others were deferred to the June meeting of the PCDA. Sources report that the talks on the texts in each cluster were marked by intense negotiations among the different regional groups.

Many government and civil society representatives commended Clarke's handling of the meeting.

### **Approved proposals cover range of development issues**

In this way, members whittled down the 40 proposals into 24 recommendations upon which they were able to agree. As per the issue clusters, these included several for WIPO technical assistance: one said that such efforts should be "development-oriented, demand-driven, and transparent"; another called for voluntary "trust funds" to be established to fund support to least-developed countries.

The agreed proposals on norm-setting stressed that WIPO rule-making should "be inclusive and member driven; take into account different levels of development; [and] take into consideration a balance between costs and benefits." The emphasis on

'participatory' norm-setting extended beyond WIPO member states to include accredited non-governmental organisations. Furthermore, the provisional agreement reached by the PCDA said that rule-making processes in the organisation should take into account the "preservation of the public domain." It also underlined that the WIPO Secretariat should act in accordance with the "principle of neutrality"; several developing countries have accused it of failing to do so in the past.

Members approved proposals asking WIPO to expand the scope of its activities aimed at bridging the digital divide, to promote technology transfer, and to "take appropriate measures" to help developing countries take advantage of the various flexibilities that exist in international agreements. They also called for a yearly review of all of the organisation's development-oriented activities.

Notably, members agreed on a proposal that called for WIPO "to approach intellectual property enforcement in the context of broader societal interests and especially development-oriented concerns," in accordance with the stipulation in WTO rules that "the protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare." Critics of the intellectual property system as it currently functions argue that the delicate balance between producers' private gains and the broader public interest has tipped too far in the direction of the former.

Coming after two-and-a-half years of generally contentious discussions, one Nigerian delegate likened the preliminary accord to coming "out of the tunnel into the brilliant prospects of implementing the development agenda in WIPO." An Indian negotiator said that the "very significant forward movement" augured well for future deliberations on the development agenda.

### **Discussions not free of controversy**

Despite the ground-breaking agreement, talks inside the cluster groups were not free of controversy.

For instance, the LDC trust fund gave rise to questions about the potential duplication of financial support. Countries concerned about who would be expected to contribute to it had to be assured that donations would be voluntary, not mandatory. The developed countries in Group B initially suggested that helping developing countries identify flexibilities already present in intellectual property should not be a matter of course, but rather left to specific requests for such assistance. Brazil and China disagreed with the US over where to

address intellectual property-related anti-competitive practices, with the US arguing that other organisations were already working on the issue.

In response to Brazil's suggestions on ensuring technology transfer, some Group B countries expressed scepticism about whether states could guarantee technology flows to developing country firms. Two developing country delegations argued that it was possible, pointing to a recent report by John Barton, former chair of the UK Commission on Intellectual Property Rights, that describes measures for making technology transfer effective.

Discussions on the protection of the public domain were perhaps the most controversial issue last week. According to the chair's summary of the talks, Colombia expressed formal reservations about the issue's inclusion in the agreed text. It reportedly contended that intellectual property does not affect the public domain, since IP only creates incentives for new inventions and creations. Therefore, it argued that the public domain did not need "protection" in the traditional intellectual property sense of the term. Chile countered that a strong public domain would in fact be a base for generating innovation and creativity that could in turn produce new intellectual property assets. Uruguay pointed to the importance of the public domain in fulfilling the rights to education and freedom of expression, as well as its role in balancing intellectual property with the rights to participate in culture and benefit from scientific progress.

Some civil society observers noted that the entry into the public domain of many works had been postponed by repeated increases in the duration of copyright protection, from 50 to 70 or more years beyond the life of the author. They speculated that this could be behind opposition to specific protections for the public domain, especially by copyright offices and some film and music industry groups. Many NGOs, including several library organisations, stressed the importance of preserving works in the public domain.

### **Focus turns to June meeting and tougher proposals**

Attention now turns to the PCDA's June meeting. That session will look at the remaining 71 development agenda proposals, which had been more divisive than the 40 that have now been resolved.

According to civil society group Knowledge Ecology International, these proposals are "much more ambitious," since some of them focus on access to knowledge, in contrast to WIPO's traditionally narrow focus on intellectual property rights. They anticipate that

the June PCDA session will be much tougher than the one last week.

Recommendations that come out of the June gathering will be sent to the General Assembly along with the 24 proposals that have now been agreed.

Documents from the meeting can be found at [http://www.wipo.int/edocs/prdocs/en/2007/wipo\\_pr\\_2007\\_478.html](http://www.wipo.int/edocs/prdocs/en/2007/wipo_pr_2007_478.html).

ICTSD reporting; "Member states make significant headway in work on a WIPO

development agenda," WIPO PRESS RELEASE, 26 February 2007; "WIPO Committee approves proposals for development agenda," INTELLECTUAL PROPERTY WATCH, 23 February 2007; "Text-based negotiations on a WIPO development agenda pick up pace," INTELLECTUAL PROPERTY WATCH, 22 February 2007; "WIPO members move closer to narrowed text on development," INTELLECTUAL PROPERTY WATCH, 22 February 2007; "Study Highlights Needed Improvements for IP and Technology Transfer", INTELLECTUAL PROPERTY WATCH, 22 February 2007.

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### **AG NEGOTIATORS TWIDDLE THUMBS AS TRADING POWERS SAY NO PROGRESS MADE IN LONDON**

A series of bilateral talks between five major trading powers last week in London made no significant progress in the deadlocked Doha Round negotiations and were simply 'exploratory', according to officials from the participating countries. Negotiators from other countries appear to be growing impatient with the lack of movement.

Sources indicate that the meetings in the UK capital involved senior representatives from the EU, the US, India and Brazil, with some participation by their Japanese counterparts. They met bilaterally, rather than jointly, to sound out options for moving out of the impasse.

Regular meetings of the multilateral negotiating committees at WTO headquarters resumed earlier this month, even though governments had not come forward with the concrete new offers of tariff and subsidy cuts originally thought necessary to end a six-month hiatus (see BRIDGES Weekly, 14 February 2007, <http://www.ictsd.org/weekly/07-02-14/story1.htm>).

Nevertheless, Geneva-based trade diplomats have generally suggested that progress in the talks is more

likely to occur in smaller, informal discussions such as those in London. This did not happen last week, delegates from some of the Members present there reported to an informal 'special session' of the agriculture negotiating committee on 23 February.

Without specifically mentioning London, delegates from the countries present there acknowledged that a variety of bilateral and other meetings had taken place in recent weeks. Officials have been quite reticent about the details of these talks, which some trade analysts took as a positive sign suggesting potentially-controversial progress, however incremental.

In any case, the EU representative told the agriculture negotiating committee that some steps forward had been taken, but that differences persisted. Indian Ambassador Ujal Singh Bhatia reportedly said that nothing tangible had emerged from the various bilateral talks, and that Members remained wedded to their established positions.

One source told Bridges that at the meeting in London, officials did not attempt to negotiate concessions on specific issues, and did not discuss numbers for tariff and subsidy cuts or future import quotas. Instead, their talks had simply been 'exploratory' in nature, to try to better understand where flexibilities might lie.

Delegates in the agriculture committee in Geneva broadly recognised that small group and bilateral discussions were important. Nevertheless, many urged the group of five Members (sometimes dubbed the G-4 plus Japan) to 'multilateralise' the negotiations – i.e., bring them back to the multilateral setting – as soon as they could.

One developing country delegate said that formally restarting talks in the absence of concrete changes in position risked leaving Members in Geneva increasingly frustrated with the lack of progress. The diplomat pointed to the irony of the current situation: the wheels of the WTO's negotiating process had been set in motion once again, but negotiators were attending meetings simply in order to try to learn what was being discussed elsewhere.

### **Ag chair ponders text**

Agriculture negotiations Chair Ambassador Crawford Falconer (New Zealand) appeared to share some of these concerns. He told Members at the 23 February gathering that extended consultations outside the multilateral forum could cause anxiety to build up "within weeks rather than months."

As at the previous meeting, the agriculture chair had indicated his intention to produce some sort of updated

document to serve as a basis for future discussions: whether a revised version of his June 2006 paper on "draft possible modalities" that covered the spectrum of virtually all the proposals that Members had made in the negotiations, or a series of updated 'reference papers' in which he could point to Members' convergence or differences on specific issue areas. This would allow him to reflect areas of progress that had emerged since the talks were suspended last summer, he suggested (see BRIDGES Weekly, 14 January 2007, <http://www.ictsd.org/weekly/07-02-14/story1.htm>).

Even if bilateral consultations do not produce results in a few weeks time, Falconer indicated that he would still go ahead and put out a new paper, unless Members tell him otherwise. He did, however, emphasise that such a paper would be better if it could reflect the views of key delegations.

Trade sources suggested that Falconer is likely to hesitate before circulating a new text in the absence of clear signals from the major players. They say that he will be reluctant to "push the button" on a new modalities document unless he is reasonably sure that it could command a degree of consensus among Members.

### **Some Members worried about exclusion from quotas**

Falconer reported on his recent 'fireside chats' with ambassadors from close to two dozen Member delegations. He said that the first examined the sort of rules that might be used to prevent countries from concentrating their domestic farm subsidies on a handful of products (with greater potential to distort production and trade).

The second focused on the 'sensitive products' on which both developed and developing countries will be able to make relatively smaller tariff cuts in return for creating new import quotas. Falconer said he had the impression that Members had little appetite for discussing the issue since they were waiting for 'movement elsewhere'.

Notably, he added that some Members feared that attempts to broker a deal on agricultural market access might end up with the key players agreeing to have import quotas assigned to specific countries in order to guarantee them a certain amount of export opportunities.

Country-specific tariff rate quotas may prove politically unfeasible – that is, unable to win consensus support at the WTO. And the July 2004 Framework agreement says that the new import quotas created for sensitive

products should be opened to all Members on a non-discriminatory basis. However, country-specific quotas could still conceivably be legally permissible.

The rules for administering quantitative import restrictions set out in GATT Article XIII allow Members to divide up an import quota in agreement with all countries "having a substantial interest in supplying" the product in question. Moreover, they potentially allow Members to unilaterally allocate parts of a quota to each of the "substantial" suppliers of the product – so long as these shares are based upon the relative proportion of imports that each supplier had accounted for "during a previous representative period." The article does not clarify what a "substantial interest" means. Broadly speaking, quotas are not supposed to significantly alter the market shares that countries would get in their absence.

It is noteworthy that several country-specific tariff quotas currently exist in the WTO – they were created during the Uruguay Round in order to ensure that Members would not lose pre-existing levels of market access.

Nevertheless, it is unclear whether new tariff rate quotas created as part of the Doha Round would pass muster with Article XIII unless they were either open to all Members or agreed to with all suppliers. Any government that sets up a country-specific quota system that leaves some Members dissatisfied would be liable to be dragged into dispute settlement, as the EU learned with its banana import regime.

Falconer's informal meetings appear set to continue in the coming weeks. He has said that he is planning a 'fireside chat' on agricultural market access issues of particular interest to developing countries. These include the 'special products' that they will be able to shield from regular tariff reduction for food security, livelihood security, and rural development concerns, and a 'special safeguard mechanism' against import surges. Both issues have divided the G-33 bloc of developing countries from farm exporters concerned about diminished future market access opportunities.

Different member groups have also been meeting to discuss different aspects of the farm trade talks. G-20 members are trying to refine their positions. The Cairns Group is expected to come up with new papers on sensitive and tropical products.

The next meeting of the agriculture negotiating committee is expected to be held around 9 March.

SD reporting; "The Law of International Trade In Agricultural Products," by Melaku Gebeye Desta (Kluwer Law International, 2002); "International Trade

Regulation," Thomas Cottier and Matthias Oesch eds. (Staempfli and Cameron May, 2005).

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## NAMA TALKS BLOCKED DUE TO STANDSTILL ON AGRICULTURE: CHAIR

The Doha Round negotiations on industrial tariffs are likely to remain at a standstill until there is progress on agriculture, the chair of the negotiating group told WTO Members on 26 February.

Speaking to a meeting of all delegations that kicked off a week of non-agricultural market access (NAMA) negotiations, Chair Ambassador Don Stephenson (Canada) said that many Members insist that they need to see clearer signs about the likely outcome of the still-deadlocked agriculture talks before changing their positions on NAMA. Specifically, they are reluctant to talk about how deeply to cut industrial tariffs until they know how sharply farm subsidies and tariffs will be reduced.

As a result of this reluctance, recent discussions have focused mostly on issues such as the treatment of small and vulnerable economies and recently-acceded Members. They have steered clear of the three central ambition-defining issues in the negotiations: the tariff reduction formula numbers that will determine the depth of cuts; flexibilities for developing countries to shield some products from tariff reduction; and the treatment of unbound tariffs.

### Many 'tensions' in the negotiations

The chair warned delegates that his various consultations with Members led him to believe that even with progress on agriculture, the NAMA talks will not be easy to resolve. Although he described agriculture as the "central tension" in the negotiations, Stephenson noted that it was far from the only one.

For instance, several developing country Members stress that the Doha mandate prescribes that they should benefit from "less than full reciprocity in reduction commitments." They complain that the US and the EU are seeking to require poor countries to cut bound tariffs far more sharply than their industrialised counterparts, and argue that this violates that stipulation.

The US and the EU have called for a 'Swiss' tariff reduction formula with a 'coefficient' of 10 for developed countries and 15 for developing ones. The way the formula works is that the coefficient effectively becomes the new tariff ceiling: when fed through the formula, all duties are slashed to below the level of the coefficient, with lower ones reduced more gently. Since developed



countries in general have tariffs averaging about 6 percent, while developing countries' average tariff is closer to 30 percent, the proposed numbers would require substantially deeper cuts by the latter.

Developed countries argue that deep reductions to bound rates are necessary to force down applied tariffs to create "new trade flows" or "real market access." They argue that the "less than full reciprocity" mandate would be fulfilled by allowing developing countries to maintain a somewhat higher coefficient, and thus future tariff ceiling.

Sources report that this tension between 'less than full reciprocity' and 'real market access' was discussed at a 'NAMA caucus' meeting that Stephenson organised for ambassadors from about two dozen countries on 23 February. At that meeting, the chair noted that 'real market access,' though not part of the formal mandate, was a central demand of many Members. Argentina, Brazil, and India stressed that the coefficients proposed by the EU and the US were unacceptable to them. The US said that it would be necessary to define the 'spread' between the two coefficients – while it has sought for the gap to be no higher than 5, the NAMA-11 group has called for it to be no lower than 25 (see BRIDGES Weekly, 3 July 2006, <http://www.ictsd.org/weekly/06-07-03/story1.htm>).

The same sources suggested that Stephenson may try to use exchanges on 'less than full reciprocity' and the desired 'spread' to move towards a discussion on what the specific values of the coefficients ought to be.

Discussions in the NAMA caucus meetings have focused on NAMA issues alone, despite briefly touching upon the 'exchange rate', or links, with the agriculture negotiations.

NTBs, RAMs, sectorals discussed

With the ambition-defining issues likely to languish until there are signs of progress on agriculture, delegates report that the week will see delegations meet informally to discuss sectoral liberalisation initiatives and non-tariff barriers (NTBs).

Supporters of different sectoral initiatives – which would require participating countries to eliminate or harmonise tariffs in a particular sector, such as auto parts, forest products, or medical devices – are meeting with other countries to discuss their proposals. Countries such as Thailand, Singapore, and the US have suggested that sectoral initiatives could contribute to achieving a desired level of liberalisation in the negotiations. Other Members point out that participation in these initiatives is supposed to be voluntary.

On 27 February, several delegations held a session on non-tariff barriers. Many asked questions about the mechanisms that the EU and the NAMA-11 had each proposed setting up in order to rapidly broker compromise in disagreements over NTBs (see BRIDGES Weekly, 17 May 2006, <http://www.ictsd.org/weekly/06-05-17/story6.htm>). Many exporters complain that NTBs are as much of an obstacle to their products as tariffs. The EU and the NAMA-11 had both called for 'facilitators' who could quickly try to resolve problems where goods were blocked in a port of entry without ruling on the NTB's legality, which is what the WTO's much slower dispute settlement mechanism would have to do. The US said earlier in the week that it did not see a need for a new mechanism.

At the plenary meeting at the beginning of the week, Croatia, on behalf of a group of 14 recently-acceded Members (RAMs) including China, the Kyrgyz Republic, Moldova, and Taiwan, formally tabled a proposal seeking higher coefficients, greater flexibilities, and longer implementation periods than the norm for developing countries (TN/MA/W/83). These countries, which point to the substantial liberalisation commitments that they had to make in order to join the WTO, met a cold reception last summer when they informally circulated a similar paper (see BRIDGES Weekly, 14 June 2006, <http://www.ictsd.org/weekly/06-06-14/story2.htm>). Although no one intervened to discuss the proposal at the recent meeting, one delegate summed up the general reluctance to accord favourable treatment to every country in the RAM group: "everybody is thinking of China." The official also noted that Croatia, a transition economy, was asking for better treatment than that accorded to developing countries in general.

The NAMA week will conclude on 2 March, with another meeting open to all delegations.

ICTSD reporting.

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## OTHER STORIES

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### PUSH FOR PROGRESS IN DOHA TALKS PROCEEDING SLUGGISHLY

Informal talks among key players in the Doha Round trade negotiations appear to be progressing at a glacial pace, calling into question whether WTO Members will be able to reach a deadlock-breaking compromise in the first half of this year.

A series of bilateral meetings in London last week among top officials from the EU, US, India and Brazil produced little more than assurances that they now better understood each others' positions (see related story, this issue). Despite the full resumption of negotiations in Geneva, representatives from other countries have been looking to these quiet discussions for the building blocks of a potential agreement among the broader WTO Membership. This has thus far been to no avail, to the frustration of some negotiators.

WTO Director-General Pascal Lamy also seems anxious for the talks to pick up speed. Speaking to reporters in Manila on 23 February, he said that "things are progressing with the major actors," but are "too slow" for him to be able to foresee when to convene a meeting of ministers to finalise an agreement that would make it possible to conclude the Doha Round.

In an interview with the Wall Street Journal earlier in the week, Lamy said that he is reluctant to call a ministerial gathering unless he's sure that it would not risk a repeat of July 2006, when high-pressure talks in Geneva collapsed in acrimony over farm trade (see BRIDGES Weekly, 26 July 2006, <http://www.ictsd.org/weekly/06-07-26/story1.htm>).

Looming over governments is the impending end-June expiry of the US presidential administration's 'trade promotion authority' (TPA). Without this mandate, President George W. Bush will lose his ability to submit trade agreements to Congress for a yes-or-no vote without amendments. Lamy believes that without TPA renewal, the Doha Round may fail. He also said that "some breakthrough package" would need to be on the table in the negotiations before the end of June for the administration to have any chance of convincing Congress to extend TPA (see BRIDGES Weekly, 14 February 2007, <http://www.ictsd.org/weekly/07-02-14/story2.htm>).

While it is not clear precisely what a 'breakthrough' would entail, negotiators seem to think that it would be similar to 'modalities' and at least provide guidance about the depth of eventual subsidy and tariff cuts, as well as the scope of exceptions.

Lamy told the Wall Street Journal that though the US, the EU, and India had not yet reached an accord on the "right numbers," they were "not that far" from a compromise. He added that a breakthrough was "more a question of months than quarters."

### US pressuring India

US officials have been calling on India in particular to offer deeper cuts to its industrial and farm subsidies. Following the meetings in London, US Trade

Representative Susan Schwab said in a television interview aired 25 February on C-SPAN's Newsmakers programme that while Washington had been making "slow" progress with the EU and Brazil, India was "less inclined to be a proactive contributor." "India has a very, very important role to play" in the negotiations, she continued. "We hope that India will be part of the solution rather than hold back the talks."

India has held firm to its position that developing countries should have the right to shield up to 20 percent of agricultural tariff lines from the full force of tariff cuts under the Doha Round by designating them as 'special'. It also wants them to have a 'special safeguard mechanism' to protect farmers from import surges. The US and some other farm exporters argue that these would deny them virtually any new market access opportunities.

Indian officials called Schwab's comments "inaccurate and unfortunate." Zee News reported that senior commerce ministry officials said that the US had been unwilling to state its position in London. "They want all other countries to show their cards before they decide whether they want to play. How is it possible?" one of them asked.

The Financial Express newspaper reported that New Delhi was surprised by the US trade chief's statement that Washington had been making progress with Brazil, a fellow member of the G-20 bloc of developing countries. Kamal Nath, India's commerce and industry minister, appears set to travel to Geneva next week to meet Brazilian Foreign Minister Celso Amorim for bilateral talks, as well as to "reaffirm the unity of the G-20."

Meanwhile, the Indian government unveiled its budget on 28 February, in which it announced that the maximum applied tariff on most industrial products would fall to 10 percent from 12.5 percent. It also lowered duties on some food imports such as edible oils in an attempt to curb inflation.

ICTSD reporting; "WTO Chief Lamy Says Ministerial Trade Talks Possible 'Soon,'" BLOOMBERG, 21 February 2007; "Doha talks bring engagement but no broad accord," FINANCIAL TIMES, 27 February 2007; "WTO Chief Lamy Sees Doha Breakthrough," WALL STREET JOURNAL, 21 February 2007; "Nath rushing to Geneva to Brazil Trade Minister," ZEE NEWS, 27 February 2007; "Kamal Nath to reaffirm Brazil's support for WTO talks," FINANCIAL EXPRESS, 27 February 2007; "WTO chief: Talks too slow," REUTERS, 23 February 2007.

## US AND SOUTH KOREA MAKE PROGRESS IN FTA TALKS AMID PROTESTS

Prospects for the US and Korea to conclude free trade agreement negotiations in time for a US-determined deadline look somewhat better after negotiators wrapped up the seventh round of talks on 15 February.

Although crucial differences remain unresolved, US lead negotiator Wendy Cutler called the discussions "the most successful negotiating round so far," adding that she was "confident that the talks can be successfully wrapped up by the end of March."

A deal would need to be finalised by then for the Bush administration to be able to meet a mandatory 90-day Congressional review period before its 'trade promotion authority' expires at the end of June. Under this mandate, the president can require Congress to accept or reject a trade agreement without seeking specific changes.

The two sides have agreed to eliminate tariffs on 85 percent of industrial goods. During the recent round, they decided to guarantee duty-free access and non-discriminatory treatment to electronically traded products such as software, music, and movies, with provisions on electronic signatures, online consumer protection, paperless trading, and cross-border information flows. They also established rules of origin for chemicals, pharmaceuticals and plastics, and made progress on some technical issues in the services and investment negotiations.

### Most controversial issues unresolved

However, agreement continues to elude Washington and Seoul in the precise areas that have been the most contentious throughout the negotiations: agriculture, automotive trade, Seoul's pharmaceutical policies, and the US' use of anti-dumping measures on Korean products. Nevertheless, Cutler told reporters that negotiators had established a clear way forward for addressing these issues.

Rice, a highly charged matter for South Korean farmers, has barely been discussed. South Korean officials have vowed to shield rice from any trade deal, while the US wants it included, along with the rest of the agriculture sector. According to a statement from the Korean trade ministry, negotiators were only able to narrow differences on the "relatively less sensitive" farm trade issues during the recent round. High-level agriculture talks will be held on 5-6 March, just before the eighth round, to discuss exemptions from liberalisation as well as the pace of tariff reduction.

Seoul's policies towards imported US beef have been another sticking point in the negotiations, with the most recent spat triggered when Korean officials denied entry to shipments of meat due to the presence of tiny bone chips (see BRIDGES Weekly, 13 December 2006, <http://www.ictsd.org/weekly/06-12-13/story6.htm>).

However, Seoul's lead negotiator, Kim Jong-hoon, expressed confidence that the issue could be resolved in a 23 February interview on Korean radio. Beef will be one of the issues discussed during next week's high-level agriculture talks.

South Korea exports about 800,000 cars to the US, while only about 4,000 cars go in the opposite direction. US carmakers are sceptical that the FTA will change their access to the South Korean market. They argue that Seoul maintains a number of regulatory hurdles that obstruct US cars, including safety and emission standards that only apply to imported vehicles. South Korean officials blamed Washington's "linkage of automotive tariffs to automotive taxes" for the failure to make progress.

Several civil society groups continue to oppose the potential accord. Protestors from South Korean and US labour unions sat outside the negotiation venue in Washington. Cattle farmers in South Korea also demonstrated against the talks.

The next round of negotiations will be held from 8-12 March in Seoul. If concluded, this FTA would be the US' biggest since the 1993 North American Free Trade Agreement (NAFTA). Bilateral trade between the US and South Korea currently amounts to more than USD 100 billion annually. The commercial significance of the potential accord has won it support from some Congressional Democrats who have otherwise expressed scepticism about bilateral trade agreements.

ICTSD reporting; "Manufacturers leery of US-Korea trade deal," US NEWS AND WORLD REPORT, 13 February 2007; "Progress at latest US-Korea FTA talks," THE CALTRADE REPORT, 17 February 2007; "US-Korea trade negotiations get nowhere," ONEWORLD, 16 February 2007; "S. Korea, US to hold farm talks next month," YONHAP NEWS, 21 February 2007; "No major breakthrough in US- S. Korea free trade talks," DOW JONES NEWS, 15 February 2007; "FTA could mean nearly full opening of Korean agricultural market," HANKYOREH, 14 February 2007; "S. Korean trade negotiator hints at resolution of beef spat with US," YONHAP, 23 February 2007.



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## WTO IN BRIEF

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### ECUADOR ASKS FOR WTO DISPUTE PANEL TO EXAMINE EU'S BANANA IMPORT REGIME

The EU's banana import policies will once again face legal scrutiny at the WTO, after Ecuador formally requested the creation of a dispute panel to examine its claim that Brussels is failing to comply with past rulings.

Ecuador took the first step in WTO dispute settlement procedures last November, when it requested consultations with the EU on the issue (see BRIDGES Weekly, 22 November 2006, <http://www.ictsd.org/weekly/06-11-22/story4.htm>). This followed almost a year of unsuccessful bilateral talks under the 'good offices' of Norwegian Foreign Minister Jonas Gahr Store.

The decade long spat has pitted the EU against several Latin American banana producers and the US, over Brussels' trade preferences for bananas from its former colonies in the African, Caribbean, and Pacific (ACP) group of countries.

After losing WTO cases in 1997 and 1999, the EU in November 2001 struck a deal with Ecuador and the US allowing it to maintain its preferences for ACP exports until the end of 2005. In return, Brussels promised to replace its system of duties and quotas for banana imports with a 'tariff-only regime' by 1 January 2006. This new import regime was supposed to "at least maintain total market access" for countries like Ecuador that did not benefit from preferences.

Following its failure to reach a negotiated solution, the EU unilaterally implemented a tariff of 176 euros per tonne, accompanied by a duty-free quota of 775,000 tonnes for ACP bananas (see BRIDGES Monthly Review, December 2006-January 2007 <http://www.ictsd.org/monthly/bridges/BRIDGES10-8.pdf>). Ecuador claims that the new regime discriminates against non-ACP suppliers and fails to maintain its earlier levels of market access – and thus violates the earlier rulings.

EU spokesperson Michael Mann rejected Quito's claims as "just not true," saying that that EU banana imports from Ecuador rose last year.

Despite the request for the creation of a panel, both parties expressed a continued interest in working towards a negotiated solution.

WTO Members will address Ecuador's request on 8 March. The EU can block the first request for the creation of a panel, but cannot do so a second time.

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

ICTSD reporting; "European Union Banana Rules to Face Another WTO Challenge," CANADIAN PRESS, 26 February 2007.

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## EVENTS & RESOURCES

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### 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](mailto:events@ictsd.ch).

#### Coming Up: 1-7 March

1-2 March, Geneva, Switzerland: DISCIPLINING FISHERIES SUBSIDIES - INCORPORATION SUSTAINABILITY AT THE WTO AND BEYOND. Organised by WWF and the UN Environmental Programme (UNEP). Developing new disciplines on fisheries subsidies that present sustainability concerns is a priority for achieving sustainable management of the world's fisheries resources. After several years of work on subsidies reform at UNEP and WWF, the remaining question is how "sustainability" can be incorporated into appropriate and workable conditions on fisheries subsidies at the WTO and beyond, including national and regional level fisheries policy. Answering this question is the aim of this symposium. For more information, contact Anja von Moltke ([anja.moltke@unep.ch](mailto:anja.moltke@unep.ch)) or Aimee Gonzales ([agonzales@wwfint.org](mailto:agonzales@wwfint.org)) internet: [http://www.unep.ch/etb/events/2007fish\\_symposium.php](http://www.unep.ch/etb/events/2007fish_symposium.php).

2-3 March, New Haven, US. FINANCING OF FOREST CONSERVATION: PAYMENTS FOR ENVIRONMENTAL SERVICES IN THE TROPICS: Organised by the International Society of Tropical Foresters and the Yale School of Forestry & Environmental Studies, this conference will serve as a forum to discuss the various types of payment for environmental services, the issues associated with each type, and the successes and failures to date. The discussion will be driven by questions such as: Can payment for environmental services mechanisms lead to conservation? Can such mechanisms be as economically viable as other uses? How can these

methods be better integrated into conservation and management plans? What are the potential negative consequences from the standpoints of conservation, local livelihoods, and economic optimization? How can active trading markets for ecosystem services be developed? And, are payments for avoided deforestation and reduced carbon emissions feasible? For more information contact, [istf@yale.edu](mailto:istf@yale.edu); internet: <http://www.yale.edu/istf/>

8-9 March, Bangkok, Thailand. OECD/UNDESA/UNESCAP WORKSHOP ON DEVELOPING SUSTAINABILITY STRATEGIES IN ASIA. This workshop, jointly organized by the Organization for Economic Co-operation and Development (OECD), the UN Division for Sustainable Development (UNDESA), and the UN Economic and Social Commission for Asia and the Pacific (UNESCAP), will review national sustainable development and poverty reduction strategies in Asian and Pacific countries and the options for better integration of these policies. internet: [http://www.oecd.org/document/49/0,2340,en\\_2649\\_201185\\_32618737\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/49/0,2340,en_2649_201185_32618737_1_1_1_1,00.html)

### WTO Events

An updated list of forthcoming WTO meetings is posted at: [http://www.wto.org/meets\\_public/meets\\_e.pdf](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.

1 March: COMMITTEE ON SANITARY AND PHYTOSANITARY MEASURES

1-2 March: COMMITTEE ON TRADE AND ENVIRONMENT- SPECIAL SESSION

1 March: COUNCIL FOR TRADE IN SERVICES

1 March: COUNCIL FOR TRADE IN SERVICES- SECOND REVIEW OF AIR TRANSPORT UNDER THE ANNEX ON AIR TRANSPORTATION SERVICES

2 March: IPC ROUNDTABLE/SANITARY AND PHYTOSANITARY MEASURES

2 March: COUNCIL FOR TRADE IN SERVICES - SPECIAL SESSION

5 & 7 March: TRADE POLICY REVIEW BODY - AUSTRALIA

6 March: COMMITTEE ON TRADE AND DEVELOPMENT

### Other Upcoming Events

12-13 March, New Delhi, India. SAVING DOHA AND DELIVERING ON DEVELOPMENT. Organised by the Government of India, the Carnegie Endowment for International Peace, Oxfam International, the National Council for Applied Economic Research, and the Consumer Unity and Trust Society International (CUTS), participants at this seminar will discuss progress, or the lack thereof, in the Doha round and how it can be redirected to benefit developing nations. For more information, contact [Tpapanicolas@carnegieendowment.org](mailto:Tpapanicolas@carnegieendowment.org).

15-16 March, Nairobi, Kenya. INTERNATIONAL CONFERENCE ON LINKAGES BETWEEN TRADE, DEVELOPMENT, AND POVERTY REDUCTION. The Consumer Unity and Trust Society International (CUTS) has organized this conference to bring together project partners from 15 countries across South-East Asia, Southern Africa, and Europe with representatives from inter-governmental agencies, civil society, and research organizations to discuss the involvement of civil society in implementing aid for trade programmes. internet: <http://www.cuts-citee.org/events/htm>.

28- 30 March, Oslo, Norway. THE OSLO CONFERENCE ON GOOD GOVERNANCE, SOCIAL AND ENVIRONMENTAL RESPONSIBILITY. The Oslo Conference aims to take the ongoing debate about business and sustainability beyond corporate social responsibility by providing a platform for an integrated approach comprised of key players from government, business, academia, trade-unions and non-governmental organisations (NGOs). The conference is hosted by the Norwegian Ministry of Foreign Affairs in cooperation with the World Business Council for Sustainable Development, United Nations Environment Programme (UNEP), the Global Reporting Initiative (GRI), the Norwegian Ministry of the Environment and the City of Oslo. internet: <http://www.csr-oslo.org/>

### RESOURCES

GLOBAL BIOPIRACY- PATENTS, PLANTS, AND INDIGENOUS KNOWLEDGE. By Ikechi Mgbeoji. University of British Columbia Press, 2006. The appropriation of plants and traditional knowledge by corporations and other entities is often called biopiracy, and it raises serious issues about conservation of biological diversity and genetic resources. This book rethinks the role of international law, global patent systems, and international agricultural research institutions as they affect ownership and control of plants and the knowledge that makes them valuable.

The author makes a strong case for protective measures to be implemented and enforced. For more information, see [http://www.ubcpres.ca/search/title\\_book.asp?BookID=4440](http://www.ubcpres.ca/search/title_book.asp?BookID=4440)

for Development and Cooperation. ISSN 1563-0

**SERVICES TRADE AND DOMESTIC REGULATION.** By Henk Kox and Hildegunn Kyvik. Organisation for Economic Cooperation and Development (OECD) Trade Policy Working Paper No. 49, 14 February 2007. This paper argues that regulatory measures affect the fixed cost of entering a market as well as the variable costs of servicing that market. The authors find that it is not regulation as such which hampers international trade in services, but rather regulatory heterogeneity that has a relatively large negative impact on both market entry and subsequent trade flows. The message to policy makers is not to abandon regulation, but to harmonise with their trading partners. These lessons are especially important for small countries where harmonisation could substantially increase services exports. Available online at <http://www.oecd.org/tad>

**DEBT DYNAMICS AND GLOBAL IMBALANCES: SOME CONVENTIONAL VIEWS RECONSIDERED.** By Guy Meredith. International Monetary Fund (IMF) Working Paper, January 2007. This paper uses a general-equilibrium model to explain the rise in global trade and payments imbalances in the US since the mid-1990s, and then constructs adjustment paths to a steady state. Assuming that the shocks giving rise to the imbalances do not suddenly reverse, simulated movements in the US trade deficit and exchange rate are smaller and more gradual than suggested by partial-equilibrium analyses. Available online at <http://www.imf.org/external/pubs/cat/longres.cfm?sk=20167.0>

Back issues of *BRIDGES Weekly Trade News Digest*® can be accessed at: <http://www.ictsd.org/weekly/archive.htm>.

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