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Facts and Figures

- In 2009, total net official development assistance (ODA) from the donors in the OECD's Development Assistance Committee rose 0.7 percent in real terms, but the increase was 6.8 percent if debt relief is excluded.
- Net bilateral aid to sub-Saharan Africa was US\$24 billion, up by 5.1 percent from 2008. US assistance to the region increased by 10.5 percent.
- In volume terms, the largest individual donors by volume were the United States, France, Germany, the United Kingdom and Japan, but none of these countries have achieved the United Nations ODA target of 0.7 percent of gross national income.
- Five countries did exceed the UN target: Denmark, Luxembourg, the Netherlands, Norway and Sweden.

Source: OECD, April 2010

What Ambition for Doha?

After the March stock-taking showed no clear way out of the current impasse, the level of ambition of the Doha negotiations is emerging as the latest flashpoint.

Wrapping up the stock-taking week in March, WTO Director-General Pascal Lamy indicated that the membership was “not where we wanted to be by now.” The goal of concluding the negotiations this year was quietly buried, and no new deadline was set. The WTO chief nevertheless stressed that all countries remained “very much committed to the mandate of the round and to its successful conclusion.”

He also said that the stock-taking had showed a “commitment to now start working towards weaving all strings of the negotiations into an overall package.” This is likely to happen in small informal gatherings between senior negotiators, such as the one recently held in Paris. While arguably necessary, meetings of this type tend to be viewed with some suspicion due to their exclusive and non-transparent nature (see page 2).

According to Mr Lamy, Members generally agree that future negotiations should “build on what is already on the table in the shape of chairs’ texts.” However, this general agreement does not include the United States, which has spent the last few months hammering home just one key message: there will be no deal unless large emerging economies improve market access commitments well beyond what the current chairs’ texts would deliver.

As the progress reports prepared for the meeting show quite clearly, the negotiations have largely been treading water since the last serious push for a breakthrough collapsed in July 2008. Many a delegate noted ruefully that there was nothing to take stock of (see page 5).

A sense of urgency remains conspicuously lacking in the hallowed halls of the WTO. Farm talks will only pick up in the third week of May, with yet more discussions on the technicalities of scheduling commitments and some informal consultations on outstanding substantive issues. Such consultations failed to shift positions prior to the stock-taking and there is no indication of prospects being markedly rosier now.

Faced with another potential stalemate, what could be done? Some see a way out of the impasse through refocusing the negotiations on a development-oriented smaller package, deliverable in the short term, that could build trust and confidence in the multilateral trading system and thus contribute to more conducive atmospherics for tackling the headline issues when the time is ripe (see page 8). The ‘early harvest’ approach did not gain traction with the stock-takers.

Ambition on Agriculture Must Remain High, Cairns Group Warns

“Concluding the Doha Development Agenda must remain the top priority of WTO Members,” trade ministers of the 19-strong Cairns Group of agricultural exporters declared at the close of their annual meeting in April.

“It is essential that the round delivers on the reforms needed in agriculture, including the elimination of all forms of export subsidies by 2013, substantial reductions and disciplines on domestic support, and substantial improvements in market access. There can be no weaken-

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Bridges

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ing of ambition on these issues. Development is central to this round and the outcome should accurately reflect this development mandate," the final communiqué stated.

Ministers said they remained "determined to reach an ambitious and balanced outcome in the agriculture negotiations, in line with the agreed mandate. To achieve that goal, we will continue our efforts, at both the technical and political levels, to resolve the outstanding issues so that the round can be concluded as soon as possible."

Testing the Waters

Although not officially announced, the once-a-month capital-based senior officials' meetings in Geneva were suspended after the March stock-taking. However, Director-General Lamy stressed that that "smaller groups in variable geometry and bilateral contacts remain necessary and essential – within specific areas as well as on a horizontal level."

In late April, such a meeting took place in Paris, where WTO ambassadors and senior officials from Brazil, China, the EU, India and the US reportedly failed to find a way to provide momentum to the struggling round. Little is known about the substance of the five-party talks except that Brazil, China and India expressed concern over discussing gaps in positions in such a limited setting. The Paris meeting was called by the United States' new WTO ambassador Michael Punke.

According to Washington Trade Daily, the EU will convene a more representative gathering on 19 May. In addition to the Paris five, participants are expected to include capital-based senior officials from all major coalitions in the Doha talks, i.e. the G-20, G-33 and G-10 farm groupings, the NAMA-11, least-developed countries, the Cotton-4 and the ACP group.

G-20: Greater Level of Ambition Needed to Make Agreement Feasible

The next opportunities to tackle the Doha Round at the political level will come at the margins of the OECD Council in late May, the APEC trade ministers' meeting in the first week of June and, most importantly, at the G-20 major economies summit, which will be held in Toronto from 26-28 June.

In anticipation of the meeting, the heads of state of Canada, France, South Korea, the UK and the US wrote a letter to other G-20 leaders on what the group should focus on. Most of the three-page missive dealt with strengthening the global financial system, with the WTO negotiations accounting for precisely 61 words:

"With regard to Doha, we need to determine whether we can achieve the greater level of ambition necessary to make an agreement feasible. Since last summer, a number of countries have engaged directly with each other to advance this goal. To reach a successful outcome we must give political impetus to our negotiators, which should also be reflected in national actions."

The five signatories also stressed the need to "resist protectionist pressures, and to promote liberalisation of trade and investment through the national reduction of barriers, as well as through bilateral and regional negotiations."

EU trade commissioner Karel de Gucht has suggested a redefinition the round's objectives. He sees two options: either countries set 'new, ambitious goals' for the talks, such as the elimination of tariffs on climate-friendly goods, or they shift focus to a 'Doha light'. Mr de Gucht explained that the latter would essentially mean less market opening for agricultural products.

DG Lamy, however, cautioned that changing the goalposts at this stage would be counter-productive. Finding a new balance would not only be 'horribly complex', he said, but also "politically unpalatable for developing countries who want fairer trade." The combative WTO chief insisted that concluding the round this year was still 'perfectly doable', but acknowledged that much would depend on domestic politics. "That's the question mark."

An Indian negotiator was more pessimistic: "The potential for resolution of the Doha Round is nil. And if it isn't happening this year, I don't see it happening before 2014."

Ministerial Engagement Would Facilitate WTO Reform

Sergio Marchi

The WTO is an invaluable institution, whose role is probably even more important today than ever before. However, we have an important obligation to ensure that its political governance responds to the political needs and demands that are driving our times.

WTO reform is not about strengthening a weak or bad organisation. Instead, it is about improving an already good institution. However, I equally believe that those who wish to deny or delay any and all reform will inadvertently weaken the institution over time, and erode its international relevance.

There has been no shortage of thoughtful ideas and recommendations for such improvements, but these ideas have gone nowhere, because they have had no process to feed into.

As an intergovernmental institution, successful change must come, and be agreed to, from the inside. The process must involve and engage trade ministers, it must be balanced and inclusive, and ideally co-chaired by a developing and a developed country trade minister.

While we should avoid replicating the never-ending road of the Doha Development Agenda, it is more important to undertake such a work plan prudently than quickly. After all, any changes that will be made will last a generation and more.

With regard to a time frame, then, one could envision this process reporting to and expecting some initial action from, the next Ministerial Conference, in two years time. Establishing interim reports, would also help reassure that the journey is proceeding well.

Ministerial Engagement

Ministers act as the collective ‘Chairman of the Board’ for the WTO. The political buck stops with them. They have a contribution to make not only as trade practitioners, but also as elected representatives of the collective citizenry that are the shareholders of this ‘public company’.

Ministers should not just be summoned to the WTO for trade negotiations alone; they should also help provide the strategic oversight and leadership that the WTO desperately requires. Yet, the reality is that beyond negotiations, we don’t ask much else from ministers. I believe this is a mistake which represents a major gap in the political leadership and accountability of the WTO, and it should be redressed with appropriate urgency.

Renewal Will Not Undermine the DDA

Many inside the WTO beltway acknowledge the need to strengthen the institution. However, a number of them contend that the timing is not right; that we need to invest all our energies and political capital into finalising the Doha Development Agenda, and that nothing should distract us from that mission.

I fully accept that the DDA is an important undertaking and that bringing the deal home is long overdue. But I strongly disagree with those that argue that we cannot ‘walk and chew gum’ at the same time. While well intentioned, I find such thinking a threat to the viability and reputation of the WTO.

Indeed, I strongly maintain that a more effective, invigorated, and better understood WTO would only facilitate current and future negotiations, and not make them more difficult. A commitment to actually endorse a reform and renewal agenda would be welcomed by the international community at large.

Last year’s WTO Ministerial Conference in Geneva was a badly missed opportunity for strengthening the multilateral system. Ministers failed to embrace and launch a process for reform and renewal, despite the urgings of a number of external stakeholders, as well as a

proposal from India that specifically called for the ‘strengthening’ of the WTO as an institution, and which enjoyed overwhelming support among the membership. This provided an ideal and convenient vehicle and context with which to act.

And yet, the moment was not seized, so the moment was quickly lost. It was lost because the conference lacked the vision and commitment to see this through. Instead, the WTO chose to stand still – and nothing can be more dangerous in a world that keeps moving and changing with alarming speed.

However, not all is lost.

A good number of ministers in Geneva made a serious plea for the WTO to reform its ways. The Secretary for Commerce of Hong Kong captured it well when she said: “We must now work to ensure that the WTO remains relevant, agile and responsive... We must seek ways to continue improving the functioning, efficiency, inclusiveness and transparency of the WTO... This task calls for hard work, but I am sure that with commitments and perseverance, we can make it happen.”

The opportunity therefore exists for us to work with Hong Kong and the other like-minded countries, in broadening and rallying a strong commitment for an agenda of reform and renewal, as a tool for reinvigorating and strengthening the WTO.

For those of us interested in such an objective, we should advocate, rather provocatively, that not one more new idea for reform should be tabled, until WTO Members have established and committed themselves – and us – to a legitimate process that will consider, judge, and act on those very ideas.

Ambassador Sergio Marchi is a Senior Fellow at ICTSD, former Trade Minister of Canada and former chair the WTO General Council. This article draws on a speech Mr Marchi gave in February at the World Trade Institute in Bern.

Wanted: A New Model for Multilateralism

Guy de Jonquières

In the January issue of Bridges, Robert Howse advanced some thoughtful proposals for getting the Doha Round moving again. But I doubt they will be enough to speed it up. Indeed, they could even slow it down further, if that were possible. The reason is that they focus on the symptoms, rather than the basic causes, of inertia.

Professor Howse suggests progress could be made by setting aside ‘harder’ issues on the agenda. But he does not say, nor is it obvious, which are the ‘easier’ ones on which agreements are ripe for the picking.

If agriculture, the toughest nut of all, were off the table, would the G-20 be more flexible on industrial tariffs? If NAMA were sidelined, would the US and EU be any readier to cut their agricultural subsidies and trade barriers? And would either scenario make a services deal more likely? These questions answer themselves.

It is also optimistic to suppose that ‘coalitions of the willing’ can break the logjam. Who, exactly, are the willing, and around which issues will they coalesce? Enthusiasts of plurilaterals point to the success of the WTO talks on telecommunications, IT tariffs and financial services in the 1990s. However, they confuse the cart with the horse.

The telecoms deal happened because technological change had undermined the industry’s traditional business model; the IT agreement because enough Asian developing economies dependent on global elec-

tronics production chains realised that taxing essential imported inputs was senseless; and the financial services talks were doomed to succeed because failure could have further damaged market confidence during Asia’s economic crisis. But in what other areas today are events as conducive to WTO agreements?

To achieve credibility and momentum, any plurilateral coalition would probably need, as a minimum, to include the US, the EU, China, India, Brazil and Japan, and some smaller developing economies. But it is far easier to count the points on which those members’ national priorities and interests diverge than those that unite them.

That goes to the heart of the problem. It is not just that political attention is currently distracted from the WTO: so it has been for much of the past decade. Nor simply that the organisation’s agenda and negotiating mechanics have lagged behind the times. The deeper truth is that the WTO, and multilateralism more generally, have yet to come to terms with massive shifts in the geo-political and economic landscape.

It is a curious paradox that it took a hegemon to create and sustain the multilateral trade system. However, the end of the Cold War weakened both the overarching strategic rationale for the US grand design and American voters’ willingness to support it. Meanwhile, first Europe, then Japan and now the Brics have emerged to challenge or rival US pre-eminence.

Yet no other country has stepped up to replace US global leadership. Nor is any likely to soon. The EU lacks the necessary political cohesion and clout. Neither China nor India, both preoccupied with pressing business at home, wants the costs and responsibilities that genuine international leadership entails. Japan is equally reticent.

As a result, influence has diffused among different power centres; none can bend others to its will, yet multilateral progress requires the consent or, at least, the acquiescence, of each. That has set up awkward tensions between global institutions’ legitimacy and their decision-making efficiency. Even relatively minor players now flex muscles and thwart consensus with impunity.

Furthermore, while increasingly assertive of their own rights, governments everywhere appear wary of submitting to new rules set from outside. That used to be a US prerogative. Now it has gone global. It was evident at the Copenhagen climate summit and remains so in the Doha talks, where the US and EU are as unwilling to accept legally enforceable WTO ceilings on their existing farm subsidies as are developing countries to bind their tariffs at applied levels.

These are powerful trends. Lack of clear global leadership, divergent national priorities, international rivalry and, in some quarters, growing antipathy to globalisation cannot be tackled by trade diplomats shuffling agendas and procedures in Geneva. If multilateralism is to work better, the remedies must be sought in and between national capitals.

That is one of the strongest arguments for completing the Doha Round, even if the best that can be expected is a modest outcome. The longer it drags on, the greater the temptation for governments to use it as an excuse for not confronting the underlying problems that bedevil the WTO. Only once it is over will we know if they are serious about doing so.

Guy de Jonquières is Senior Fellow at the European Centre for International Political Economy and former World Trade Editor of The Financial Times.

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Chairs Highlight Outstanding Issues in Doha Round

The reports prepared for the end of March stock-taking by the chairs of the main negotiating groups paint a bleak picture. On the three central pillars of the Doha Round – agriculture, industrial market access and services – delegates have spent countless hours on technical work, while the issues that really divide the membership have only been addressed in informal consultations that have yielded no tangible results.

Ambassador David Walker, the chair of the farm negotiations, started his report by reviewing the ten areas in which he had held consultations on substantive differences.

No forward movement has occurred on how to reduce cotton subsidies more ‘ambitiously, expeditiously and specifically’ than those for other agricultural products. Years ago, African countries put forward a formula for obtaining such a result, but the United States, the main country targeted here, has so far refused to address the issue until the overall deal on agriculture is decided. According to chair Walker, ministerial-level contacts between unspecified countries in recent months have been “useful in enhancing understanding of respective perspectives.”

Japan and Canada still seek the right to designate more than 4 percent of their tariff lines as ‘sensitive’, which would shield them from full tariff cuts, but it “remains to be seen” whether others will agree, or what compensation they would demand for the additional flexibility.

Views are sharply divided on whether post-Doha tariffs on products other than those designated sensitive could exceed 100 percent. Neither can the membership agree on whether the creation of new tariff rate quotas should be allowed, or on the percentage and treatment of tariff lines that developing countries may designate as ‘special products’ based on food security livelihood concerns. The December 2008 negotiating text suggested 12 percent as the upper limit for ‘special’ tariff lines, five percent of which might escape cuts altogether so long as an average reduction of 11 percent is achieved.

The special safeguard mechanism (SSM), under which developing countries will be able to temporarily raise tariffs to guard against import surges and price fluctuations, is the only ‘headline’ issue that negotiators have discussed in any detail over recent months. The G-33 coalition of developing countries wants a strong and easy-to-use mechanism, while export-oriented nations – developed as well as developing – want to limit its scope. Despite a number of studies submitted by both camps, gaps have not narrowed. Ambassador Walker concluded that the SSM remained one of the more politically charged and most complex issues under discussion.

The long-running banana wars were put to rest in December through a compromise negotiated outside the WTO, but there is no agreement on the accompanying ‘preference erosion modality’ concluded between the EU, Latin American banana producers and the African, Caribbean and Pacific (Bridges Year 14 No.1 page 7).

The purpose of the modality was to strike a balance between conflicting interests with regard to trade in tropical products. The problem is that many products that can be considered as ‘tropical’ are also those for which many poor countries have preferential market access. They want to delay tariff cuts on these goods as long as possible, while other developing countries have sought fast and steep reductions in import duties on the very same tariff lines under the Doha Round mandate to achieve the ‘fullest liberalisation’ of trade in tropical products.

The December 2009 tripartite preference erosion deal proposed lists of products on which preference-giving countries would reduce tariffs more slowly, but Mr Walker noted that some WTO Members, who did not participate in elaboration of the lists, continue to have concerns about how the agreement would affect their interests.

Chair Walker also reported on ongoing work on templates for scheduling post-Doha commitments on tariff and subsidy cuts, a highly technical topic that has occupied the lion’s share of delegates’ time for many months.

Industrial Market Access

The report of Lucius Wasescha, the Swiss ambassador who chairs the negotiations on non-agricultural market access (NAMA), also made it clear that no progress had occurred on outstanding differences on substance.

The major blockage here remains the level of ambition in market opening. In bilateral negotiations, the US continues to seek more market access from major emerging economies, which in turn consider that the December 2008 negotiating draft already puts heavy demands on them. Scope for further concessions is limited unless the United States is prepared to pay an ‘additional price’ for more market access in China, India, Brazil and South Africa either in NAMA or other areas under negotiation in the Doha Round, Ambassador Wasescha suggested.

Clearly frustrated by the opacity of these bilateral talks, the chair observed that “enlightening the rest of the membership regularly about what is going on would be a useful step in allaying concerns which have been expressed about the lack of transparency in this process [...] The stocktaking exercise might be an adequate platform for the Members involved to provide such enlightenment.”

He also said the bilateral process could not continue *ad infinitum* and that it was up to the Members involved to “inform others accurately of the situation and of the prognostics of such a process achieving the desired results.”

According to the report, intensive work was carried out in late 2008 on South Africa’s request for more flexibilities than are available to other developing countries, and discussions on the matter would be ‘more fruitful’ if conducted during the end-game for an overall framework agreement in agriculture. Meanwhile, further discussions on similar demands by Argentina and Venezuela would be ‘premature’.

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As in agriculture, preference erosion remains divisive. The general principle is that importing countries phase in tariff reductions over a longer period for products that enjoy long-standing trade preferences. However, the December 2008 negotiating text proposed an exception to this rule, applicable to certain exports from Bangladesh, Cambodia, Nepal, Pakistan and Sri Lanka.

A waiver would allow the EU and the US to cut import duties on a number of textiles tariff lines from these countries more quickly than is the case for the same products coming from other destinations. The rationale for this exemption of the most-favoured-nation principle was that the five Asian nations would be ‘disproportionately affected’ by a slow liberalisation of textiles trade. WTO Members have been unable to agree on other countries’ requests to be included in the group of beneficiaries, as well as demands for a better deal from those covered by the exemption.

The report also contains a brief summary of the state of play in the controversial ‘sectoral’ negotiations, aimed eliminating or steeply cutting tariffs in 14 sectors ranging from cars to fish, and industrial machinery to jewelry. The sponsors of these initiatives are trying to convince enough countries, particularly major emerging markets, to participate in order to achieve a ‘critical mass’ that covers somewhere between 80 and 95 percent of all trade in the sector in question. That appears to be a distant goal, with lead countries reporting that they are still involved in ‘outreach’ activities and defining the scope of their proposals.

While work will continue on non-trade barriers, on which delegates have spent most of their time for a year, a parallel process that would address specific issues – such as the level of ambition and the requests for flexibilities – might provide additional momentum to the NAMA negotiations, Ambassador Wasescha concluded.

Waiting Game on Services

The chair of the services negotiations, Fernando de Mateo, admitted that “little or no progress” had been achieved since July 2008 on market access. The ‘signals’ of potential further liberalisation by a number of countries had not been confirmed, and discussions had largely centred on clarify-

ing technical points. The co-ordinators of so-called ‘collective requests’ seeking specific commitments from specific countries said the clarification exercise, while useful, did not amount to ‘real negotiations’ on substance.

Ambassador de Mateo also noted that the membership had no common view of what would constitute an acceptable outcome for the services talks. Some developing countries see an imbalance between the extent of market opening sought from them and developed countries’ responses to their requests, particularly with regard to improving access for developing country service providers. Many also think that the level of concessions sought in the services area is too high compared to the level of ambition in the agriculture and NAMA negotiations. In the chair’s assessment, progress in market access in services can only be made “once the political will has been summoned to resolve problems in other areas of the round.”

On the rule-making front, technical discussions on improving domestic regulation have made some progress, but political differences remain wide on whether an emergency safeguard mechanism should be established under the General Agreement on Trade in Services (GATS) and the inclusion of government procurement commitments in GATS schedules.

There is no agreement yet on a draft waiver that would give preferential treatment to services requests from least-developed countries. While some Members question elements of the waiver, others argue that it should only be considered as part of a broader package.

Rules Chair Reminds Negotiators of Urgency of Fisheries Disciplines

The negotiating group on rules has combed through the December 2008 chair’s text on possible changes to the WTO’s anti-dumping and countervailing agreements, but this has by and large been a technical exercise.

According to chair Guillermo Valles Galmés, Members are “no nearer consensus on the big political issues than we were in December 2008, and we are not likely to see the type of engagement that could lead participants to negotiate compromises on these issues until the overall direction of the round becomes clearer.” Delegates have identified about a dozen key issues within which trade-offs must be found at the technical level in order to be in a position to “tackle the outstanding political issues when the time is ripe.” With regard to anti-dumping, these include zeroing in the calculation of anti-dumping duties, anti-circumvention, sunset reviews, public interest and the lesser duty rule. Among subsidy-related hot topics are export credits and financing by loss-making institutions.

Discussions on fisheries subsidies appear to be in considerable disarray. Recently tabled submissions offer “new approaches, and even fundamentally different alternative architectures” for fisheries disciplines, the chair noted. These include the expansion of special and differential treatment for small and vulnerable economies, and a shift of focus from the prohibition of subsidies to an approach that would discipline them based upon their adverse effects. In May, the rules group will consider another proposal that would ‘radically reshape’ the regime of special and differential treatment proposed in the chair’s November 2007 draft text.

Unusually for a chair, Ambassador Valles Galmés called on Members to keep in mind the urgency of the fisheries negotiations. “The objective reality that forms the backdrop of our work is that the dire state of global fish stocks has only continued to worsen,” he said. Fishing capacity continues to far exceed available stocks, and the “enormous level” of subsidies not only contributes to their depletion, but also encourages fishing “well beyond economically rational levels.”

The challenge, chair Valles Galmés stressed, was to create new disciplines that would “effectively address the contribution of subsidies to that overcapacity and overfishing before it is too late.” Members should take care not to let their sights drop too low. While certain trade-offs were imaginable, he cautioned that the objective of the negotiations “by definition limits the number and scope of such potential trade-offs.” Delegations should reconcile their legitimate concerns over the impact of new disciplines with “a result that conforms to, rather than undermines, our mandate in regard to overcapacity and overfishing.”

Renewed Engagement in Environmental Goods Talks

At long last, WTO negotiations on liberalising trade in environmental goods are showing signs of moving forward. In February, delegates engaged in discussions on specific products suggested by Argentina, Japan, the Philippines and Saudi Arabia.

Many of the goods proposed for tariff elimination/reduction relate to energy-efficiency and climate change mitigation. The submissions were tabled in response to the chair's request that countries start identifying specific goods in which they have a trade interest.

Philippines Emphasises Renewable Energy

The submission by the Philippines was the highlight of the meeting, trade sources said. It included a list of specific products (with their customs codes) for preferential tariff treatment – a first for a developing country outside the Friends of Environmental Goods group, i.e. Canada, the EU, Japan, Korea, New Zealand, Norway, Switzerland, Taiwan and the United States.

The items proposed by the Philippines fell under three categories: renewable energy; waste management, recycling and remediation; and 'other'. The first group comprised 12 products relevant to solar, wind and hydro-electric energy and gas-turbines, while the waste management and 'other' categories included five products.

The Filipino proposal (JOB/TE/2) comprised two examples of 'single-use' products, i.e. products that have no 'non-environmental' end uses: wind-powered electric generating sets and photosensitive semiconductor devices (including photovoltaic cells and light emitting diodes). Many developing countries in particular have been reluctant to consider liberalisation of goods that have other uses than environmental improvements (for instance, 'waste containers' could be used for other purposes than storing waste). Interestingly, the Philippines also proposed tariff cuts for biodegradable mats and screens made from coconut fibre to prevent soil erosion.

Japan Focuses on Energy-efficiency

In an earlier submission, Japan had argued that improving energy efficiency was a way of lowering fossil fuel dependency and reducing CO₂ emissions. It cited, inter alia, the Intergovernmental Panel on Climate Change, which had identified improvements in this area as having the largest potential for reducing carbon emissions in the short term.

Japan, of course, is on the forefront of energy-efficient technologies, and its wishlist (TN/TE/W/75/Add.1) reflects Tokyo's interest in exporting this expertise. For instance, half of the 44 specific goods proposed for liberalisation are motor vehicles with electric, hydrogen, hybrid, natural gas or clean-diesel engines. Another large category consists of household, lighting, audiovisual and IT appliances with low electricity consumption.

More controversially, Japan also suggested that the environmental goods negotiations should develop a unified energy efficiency standard to facilitate trade in products such as low-consumption fridges/freezers, computers, monitors and televisions.

A number of Members questioned the scope of the products, as well as whether the WTO was the appropriate venue for harmonising standards. The negotiating group on non-agricultural market access (NAMA) has broached the subject in its discussions on non-trade barriers, but the membership remains divided (see opposite).

Argentina Calls for Integrated Approach

Argentina attempted to draw a direct link between the trade and climate regimes by suggesting that WTO Members reduce/eliminate tariff and non-tariff barriers on goods used in projects under the Kyoto Protocol's Clean Development Mechanism, which allows developed countries to buy carbon credits through carrying out emissions limiting activities in developing countries. The importing developing country's tariff concessions would be lim-

ited to the duration of the project. Argentina suggested that wind turbines, solar water heaters, biogas production tanks and methane collection liners could be candidates for temporary liberalisation (TN/TE/W/74).

India has championed the concept of time-limited, project-driven concessions in the WTO negotiations, although it has not limited the approach to climate-related projects. Critics argued in February that, like the Indian approach, the Argentine proposal would not result in predictable and permanent liberalisation.

Saudi Pushes Natural Gas

Saudi Arabia's informal list of environmental goods also drew some criticism, mainly due to its inclusion of a large number of 'dual-use' products, particularly those related to natural gas derivatives and technologies (JOB (09)/169). While some 60 items in the Saudi proposal also figure on the list of 153 products already put forward by the Friends, some delegates expressed concern over the inclusion of a number of chemicals and plastics.

Others Show Interest

Singapore informally signalled its interest in a few environmental goods, including industrial catalysers and mufflers; engine catalysers/silencers and photosensitive semiconductor devices, including photovoltaic cells used in solar panels; towers and lattice masts and pneumatic power engines and motors used in wind turbines. Kuwait is also expected to come out with a submission shortly. Turkey noted that it was comfortable with more than 50 percent of the products on the Friends' list.

A number of countries stressed the need for technical assistance, capacity-building and special and differential treatment. India also highlighted the problem of 'dual-use' environmental goods and the need to identify 'single environmental end-use' goods.

A compilation of the various products submitted so far by Members will be circulated prior to next negotiating session in April.

A Developing Country Perspective on the Way Forward for the Doha Round

Faizel Ismail

The final stock-taking Trade Negotiations Committee meeting on 26 March ended with a sense of unease and lack of clarity about the future trajectory and outcome of the Doha Round. There are three possible scenarios on a way forward.

First, continuing with the current process of 'more of the same' is likely to result in increasing frustration amongst Members and in a debilitation of the process as they retreat on current positions, leading to a *de facto* suspension of the negotiations.

Second, new and creative ways will have to be found in the coming months to engage meaningfully with each other, including through political dialogue and consultations to re-energise the round and overcome the current impasse. Despite the repeated declarations and injunctions of G-20 leaders over the past two years (Washington in November 2008, London in April 2009 and Pittsburgh in September 2009), the round has not made any significant advances. It is only likely to be re-energised once the US administration begins to re-engage with a view to providing the leadership required to conclude the round.

Despite the breakthrough made by the Obama administration on health care, there are a number of other priority issues (tackling unemployment, climate change and financial regulation, to mention just a few) that still occupy the White House and the US Congress.

Renewed impetus for the round is thus unlikely to emerge from US negotiators until after the November mid-term elections, that is sometime in the first quarter of 2011. Under this scenario, notwithstanding the good intent of WTO Members to meaningfully resume the negotiations, their efforts will not result in significant progress in the course of 2010.

Third, if the United States is unable to find the political space in the short term to develop a new trade policy and provide fresh negotiating mandates to its negotiators to conclude the Doha Round in 2010, on the basis of its agreed development mandate, WTO Members will need to fill the existing gap in two ways:

- existing convergences and work done over the past eight years must be preserved, especially on agriculture and NAMA, so that negotiators can use them as a basis to build on during the final stretch of the modalities negotiations; and
- the interim period should not be wasted but be utilised to conclude or significantly advance the negotiations in areas that are not inextricably linked to the core modalities negotiations.

In particular, the objective should be to advance negotiations on issues that are principally of interest to the poorest WTO Members, as well as issues of systemic concern to the entire membership and the global community and where a clear win-win outcome is possible. Members should also address major trading partners' most nefarious practices, which distort the trading system and undermine the development prospects of the poorest countries. Some issues that could fall under the above three categories are outlined below.

An Early Harvest and Interim Understandings

Category One: There are at least three issues that could be harvested early: duty- and quota-free market access for least-developed countries (LDCs); a services waiver for LDC preferences; an early resolution of the cotton issue or aspects of this that provide early relief to the plight of the four West African countries (Cotton-4).

Category Two: An agreement on trade facilitation that clearly identifies Aid for Trade linkages and provides adequate comfort to the poorest countries that donors will provide appropriate technical assistance for its implementation. Members could also advance the negotiations on fisheries subsidies, with a view to concluding this agreement as soon as possible.

Category Three: An agreement to eliminate export subsidies and credits, based on the decision reached in Hong Kong, with a view to an early harvest. Appropriate action should be taken by the major subsidisers of cotton to reform their cotton regimes, and to make them compatible with WTO rules and the decision of the Appellate Body, as soon as possible.

Filling the Gap

A serious focus on the issues above in the interim period would fill the gap in the work programme of the WTO, avoid the need for a suspension of the round and, most importantly, make meaningful advances in some of the elements of the Doha negotiations, clearing the way for trade delegates to focus on the core outstanding issues (agriculture and NAMA modalities) once the necessary political will returns and the US is able to provide the leadership required to conclude the round.

However, advancing even this interim work programme will require the co-operation of the US and the EU. The EU will need to show greater political will to contribute to unblocking the impasse. To be in a position to do this, some political debate amongst key constituencies will be both useful and necessary. By the same token, the US will need to engage in a robust public debate about the value of the rules-based trading system and its political willingness to contribute to strengthening that system and global governance more generally.

Although there is a great deal of frustration amongst developing countries, there are also high expectations that President Obama will work to bring about the "change" that he had promised in his inaugural address! The success of the Doha Round hinges on this change.

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EU Farm Payments on the Rise, but Less Distorting

New subsidy figures from the European Union show a sharp increase in total support levels, to over €90 billion in the 2006/2007 marketing year, despite a drop in production-linked payments that are deemed to distort trade.

The latest official notification to the WTO shows that total EU support levels have returned to levels not seen since the previous decade, with €90.7 billion of support being reported to the global trade body for 2006/2007 – up from €75.6 billion in 2002, when support was at its lowest in the last fifteen years.

The most trade-distorting payments, classified as Amber Box at the WTO, were however at a historical low in 2006/2007, with the EU reporting only €26.6 billion under this category. Amber Box payments have been falling steadily and now stand at about half the level they were at a decade previously. The deal tentatively on the table in the Doha Round would require the EU to reduce its Amber Box support to €20.1 billion over five years.

The sharpest decline in the latest figures occurred in the Blue Box category of production-limiting payments, which dropped to €5.7 billion from €13.4 billion in the 2005/2006 marketing year, and from €27.2 billion the year before that. While still considered to be trade-distorting at the WTO, Blue Box payments are generally considered less damaging than Amber Box support.

Green Box Spending Swells, but Doha Targets within Reach

The drop in Blue Box support has been more than compensated for by an increase in Green Box payments, which are not limited under WTO rules since they are considered to have no, or at most minimal, effects on trade or production. The EU's Green Box support in marketing year 2006/2007 rose to €56.5 billion – up from €40.3 billion the previous year, and more than twice 2004/2005 levels (see Table 2).

In the Doha Round negotiations, several countries have argued for a ceiling on Green Box spending, but all they have obtained are some additional disciplines meant to ensure that the support really does not distort trade. In the cotton dispute (see page 10), Brazil managed to show that some US support reported under the Green Box did not fulfil the criteria.

A small amount of trade-distorting support is also exempt from reduction commitments at the WTO, so long as the support amounts to no more than 5 percent of the total value of production. According to the new notification, in the 2006/2007 marketing year, the EU provided €1.85 billion of this type of 'de minimis' support.

Overall, the EU appears to be on target for meeting the domestic support reductions envisaged in the December 2008 draft agriculture 'modalities' tabled under the Doha Round. Amber Box spending would have to be reduced by a further €6.5 billion to reach the new ceiling of €20.1 billion. While the EU's overall trade-distorting support (OTDS) – composed of its Amber Box, Blue Box and de minimis spending – was as high as €34 billion in 2006/2007, ongoing reforms are expected to reduce this figure to close to the proposed €22.06 billion OTDS ceiling by the time the new cap would actually apply.

Table 1: EU must further reduce domestic support by €12 billion to meet proposed new WTO limits

Category	Current ceiling	2006/07 spending	New annual ceiling
OTDS	€110.1 bln	€34 bln	€22.06 bln
Amber Box	€67.1 bln	€26.6 bln	€20.1 bln
Blue Box	Must not exceed 1992 levels	€5.7 bln	If the EU uses its entire Amber Box allocation, Blue Box + de minimis support cannot exceed €1.96 bln
De minimis	Must not exceed 5% of total value of production	€1.8 bln	
Green Box	None	€56.5 bln	None

CAP Reform Looms

From the start of the Doha Round, the EU has calibrated its negotiating position on farm subsidies on the gradual implementation of reforms to the bloc's Common Agricultural Policy (CAP). Since 2003, the EU has moved steadily away from the most distorting forms of subsidisation to 'decoupling' payments from production, leading to a shift from 'amber' to 'green' support.

Table 2: Evolution of EU farm payments

Mkt year	2004/05	2005/06	2006/07
Green Box	€24.4 bln	€40.3 bln	€56.5 bln
Amber Box	€31.2 bln	€28.4 bln	€26.6 bln
Blue Box	€27.2 bln	€13.5 bln	€5.7 bln
De minimis	€1.1 bln	€1.06 bln	€1.8 bln
TOTAL	€83.9 bln	€83.2 bln	€90.65 bln
OTDS estimate	€59 bln	€43 bln	€34 bln

Bruising battles now loom as EU member states are to approve the next phase of CAP reform by 2013. To the delight of the bloc's powerful farm lobby, the new agriculture commissioner Dacian Ciolos has vowed to defend a 'sizeable' future CAP budget. The huge programme currently accounts for nearly half of the EU budget, or some €55 billion in 2009.

Fault lines in the CAP talks are expected to centre on two issues: the size of the budget and the allocation of the money.

A handful of countries, including the UK, Denmark and Sweden, want to drastically slash the CAP envelope and to reorient support toward the provision of public goods and rural development. Many others are ferociously opposed to any reduction in the budget and want to keep the programme more or less as it is. President Sarkozy of France has linked acceptance of any cuts to a more rigorous 'community preference' that would defend EU farmers against imports.

The other fight will oppose new member states, which currently receive less support, to traditional beneficiaries of EU largesse, loath to see their own share diminish.

Sanctions Delayed on Cotton Dispute at Least Until June

On 20 April, Brazil and the United States signed a formal memorandum of understanding under which Brasilia will desist from imposing trade sanctions worth more than US\$800 million for 60 days while the parties continue to seek a permanent solution to the long-running dispute.

The centrepiece of the agreement is a US\$147.3 million annual fund, which will provide technical assistance and capacity-building for the Brazilian cotton sector.

By mutual agreement, the money may also be used for ‘activities related to international co-operation’ in the cotton sector in sub-Saharan African countries, Mercosur member/associate member states, Haiti, or “any other developing country as the parties may agree upon.” The four sub-Saharan least-developed countries—Benin, Burkina Faso, Chad and Mali – that are seeking a rapid elimination of all cotton subsidies in the Doha Round negotiations might draw some financial benefits from this provision.

The fund will continue until the 2012 US farm bill, or until a mutually agreed solution to the cotton dispute is reached.

The two other elements of the memorandum are a reduction of export credits available to foreign buyers of US cotton under the GSM-102 programme, and a recognition that the state of Santa Catarina is free from foot and mouth disease, which could allow Brazil to export fresh beef to the United States for the first time in a decade.

Negotiations Continue

According to the US Department of Agriculture, the implementation of these initial steps will be followed by “continued engagement on these issues, with a view to agreeing on a process by June that will allow us to reach a mutually agreed solution to the cotton dispute.”

It was not immediately clear what the ‘process for reaching a mutually agreed solution’ would entail. Brazil’s foreign trade minister Celso Amorim, as well as unnamed officials quoted in the press, have hinted that Brasilia might seek further concessions before accepting a final deal.

These could include an explicit commitment that the US will address WTO-illegal cotton subsidies in the next farm bill, al-

though the outcome remains uncertain. The cotton lobby, backed by many strong supporters on Capitol Hill, is poised to put up a fierce fight in hearings now starting on the legislation. However, the chair of the House of Representatives agriculture committee, Collin Peterson, recently acknowledged that the cotton programme would have to be reformed. “If we don’t address it, we may be back in the soup again with potential retaliation issues,” he said.

Brazil also faces an uphill battle on one of its other top priorities: the elimination or lowering of the 54-cent-per-gallon import tariff the US currently levies on ethanol. The tariff and a 45-cent-per-gallon blenders’ tax credit are up for renewal later this year, and bills have already been introduced in Congress to extend these measures by five years (see related story on page 23).

Retaliation on Goods, IPRs Still a Possibility

Brazilian authorities have emphasised that the government retains the right to impose countermeasures if the talks currently underway fail.

When the memorandum of understanding was signed, Brazil was on the brink of starting to apply punitive tariffs, worth US\$591 million, on a wide array of goods imported from the United States. Duties on a number of food items, including nuts, pears and cherries, edible oils and wheat were set to triple to 30 percent. Milk powder and potatoes would also have seen hefty increases, and tariffs on cosmetics and other personal grooming items, as well as cell phones and household appliances, and home entertainment equipment would have doubled. Car tariffs were to rise from 35 to 50 percent, and those for tyres, motorcycles and boats would have doubled to 40 percent.

US companies were even more worried about the second card up Brasilia’s sleeve: the application of the remainder of the sanctions authorised by the WTO, US\$238 million, to intellectual property rights.

Brazil’s list of potential retaliatory measures included the suspension – without compensation, and for a fixed period of time – of intellectual property rights on pharmaceuticals, chemicals and biotech products for agricultural use; copyrights on music, books, as well as films and other audiovisual products. Brasilia also envisaged authorising ‘parallel imports’, i.e. the importation of American pharmaceutical and agrichemical products under patent in Brazil from other countries where they are cheaper.

Among other measures under consideration were the imposition of additional fees for the registration or renewal of patents and copyrights, and the confiscation of a portion of the royalties that Brazilian branches of US firms send back to company headquarters.

Several US business groups, such as the national associations of manufacturers, electrical manufacturers and the research-based pharmaceutical industry, had urged the Obama administration to engage in negotiations on alternative approaches.

The cotton dispute is only the third case in which the trade body has allowed the complainant to retaliate in a different sector than the one where the WTO violation occurred. Ecuador and Antigua & Barbuda had previously won the right to ‘cross-retaliate’, but neither country chose to put it into practice. The credibility of Brazil’s intention to do so was enhanced by an executive order already signed by President Luiz Inácio Lula da Silva, which allows the government to suspend IPR-related concessions and obligations when the Dispute Settlement Body has authorised it to do so due to another Member’s non-compliance with WTO rules.

Trade Sanctions Loom for US Zeroing

Exasperated by continued US non-compliance with WTO rulings on the way Washington calculates dumping margins, the EU has requested the right to impose punitive tariffs on US goods.

At issue is the United States' use of 'zeroing' – a method that inflates dumping margins – in anti-dumping investigations despite a myriad of panel and Appellate Body reports condemning the practice. The EU claims that its exporters of steel, ball bearings, chemicals and pasta are particularly affected by artificially high anti-dumping duties.

Although the US has made limited changes to the way it applies zeroing, critics complain that it has not carried out across-the-board reviews of existing dumping orders based on zeroing in order to recalculate the duties. This has led to unnecessary litigation as Members have been forced to challenge each individual duty order through the WTO dispute settlement system.

Zeroing has strong support from many US industries and politicians, who have repeatedly accused the WTO of 'judicial activism' in disputes brought against the methodology. Reacting to the EU's sanctions request, USTR spokeswoman Nefeterius McPherson seemed to endorse this view, saying that the WTO had "over-reached by inventing new obligations" that Members had never agreed to. In the Doha Round negotiations on WTO rules, a large number of countries have tried to tackle the problem by calling for an explicit prohibition of zeroing in the Anti-dumping Agreement. So far, adamant opposition to such a change has been one of the United States' key red lines in the talks.

EU Seeks Hundreds of Millions in Retaliation

It is against this backdrop that, on 2 February 2010, the European Union requested the Dispute Settlement Body (DSB) to authorise it to do one of the following:

- either impose a 100-percent tariff on US goods worth US\$311 million;
- or apply a 13.18-percent tax on annual trade worth US\$477 million.

Two weeks later, the US objected to these figures, and referred the level of retaliation to WTO arbitration. The verdict should be issued within 60 days of the appointment of the three-member panel that will hear the case.

Beyond the tariff-increase request, the European Union warned that it would immediately 'suspend all concessions and obligations' under WTO agreements related to trade in goods if the US applied zeroing in the calculation of anti-dumping duties on any of the dozens of the products covered by previous adverse rulings. Such action could involve the suspension of obligations under the agreements on subsidies and countervailing measures, sanitary and phytosanitary measures, technical barriers to trade, and safeguards and investment, among others.

The EU told the DSB on 18 February that since 1995 the United States had collected "hundreds of millions of dollars in excess anti-dumping duties, not mention the far greater economic harm that such measures have been causing in terms of lost trade." It also said that the US still had the possibility to take action before countermeasures would actually be applied.

Japan Could Join the Fray

In January 2009, Japan requested the WTO to authorise the imposition of retaliatory tariffs worth US\$248.5 million due to US non-compliance with another zeroing ruling. An arbitrator was established in the following May, but both sides in the dispute subsequently asked it to suspend the proceedings. Many expected a reactivation of the request at the DSB's February meeting, but Tokyo only reminded the US that it maintained the right to do so.

In all, thirteen WTO Members have engaged in dispute settlement proceedings against zeroing either as complainants or third parties. Vietnam is the latest challenger, alleging that the US used zeroing in calculating the anti-dumping duties it levies on Vietnamese shrimp.

Disputes in Brief

- **Shoes** China has requested a dispute settlement panel on anti-dumping duties imposed by the European Union on Chinese leather shoes. Beijing launched the complaint after the EU decided in December to prolong for another 15 months duties initially imposed in October 2006. Brussels has defended the tariffs, ranging from 9.7 to 16.5 percent, as necessary to protect European manufacturers against unfair competition, but China argues that no damage has been done to the shoe industry, which employs some 260,000 workers. A number of European retailers agree with China that instead of benefiting local manufacturers, the tariffs simply give an advantage to other low-cost countries and hurt the interests of EU consumers.

- **Poultry** US poultry exports to China have ground to a virtual halt following Beijing's February decision to levy hefty anti-dumping duties on chicken feet, wings and leg quarters. The tariffs range from 43.1 percent to 105.4 percent.

China is the largest market for US chicken exports, valued at US\$722 million in 2008. Chicken feet accounted for almost half of US poultry exports prior to the tariffs. The parts would be sold as scrap to be turned into animal feed in the US, but they are considered a delicacy in China, where they can fetch 60-80 cents a pound. Wings are also popular in China, but find few buyers in the US.

China's ministry of commerce said its investigations showed that the US was dumping chicken products on the Chinese market, causing 'substantial damage' to domestic industry.

While no official link exists, the duties are widely perceived as retaliation for the punitive tariffs the US imposed on Chinese tyres in September (Bridges Year 14 No.1 page 13).

The US Trade Representative's Office is "following the investigation closely."

Non-tariff Measures in WTO Trade Policy Reviews

Valentin Zahrnt

Regulations and other non-tariff barriers are rapidly overtaking tariffs as the main obstacle to trade, and the WTO has a unique instrument that could be used to shed much needed light on these measures.

The WTO secretariat's trade policy reviews (TPRs) contain long sections on the tariffs, subsidies and anti-dumping duties in place in the country under scrutiny. Dealing with these instruments is a gratifying since it is relatively easy to calculate average tariffs, add up subsidies and count anti-dumping measures. Any protectionist intent or harmful effects for the economy are immediately understood by most readers.

Coping with regulatory barriers to trade is much tougher. It is difficult to establish aggregates for the manifold trade-restrictive measures that (at least seemingly) serve non-trade objectives. How could the array of restrictions on cross-border service providers be measured, or the technical barriers faced by foreign car manufacturers, or the sanitary measures to which food imports are subjected? And, even more difficult, how could measures that excessively inhibit trade be identified?

There is an anecdote of a man crawling in the middle of the night under a streetlight. Seeing a policeman watching him, he explains that he is looking for his keys. The policeman asks: "Are you sure this is where you lost them?" The man replies: "No, I lost them over there. But the light here is better."

Like the man who knows that it would be worth searching in the dark, but who prefers to avoid the hassle, the WTO's TPRs give short shrift to regulatory trade barriers. Their treatment is generally short, superficial and unsystematic. This take-it-easy approach is becoming increasingly problematic. Tariffs and subsidies are on a long-term downward trajectory (despite the current crisis), whereas non-trade regulation with serious effects on trade is abounding.

It is time for the TPRs address this challenge. A starting point would be a well-organised and comprehensive overview of the regulations in place and future legislative intentions.

In order to permit comparison across time and countries, this should be complemented with such quantitative and standardised descriptions of regulatory barriers as can be assembled at reasonable cost. If reliable analysis of trade and welfare effects of regulatory barriers is available, it should also be included in the TPRs.

The most important aspect, however, should be a thorough and critical examination of policy-making processes. Are measures decided in a transparent way? Is an independent and scientifically rigorous impact assessment undertaken in advance that pays due attention to consumer and foreign interests? TPRs should report on a list of key policy-making characteristics and compare them to best practice standards.

The reviews should, for instance, offer a clear description of how countries arrive at sanitary and phytosanitary (SPS) measures. This could be done by focusing on the procedural provisions that WTO Members take to implement their obligations under the SPS Agreement. How do they conduct risk assessments, consider trade effects in SPS policy-making, define an appropriate level of protection, recognise pest/disease free areas, or grant special and differential treatment?

Taking a closer look at scientific risk assessment, specific questions could be:

- How is risk assessment separated from risk management? Are the most important risk assessment principles set out in a risk assessment policy?
- How is the independence and qualification of risk assessors ensured?
- Do risk assessment reports explain the choices that risk assessors made, the reasons for these choices, and whether minority opinions disapproved of them?

In sum, TPRs could be an important tool for tackling excessive trade barriers arising from non-tariff measures without having to go through dispute settlement. It could harness the power of transparency – triggering international and domestic pressure to remove unjustifiable barriers and to improve decision-making procedures so that inappropriate measures are not taken in the first place. But this would require giving more authority and resources to the WTO secretariat. Ideally, TPRs on non-tariff measures would be published as a separate report.

If the WTO addresses the transparency challenge, it can facilitate unilateral liberalisation and prepare a better starting ground for future multilateral negotiations. While enhanced treatment of non-tariff measures needs special attention, a broader change is required. TPRs should be transformed from a diplomatic exercise in Geneva into a transparency instrument that involves the stakeholders in the country under review.

This implies that the process of writing reviews should become open to public scrutiny and allow for improved stakeholder participation. Such changes would facilitate greater analytical depth and critical rigour, and they would instil a sense of domestic ownership. A further step would be to present and discuss the TPRs in the country under review.

Success with this enabling long-term agenda could give meaning and energy to the WTO. It might even go some way in compensating for the damage to the prestige of the WTO resulting from the Doha quagmire.

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Lessons for Low-income Countries from DR-CAFTA in Nicaragua

Gloria Carrión

A study conducted on the political economy of the free trade agreement between the US and Central American countries shows the potential pitfalls for low-income countries seeking trade deals with powerful economies.

In the negotiations for the free trade agreement between the United States and Central American countries (DR-CAFTA), Nicaraguan business – with a focus on the privatisation of national industries, deregulation of capital investment and growth in export-oriented activities – was strengthened vis-à-vis civil society actors, such as the anti-CAFTA movement and the Iniciativa CID regional network, an agglomeration of civil society organisations, which proposed a ‘complementary (social, regulatory and productive) agenda’.

Moreover, the growth of regional and transnational economic ties has been particularly crucial in creating a new political dynamic that greatly accentuates the sway of business and redefines the players. In the context of globalisation and regional integration, Nicaraguan business, along with its regional counterparts, has expanded its activities beyond national state boundaries and into neighboring countries.

Among the major players during the DR-CAFTA negotiations were the Nicaraguan Apparel and Textile Manufacturers’ Association (ANITEC) – comprised mainly of large national enterprises and US, Taiwanese and South Korean transnational corporations’ subsidiaries under the Free Trade Zones Regime – and the National Commission for Sugar Producers (CNPA), which represents the four sugar mills established in the country.

Both ANITEC and the CNPA had ample access to financial resources, technical knowledge and key negotiators. They hired foreign consultants to identify negotiating scenarios and their preferences were later integrated into the national negotiating strategy. Ultimately, Nicaragua obtained a preferential rules-of-origin regime for ten years, which allowed the importation of up to 100 million sme (square metre equivalent) of inputs for textile and clothing production from countries outside the free trade zone.

Extra-official Negotiations

Even though the FTA had been signed, the US congressional approval process became a new negotiating tool to ‘revise’ concessions granted to the Central American counterparts. The influence of Nicaraguan business in the negotiations was limited vis-à-vis the US negotiating authority, as well as key US manufacturing and agro-industrial lobby groups.

‘Extra-official’ negotiations with the Office of the US Trade Representative (USTR) eventually resulted in the erosion of Nicaragua’s major DR-CAFTA concession – the right to source 100 million tonnes of inputs from non-CAFTA countries. Southern US textile and trousers producers successfully argued before Congress that this provision would weaken their competitiveness since 60 percent of Nicaragua’s textiles and clothing manufacturing centred on cotton trousers. This led to a revision of the rules-of-origin regime, which now requires the US share of imported fabric categories used to produce cotton trousers to increase by 10 percent in each of the 10 years of the regime. However, US-made components are comparatively expensive, and Nicaraguan producers have opted for importing inputs from Asia and exporting apparel to the US outside of DR-CAFTA quotas.

Civil Society’s ‘Weaker’ Role

Nicaraguan civil society is a highly diversified and fragmented actor as a result of neoliberal reforms, the downsizing of the state and the increasing influence of international donors. In DR-CAFTA, civil society divided in two camps: the Iniciativa CID, which opted for influencing negotiations through the ‘room next door’ (a room next to the area where negotiations were held) and the Anti-CAFTA movement, which decided to exert their influence from the streets.

Iniciativa CID made a series of proposals, including the protection of vulnerable agricultural sectors based on indicators of food security, employment generation and/or value added. It also argued for the exclusion of white corn and beans, two crucial products for peasant diet and economy in Central America, and proposed the establishment of monetary sanctions to perpetrators of environmental and/or labour violations. In addition, Iniciativa CID highlighted the potential threats to health and biodiversity posed by some elements of the intellectual property chapter including the adherence to the International Union for the Protection of Plant Varieties and other TRIPS-plus provisions.

Most of these proposals were excluded from the negotiating strategy. Although the agreement includes a gradual liberalisation, it does not contemplate the asymmetries in productive structures and levels of development of the trading partners. Indeed, while white corn is the only product whose tariff will never decrease in the context of DR-CAFTA, the US obtained an export quota for white corn starting at 5,100 MT.

The anti-CAFTA movement’s influence on the negotiating process turned out to be marginal, not least due to the government’s decision to counter the movement’s criticism through a public relations campaign called CAFTA, Our Bridge to Progress. The campaign relied on slogans linking DR-CAFTA to positive ideas, such as more foreign direct investment, exports, employment, quality products and greater opportunities for small and medium enterprises. The strategy was highly successful: by 2005, sixty-six percent of the 1,200 people surveyed supported the agreement.

Lessons for Low-income Countries

Regional and bilateral trade agreements are rapidly expanding around the world. However, such agreements tend to enhance market access opportunities for developing

Continued on page 14

countries in exchange for stringent commitments in areas such as intellectual property rights (IPRs), services and investment, among others, that go beyond the standards agreed at the WTO.

DR-CAFTA's IPR provisions limit the definition of what constitutes a 'health threat', thus potentially constricting the autonomy of Central American governments to allow the parallel importation of generic drugs. Moreover, DR-CAFTA prohibits the use of such key development tools as allowing the host governments to require a certain percentage of locally produced inputs in the production process of foreign investors, performance requirements for foreign direct investment to receive incentives, and tax breaks granted to national economic actors. Power differentials in international trade negotiations should thus not be overlooked.

To foster better economic insertion into international markets, low-income countries like Nicaragua should establish a 'macro complementary agenda' that addresses structural limitations and ensures a more equal distribution of the costs and benefits of trade liberalisation between business and civil society.

In the context of current and future international trade negotiations it will also be essential to create mechanisms that will balance the different levels of power among national, regional and transnational non-state actors through better access to both negotiators and technical knowledge. Likewise, governments could defend their policy spaces through strengthening the market access pillar approach by including the use of sustainable development indicators and benchmarks in their negotiating strategies.

Finally, it will be crucial that governments and other key actors tackle national and regional supply-side disparities and constraints to promote access to credit, foster innovation and reduce social inequalities. Without the capacity to connect trade regimes with inclusive and sustainable development policies, linking to the world economy on better terms will remain an elusive challenge.

Gloria Carrión was Development Programme Officer at ICTSD at the time of writing. She based this article on her study entitled 'Trade, Regionalism and the Politics of Policy Making in Nicaragua'. UNRISD, 2009.

EU, Colombia & Peru Clinch Trade Deals

Peru and Colombia have concluded three years of free trade negotiations with the European Union, and the two pacts are expected to be formally signed in May.

In 2008, the EU was the Andean Community's second largest trading partner after the US, but the region only accounted for 0.6 percent of EU imports. The trade is heavily lopsided with farm, fuel and mining products accounting for nearly 90 percent of Andean exports, while about the same percentage of their imports from the EU consist of manufactured goods, particularly machinery, transport equipment and chemicals.

Although the jury is still out on the economic significance of the new treaties (the full texts and tariff schedules were not available at the time of writing), some details have been disclosed.

Colombia and Peru gained 'massive' tariff savings on sugar and bananas (EU trade commissioner Karel de Gucht dixit; see details under tropical products below), as well as expanded market access for beef, rice and corn. Despite these concessions, there are some voices of discontent, particularly in Colombia. The country's ranchers are worried about subsidised EU dairy exports overwhelming their small-holder industry. There is also concern over increased imports of European spirits to the detriment of competing local products.

From the EU's point of view, the biggest market access prize will be duty-free access for all European industrial goods to the two Andean markets within ten years of the treaties' entry into force (Peru and Colombia are to get full duty-free access immediately). Other areas of the agreement may prove even more significant, including increased protection for intellectual property rights, such as pharmaceutical patents and European 'geographical indications'.

Parliamentary Approval of Colombian FTA Uncertain

Once the agreements have been signed, they must still be approved by national parliaments. While the Peruvian pact is expected to pass with relative ease, the prospects for Colombia are far more uncertain. A number of parliamentarians, both inside the country and in Europe, oppose it on the grounds that Bogota has not done enough to curb human rights violations. Colombian dairy farmers are also urging the government not to sign the deal until their concerns about a deluge of subsidised EU products have been addressed.

Meanwhile, the European Commission stresses that Ecuador and Bolivia, the other two members of the Andean Community, are welcome to rejoin this 'common initiative' whenever they are ready. The talks started as region-to-region negotiations between the two blocs with the intention of concluding an 'association agreement' consisting of three pillars: political dialogue, co-operation and trade. The trade agreement was to have a body of common provisions covering a broad array of topics, but differentiated market access commitments for each country. Bolivia and Ecuador suspended their participation in the process due to differences ranging from intellectual property rights to market access, as well as EU financing for development.

Tropical Products Concessions Worry the Caribbean

Many Caribbean Community member states, which signed an economic partnership agreement with the European Union in 2008, have serious misgivings over the Andean deals' impacts on the trade preferences (full duty-free access) that their exports currently enjoy in the 27-country bloc. In the Peru-Colombia negotiations, the EU agreed to significant tariff reductions on commodities of particular importance to the Caribbean, including bananas, sugar, rum and rice. On bananas, for instance, the duty will be slashed from €148 per tonne today to €75 in 2020, well below the EU's final most-favoured-nation tariff of €114/t, set to apply as of 2019 at the latest. This means that instead of retaining a post-2019 competitive edge of €114/t over more efficient exporters, such as Colombia, Caribbean banana producers' preferential margin will be whittled down to just €75 per tonne in 2020. Central American countries, currently in the midst of free trade negotiations with the EU, are expected to get similar concessions on products that compete with Caribbean exports.

Market Access Remains Linchpin of US Doha Agenda

While the Obama administration has recently vowed to double exports over five years in order to support job creation and economic growth at home, a new government report shows that Washington's approach to multilateral trade negotiations in Geneva remains unchanged.

Contrary to the perception of most WTO Members, the *2010 Trade Policy Agenda* released by the Office of the US Trade Representative on 1 March depicts the United States as the leader of efforts to put the Doha Round onto a 'path of success' after repeated failures to agree on a framework package of tariff and subsidy cuts.

The report's key message is that to achieve further progress in the negotiations, "it is essential to gain more clarity in the level of market access contributions by advanced developing countries, and ensure that the results provide significant market opportunities for American entrepreneurs and workers in agriculture, goods and services." While the value of what the US would give in market opening and reduction of farm support is "well-known and easily calculable", the value of new opportunities for US exporters "remains vague because of the broad flexibilities available to key emerging markets, like China, India and Brazil," the report argues.

The US has tried, so far in vain, to pin down the three fast-growing economies on how they intend to use the flexibilities that will allow them to shield a certain number of agricultural and industrial tariff lines from full formula cuts. Brazil, China and India maintain that the United States' rejection of the draft negotiating texts issued in December 2008 in favour of a single-minded focus on market access amounts to changing the goalposts of the Doha talks, undermining more than eight years of efforts to find an acceptable compromise.

Unbalanced Industrial Tariff Deal?

According to the *Trade Agenda*, the non-agricultural market access (NAMA) draft in particular presents a "fundamental imbalance, whereby the United States and other developed countries would reduce all tariffs to below eight percent, while emerging economies would not only maintain much higher tariff rates, but extensive exclusions from the general tariff cutting rules would permit them to avoid making tariff reductions on hundreds, and sometimes thousands of important manufactured products."

To correct the 'imbalance', the report says the US will continue to push for tariff elimination/steep cuts in specific sectors, such as chemicals, electronic products and industrial machinery. In all, fourteen sectors have been proposed for near-total liberalisation, but the targeted developing countries insist that participation in such initiatives is voluntary. In September, China's WTO Ambassador Sun Zhenyu stated categorically that his country would not participate in the chemicals initiative. "According to the mandate, sectors are voluntary. In this case China is not so voluntary to join that one," he quipped.

Many developing countries, including Brazil, India and South Africa, also consider the latest NAMA draft unbalanced, albeit for different reasons. They argue that it is much more ambitious than the agriculture text, and would oblige them to make greater efforts in NAMA than industrialised nations despite the principle of 'less than full reciprocity' in reduction commitments.

These countries will not be encouraged by the statement that the US will continue to seek significant new competitive opportunities through cuts in applied tariff rates. Under the July 2004 negotiating mandate agreed by all Members, tariff reductions will start from bound rates, or twice the applied rate in case of unbound tariff lines.

Services

The *Trade Agenda* also makes it clear that the US is dissatisfied with progress in the services negotiations, where "considerably more work will be necessary to achieve the extent of liberalisation necessary for a positive outcome." Again, the report says the US will continue to press

for a higher level ambition from major emerging markets, particularly for computer and telecommunication services, distribution and express delivery, energy and environmental services, and financial services.

Rules and Environment

A majority of WTO Members wants the Anti-dumping Agreement to be amended so that it explicitly prohibits the controversial method of zeroing in the calculation of dumping duties. Zeroing is now used only by the United States, which insists that adverse dispute settlement rulings are the result of 'judicial activism' in the interpretation of the agreement (see page 11). Unsurprisingly, the *Trade Agenda* confirms that the US "continues to maintain the position that any final agreement on anti-dumping must address issues where the Appellate Body has overreached, such as the critical issue of zeroing."

The United States will also pursue an 'aggressive affirmative agenda' aimed at preserving the effectiveness of trade remedy disciplines. In contrast, most other countries active in the negotiations are seeking to rein in the use of anti-dumping action.

The US continues to support a broad prohibition of fisheries subsidies, but the report warns that exemptions sought by Brazil, China, India and other developing countries "have the potential to create large carve outs that could undermine the objective of the negotiations to curb subsidies promoting overcapacity and overfishing."

As for the liberalisation of trade in environmental goods, the US "will continue to show leadership in advancing a robust outcome in the negotiations, including further development of an environmental goods and services agreement." The administration is also set to work with "other like-minded and ambitious Members to explore approaches to fast-track the elimination of tariffs on goods directly relevant to addressing climate change, such as solar panels and stoves, and wind and hydraulic turbines" (see related article on page 7).

Amflora: Europe's New Hot Potato

The approval of a genetically modified potato for cultivation in EU territories has sparked strong reactions from all sides of the debate. Many member states and environmental groups are outraged, while the biotech industry sees promising signs of progress.

The European Commission said its 2 March decision to authorise the cultivation of the genetically engineered Amflora potato was based on repeated favourable opinions from the European Food Safety Authority (EFSA). Only one other GM crop, the MON18 maize variety, has ever been approved for cultivation in the EU, and that was 12 years ago.

According to EFSA, there is only a 'negligible' risk of gene transflow from the GM potato to conventional varieties, and a 'remote' risk that the antibiotic resistance marker gene embedded in Amflora would transfer from the plant to the soil.

Not for Human Consumption

Amflora was developed by the German chemicals giant BASF to provide high-quality starch for industrial uses, such as manufacturing paper, textiles and adhesives. Although the genetically engineered potato is not suitable for food purposes, the pulp left over from the starch extraction process can be used in animal feed. BASF intends to start growing the variety later this year on 250 hectares in the Czech Republic, Germany and Sweden.

The cultivation authorisation comes with three conditions. BASF and the operators involved in the production chain (farmers and starch producers) must ensure that:

- the GM tubers are physically separated from potatoes for food and feed uses during planting, cultivation, harvest, transport, storage and handling in the environment;
- conventional potatoes are not planted in the same field the year following the cultivation of the GM potato; and
- the GM potatoes are delivered exclusively to designated starch processing plants for processing into industrial starch within a closed system.

Member States Object

In principle, it is for member states to decide whether a GM variety can be grown or placed in the market as food or animal

feed within the EU. In practice, however, ministers routinely fail to reach the qualified majority required, and the decision ultimately reverts to the commission. In the case Amflora, ten countries voted for, thirteen voted against and four abstained.

Amflora's approval raised a storm of criticism from GMO-sceptic EU governments, such as Austria, Denmark, France, Greece and Luxembourg. Italy's agriculture minister Luca Zaia said that his country would not allow the commission to "question the sovereignty of member states on this issue." Italy may start inspecting vehicles from EU countries that allow GMO cultivation, and possibly restrict or even block some imports. The French government, which disallowed the cultivation of MON18 corn in 2008, is waiting for the opinion of its Haut Conseil des Biotechnologies before deciding whether to prohibit the cultivation of Amflora. Austria's health ministry has already announced a national cultivation ban.

In addition to Amflora, the European Commission also approved three Monsanto GM corn varieties for food and feed uses, but not for cultivation.

Greens Up in Arms, Industry Cautiously Optimistic

Greenpeace spokesman Marco Contiero called it 'shocking' that one of the new commission's first official acts was to "authorise a GM crop that puts the environment and public health at risk." Friends of the Earth warned that there was no guarantee that the antibiotic-resistant element in Amflora would not enter the food chain, while euro-parliamentarian Corinne Lepage said the decision had made EU citizens into guinea pigs and sent a negative signal to European public opinion, which is largely opposed to GMO cultivation, as well as the presence of genetically modified elements in food and feed.

In contrast, some industry representatives see Amflora's approval as a sign that the tide might be turning in Brussels. BASF board member Stefan Marcinowski expressed hope that "this decision is a milestone for further innovative products that will promote a competitive and sustainable agriculture in Europe." DuPont spokesman Mike Hall thought the decision could speed the approval of the company's Pioneer 1570 corn variety, which has been under review since 2001. The commission, he said, was "fed up with the ping-pong political match of this and they're going back to science."

That such could be the case is supported by the commission's statement on Amflora's approval: "Given the high scrutiny that was devoted to this dossier, given the fact that there are presently no new scientific issues which merit a further assessment and in view of the repeated scientific opinions, it is now appropriate to proceed with this authorisation. This is also in line with the principle of responsible innovation."

WTO Trouble Ahead?

Faced with the deep divide between pro- and anti-GMO governments, the European Commission supports giving member states a greater say on whether they want to grow a given GM crop in their territories. While an explicit opt-out clause could speed up the internal approval process, problems loom in extra-European trade.

In 2006, the WTO's Appellate Body ruled that national-level safeguard measures, i.e. cultivation and marketing bans maintained by certain EU member states, were not based on adequate risk assessments. The United States considers that scientific justification for the measures is still lacking and that the EU's approval processes remain too slow. In January 2008, the US requested authorisation to impose retaliatory action, but the proceedings have been suspended. They could be reactivated if more EU member states adopt precautionary bans in the future.

ACTA Text Is Released, but Many Questions Remain

Bowing to public pressure, the eleven proponents of the potentially far-reaching Anti-counterfeiting Trade Agreement have at long last released the draft negotiating text they are working on. The goal is to finalise the treaty later this year.

The countries involved in the negotiations are Australia, Canada, the EU, Japan, Mexico, Morocco, New Zealand, Singapore, South Korea, Switzerland and the US. At first glance, the draft appears to bear out their claims that ACTA would not require participants to change their intellectual property laws. They will have no obligation to take measures with regard to intellectual property rights that are not protected under their laws, and remain “free to determine the appropriate method of implementing the agreement’s provisions.”

However, the text is littered with bracketed options (indicating lack of consensus) that would require, or at least permit, countries to take far-reaching action, particularly with regard to border measures and penalties for intellectual property rights violations.

Border Measures and Legal Framework

The avowed goal of ACTA is to stem large-scale illegal trade in fake trademarked products and pirated copyrighted goods. At the request of the right holder, customs authorities would be obliged to suspend the release of imports suspected of being counterfeit or pirated, but officials could also be permitted, or even required, to take action upon their own initiative.

A *de minimis* provision allows countries to exclude from confiscation and sanctions ‘small quantities of goods of a non-commercial nature’ contained in travellers’ personal luggage. This is not an obligation, however, and the text explicitly states that parties may implement more extensive IPR protection and enforcement than is required by ACTA.

Countries must provide for criminal procedures and penalties at least for “willful trademark counterfeiting or copyright or related rights piracy on a commercial scale.” This would include ‘significant’ infringements that have no direct or indirect motivation of financial gain.

Furthermore, bracketed text would substitute the words ‘counterfeit’ and ‘pirated’ with “goods suspected of infringing an intellectual property right,” which would bring products suspected of violating patents within the treaty’s scope. Brackets also show that parties disagree on whether customs officials could suspend the entry of suspect goods (i.e. confiscate a shipment) even if the goods are in transit or destined for export. These provisions, pushed by the European Union in particular, worry public health advocates.

Threat to Trade in Generics

Health Action International (HAI) has raised concern that ACTA’s focus on counterfeiting would contribute to a “damaging confusion between crucial generic medicines and counterfeit medicines.” The organisation acknowledges that counterfeit drugs, deliberately labelled and packaged so as to deceive the customer, pose serious health risks. But generics are another matter: they have the same active ingredient(s) as the innovator product, and their names, shapes, or packaging differ from the trademarked/patented original.

HAI cautions that the application of border measures poses a particular threat to generic competition when patent rights are enforced on shipments of generic medicines while in transit. In the past year, customs authorities in various EU countries have seized several shipments of generics on their way through European ports/airports. The action was ostensibly taken to prevent the spread of counterfeits, but many think that safeguarding patent holders’ interests was a more likely motivation. In the coming weeks, India and Brazil are expected to initiate a WTO dispute on the confiscation of a shipment of losartan, a generic blood pressure treatment, transiting through Amsterdam in December 2008. Although losartan is not under patent in either India (where the shipment originated) or in Brazil (the intended destination), the consignment was seized upon request by Merck, Sharp & Dohme, which holds Dutch patents on the drug (Bridges Year 13 No.1, page 13.)

Internet Downloads Targeted

Prior to release of the draft text, critics had expressed concern that ACTA would require sweeping border searches of laptops and iPods that could result in confiscation/destruction if found to house illegal downloads of copyrighted material. There is no such requirement, but nothing prevents countries from taking such action either.

Several bracketed options are under discussion on the liability of on-line service providers when their clients download copyrighted material illegally. Although the text would not oblige service providers to monitor customers’ activities, or punish them for infringements they are not aware of, countries could require service providers to ‘terminate or prevent’ piracy once they have been alerted to such activity. This could, for instance, mean the termination of the client’s internet account or subscription.

Another bracketed paragraph, tabled by the EU, would require ACTA parties to enable right holders to ‘expeditiously obtain’ information on the identity of relevant subscribers when the right holder has notified the service provider of copyright or related rights infringement.

ACTA would also require ‘effective legal remedies’, possibly including criminal penalties, against circumvention of technical protection measures intended to prevent piracy of copyrighted material.

Last year, international trade in counterfeit and pirated goods amounted to US\$250 billion, or nearly 2 percent of world trade, up from US\$200 billion reported in 2007.

Illicit downloads of movies, TV shows, music and software cost European creative industries 185,000 jobs and €10 billion in revenue in 2008. More than 40 percent of software used worldwide is pirated, and 10–30 percent of medicines sold in developing countries are counterfeit.

Conservation Loses to Trade Interests at CITES Meeting

Defying predictions for a drawn-out battle, parties to the Convention on International Trade in Endangered Species rejected a bid to ban cross-border trade in Atlantic bluefin tuna, the Rolls Royce of the species, early at their meeting in Doha during the last two weeks of March.

Monaco had proposed to list Atlantic bluefin in CITES Appendix I, which covers flora and fauna on the brink of extinction. International trade in Appendix I species is prohibited, but can be resumed at a later stage if member governments agree that populations have recovered to the point where trade no longer represents a threat. The stakes were high for bluefin tuna, estimated to be a seven-billion-dollars-a-year industry.

Eaten out of Existence

According to scientists, bluefin populations have declined by 72 percent in the western Atlantic and 82 percent in eastern waters over the last 40 years. Sixty percent of the decline has taken place in the last decade, largely due to industrial-scale harvesting with longline nets that vacuum up the huge fish. France, Italy and Spain account for half of the global fishing effort.

More than three-quarters of the global bluefin catch ends up in Japan, where most of the fish is sold to top-end sushi restaurants. Although only a small part of the overall tuna market, bluefin trade is extremely lucrative: a single fish may fetch more than US\$100,000 at a Tokyo auction, or between two and three hundred dollars a kilo.

Powerful Backers and Determined Opponents

Despite the major economic implications, an Appendix I listing for bluefin tuna was thought to have a real chance to carry the day. It had the support of the United States, the European Union and parliament, as well as the CITES secretariat.

The proponents' positions were not identical, however. Bowing to pressure from its tuna-fishing nations, the European Union wanted to delay the ban's implementation by a year. It also sought to secure a provision whereby a less drastic Appendix II listing would be considered if the International Commission for the Conservation of Atlantic Tunas (ICCAT) were to take stronger measures to prevent over-fishing of the dwindling species next year.

In contrast, the US supported an immediate ban with no conditions. Tom Strickland, who headed the US Doha delegation, said his government continued to have "serious concerns about the long-term viability of either the fish or the fishery." This position was warmly welcomed by environmental and marine conservation groups.

Japan led the opposition. Mirroring its stance in WTO negotiations on fisheries subsidies, Tokyo argues that the depletion of bluefin populations should be handled by the regional fisheries organisation responsible for managing bluefin stocks, ICCAT. Ahead of the CITES meeting, Japan had announced that it would not comply with an Appendix I listing for bluefin.

Supporters of the ban maintain that ICCAT has repeatedly ignored recommendations of its own scientific experts and set far too high catch quotas. In addition, illegal and under-reported fishing is rife in the Atlantic and the Mediterranean, the area covered by ICCAT, whose 46 members include countries with large tuna industries. In 2007, for instance, Japan alone imported more bluefin than the entire ICCAT catch quota of 29,500 tonnes. According to some estimates, real catches in 2007 may have amounted to 61,000 tonnes.

How Did It Happen?

CITES requires a two-thirds majority for the adoption of proposals, and Japan, aided by China and South Korea, lobbied hard to prevent it. The opponents focused in particular on winning over tuna-fishing Arab countries, as well as other African states. The strategy paid off: debate had barely started when Libya called a surprise vote on the weaker European version, which was defeated by 72 to 43. Delegates then tackled Monaco's original proposal, but EU member states had to abstain as they lacked their governments' authority to vote on it. The final score was 68 to 20 against, with 30 abstentions. Canada and Iceland reportedly joined the Japanese camp, while Norway, Kenya, Australia and Peru voted in favour of a ban.

Japan's Prime Minister Yukio Hatoyama welcomed the outcome, saying it meant "the import of bluefin tuna will continue ... the price will not rise further." US envoy Tom Strickland was disappointed, invoking "compelling science and dramatic statistics," as well as the species' "spectacular decline". The EU's environment and fisheries commissioners vowed to work with ICCAT to obtain more efficient protections. Ironically, however, the bloc's tuna-fishing states are among those pushing the hardest for generous bluefin quotas at ICCAT meetings.

"This was a case of just plain ignoring the science for short-term economic gain," said Susan Lieberman of the Pew Environment Group, adding that the market for bluefin tuna was "just too lucrative and the pressure from fishing interests too great" for enough governments to put the sustainability of the species first. Greenpeace's Oliver Knowles called the ban's defeat an 'own goal' by Japan: "By pushing for a few more years of this luxury product it has put the future of bluefin, and the future of its own supply, at serious risk. The abject failure of governments here to protect Atlantic bluefin tuna ... sets the species on a pathway to extinction."

No Trade Controls on Sharks, Corals, Polar Bears

A bid to list several shark species widely consumed in Asia in CITES Appendix II also failed. Appendix II allows cross-border trade if the management authority of the country of origin issues an export permit certifying that the specimen was legally obtained and that its export will not be detrimental to the survival of the species. Proposals to protect polar bears and corals did not make it either. Thursday the 18th of March 2010 was "not a very good day for conservation," CITES spokesperson Juan Carlos Vasquez acknowledged. It was clear, he said, that governments were not ready to ban trade in species that are commercially important.

It's Time to Act on Climate Change

Jorma Korhonen

The acknowledgement of facts is the beginning of wisdom, a Finnish president once said. We already have enough facts about climate change. Now is the time not only to draw conclusions but to act.

Rising greenhouse gas emissions – mostly resulting from human activity – not only threaten our environment, but undermine development and have dramatic and negative consequences for our economic and social well-being, with the most negative effects being felt by the poor.

In order to not compromise the ability of future generations to meet their own needs, a key tenet of sustainable development, we must not allow the global mean temperature to rise more than 2°C above pre-industrial levels. This means that the growth of global emissions has to turn to decline by 2015.

The success of the climate change negotiations will be reviewed against this background. However, no man or nation can pull the rabbit out of the hat alone.

There is no denying that Western countries have contributed the lion's share to the accumulation of carbon dioxide in the atmosphere. And yet, CO₂ emissions from non-OECD countries have recently caught up and even surpassed those of OECD members. This highlights how important it is to get all nations of the world to strive for climate action according to commonly agreed guidelines.

The escalation of the problem can only be stopped through joint effort, or the damage will hurt us all. I am convinced that we all realise that it's about time for a change. But how can we achieve it?

Trade Policy and Climate Change

The trade and climate talks are closely connected. Governments must ensure that the Doha Development Agenda also contributes to the overall efforts in the climate area. Coherence begins at home.

An open and rules-based world trading system benefits all, but is even more important to small and vulnerable countries. Trade policy can play an important role in harnessing opportunities and challenges of globalisation and in fostering economic growth, job creation and prosperity. In short, trade policy can be used to create a fair and equitable playing field for all.

But trade is a double-edged sword. On the one hand, increased production and exchange of goods leads to higher energy consumption. On the other hand, the way in which open trade increases production efficiencies and national wealth improves our ability to invest in and exploit green technologies.

In the climate negotiations, two issues are pertinent to trade policy. One is technology transfer; the other is the risk of increased protectionism.

I do not believe that a weakening of intellectual property rights is a solution to technology transfer of environmentally friendly products since it may seriously hamper investment in new technologies. Instead, technology transfer can be made effective by liberalising trade in environmental and climate-friendly products. With fewer barriers to the movement of goods, technology expansion is quicker and cheaper, and clean technologies can be exploited at a faster rate. Liberalising trade in environmental goods would benefit every country striving towards lower emission levels.

I am convinced that the central issues of funding and technology transfer can be resolved. This will require a convincing and hard bargaining. It is a tall order, but is doable.

The interdependence of trade and climate also works the other way round: climate policy affects trade in a fundamental way. It may hamper growth in certain sectors and promote growth in others. Climate policy certainly affects the prices of different forms of energy and can lead to carbon leakage from countries where emissions are highly sanctioned to countries that do not implement formal sanctions for their industries.

However, Finland believes that we should not increase trade barriers against countries that do not fulfil climate goals set by the EU. On the contrary, we firmly object to resorting to protectionist measures, because they will eventually complicate the functioning of the economic system. We in Europe still have the option of donating emission allowances to industries where competitiveness is at risk. The allowances will have a time-limitation, so these industries will have to adjust their processes to ensure their future operability.

Climate change is also a business opportunity and sustainability is in fact the main business driver for many companies. However, insecurity about the future climate regime after 2013 hampers and delays investments. Private investment is a key element in combating climate change and we must make sure that the investment on clean technology is the most favoured one.

Companies need a level playing field and that is why we need a global carbon market to set a price for carbon emissions. I am convinced that such a price will be the most effective booster for the development and transfer of new technology.

We also need to work on labelling and certification with the objective of fostering outcomes that will facilitate trade and support climate objectives. In particular, we must avoid that standards become new barriers to trade and environmentally friendly technology.

Continued on page 22

Climate Deal Must Change Energy Use

When we speak of energy security, we effectively speak of climate change: there will be no security if we cannot address the issue of climate change and reduce carbon emissions.

The urgent challenge is to lessen our reliance on fossil fuels, while ensuring economic well-being for a growing number of people on this planet. We need to develop a new generation of energy interdependence provisions in our agreements with energy producing countries since as much as Europe seeks security of supply, external suppliers and industry seek security of demand.

Our common goal should be to turn energy policy into a source of positive interdependence instead of rivalry. This requires strong rules and stable institutions.

The Role of Forests in Addressing Climate Change

As a Finn, I must underline the role of forests in a climate change regime. Due to its energy-intensive forest-based industries, Finland ranks high in energy consumption per capita. But on the other hand, the country of just five million inhabitants produces paper for 100 million people. Sustainable forest management is key to reaching our renewable energy targets and to enabling the survival of our forest industry. Like other forest nations, we need international recognition that forests can be used in a sustainable way, without compromising their role as carbon sinks.

Copenhagen was a missed opportunity. Nevertheless, I feel that we are making progress, but snailspeed must now be geared to overdrive if we are to succeed. The IPCC has admitted that it may have made exaggerated predictions about glaciers melting, but this should not serve as an excuse for inaction. The fact is that glaciers will melt and it doesn't serve a purpose to start arguing about the exact timetable.

It is imperative that we conclude a comprehensive climate treaty in Mexico City next December.

Jorma Korhonen is Director General, Department for External Economic Relations, Ministry for Foreign Affairs of Finland.

Downbeat Mood for Cancun

Prospects are dim for significant multilateral action on climate change this year as the urgency felt pre-Copenhagen appears to be evaporating.

Governments have already started to downplay the possibility of reaching agreement on a legally binding global climate treaty this year. For instance, EU climate change commissioner Connie Hedegaard warned in March that trying to force a deal at the December 2010 Conference of the Parties, to be held in Cancun, could be counterproductive as a failure might result in negotiators giving up on the UN process. Japan's top negotiator, Kunihiro Shimada, has also cautioned against setting expectations too high. Jo Leinen, who chairs the European Parliament's environment committee, has evoked the need for a Plan B in case the UN negotiations do not succeed, possibly in the form of sectoral carbon-cutting agreements between countries active in a given field, such as car manufacturing. The Group of 77 and China, however, strongly maintain that climate change negotiations should stay firmly within the purview of the United Nations, with the multilaterally agreed Bali Action Plan serving as a guide for the talks.

According to Yvo de Boer, who will leave his post as the United Nations climate chief in July, negotiations this year need to "conclude on mitigation targets and action (i.e. emissions reductions), a package on adaptation, a new technology mechanism, financial arrangements, ways to deal with deforestation and a capacity-building framework."

Meeting in mid-April, UN climate change delegates made no significant progress on any of these areas. They did, however, agree that the chair of the negotiations on long-term cooperative action should prepare a new draft text 'under her own responsibility' to facilitate the next round of talks in June. These discussions cover areas such as voluntary national measures to mitigate climate change, adaptation, funding and technology transfer. One of the points of contention with regard to the new draft is whether it can include, or even refer to, the Copenhagen Accord that was brokered by a small group of heads of state last December, but failed to garner consensual support (Bridges Year 14 No.1, page 15).

On the other negotiating track, delegates will continue to work on developed countries' post-2013 greenhouse gas emissions reduction targets under the Kyoto Protocol.

Two further negotiating sessions will be held between June and the Cancun conference.

Perception vs Science: Scepticism Gains Ground

The press has recently had a field day reporting on relatively minor errors in the 2007 report of the Intergovernmental Panel on Climate Change (IPCC). Among favourites were a prediction that Himalayan glaciers would melt away by 2035, and a link the IPCC had drawn between climate change and the frequency and severity of natural disasters. Stories also abounded on leaked e-mails suggesting that two UK climate scientists had manipulated data (the fact that both were completely cleared by an external inquiry garnered far fewer column inches).

Helped by media hype and a rigorous winter in the Northern hemisphere, climate sceptics have gained ground. An Ipsos Mori poll found that 31 percent of British adults now think that climate change is 'definitely' a reality, down from 44 percent in a year ago. A December 2009 survey by Yale University and George Mason University showed that 16 percent of Americans now believe that climate change is a hoax or scientific conspiracy, more than double the percentage a year earlier. In addition, thirteen percent said they thought that even if the planet was warming, it was a result solely of natural factors and was not a significant concern.

Most climatologists insist that the science of global warming is sound despite some slipups in presenting or verifying data. EU ministers echoed this view in March, calling the IPCC's science 'solid and robust' and the most authoritative assessment of climate change. To regain the trust of the wider public, the IPCC has requested an independent panel to review its research procedures. Other institutions are also looking for ways to enhance transparency.

EPA Fisheries Talks: An Opportunity to Tackle SPS Measures

Martin Doherty

Although the scope of food safety measures affecting fish products has emerged as an area of great concern to the European Union's former colonies now negotiating economic partnership agreements with their biggest export market, the negotiations hold promise for improvement.

Fish is the most internationally traded food commodity, with tropical shrimp among the most valuable products. In addition to their value in trade, fisheries-related activities provide an important source of employment, export revenue and food security to many African, Caribbean and Pacific (ACP) countries. Internationally, fisheries represent one of the few sectors in which their participation in world trade is increasing, with the EU accounting for nearly 75 percent of the bloc's fishery exports.

The greater presence of sanitary and phytosanitary (SPS) issues on the international trade scene has been driven by the increasing awareness and concern for food safety among European consumers, particularly relating to the presence of chemical residues and various carcinogenic additives in food. This has been exacerbated by repeated 'food alarms' and, to a certain extent, by the European Commission's efforts to tighten and harmonise the EU's food safety regime, developed in a piecemeal fashion over forty years.

Although the six ACP regional groupings still involved in economic partnership agreement (EPA) negotiations with the EU are worried that the new trading arrangements – slated to replace the unilateral preferences granted by their erstwhile colonial masters – might negatively affect their fisheries sectors, the negotiations present an opportunity, as well as a threat. A number of SPS issues have been the cause of recurring problems in EU/ACP trade but despite considerable discussion over the years, little has been resolved. The fact that the EPAs are a negotiating rather than discussion forum is seen as a way of overcoming this impasse.

What Can Be Done?

Since the European Union's right to protect its citizens from potentially harmful food cannot be challenged, attention should be placed on the implementation of the measure rather than on the basic principle. This involves looking at what the EU is doing and identifying whether it complies with the WTO Agreement on Sanitary and Phytosanitary (SPS) Measures. The agreement contains areas of ambiguity that allow the EU to introduce measures that, while not at variance with the wording of the treaty, can nevertheless arguably be viewed as being contrary to the underlying intention, i.e. not to interfere unnecessarily with international trade.

Precautionary Import Bans

SPS Article 5.7 allows WTO Members to adopt temporary precautionary bans to prevent the introduction of risks when sufficient scientific evidence is absent. The problem here does not lie with the provision, but rather the agreement's silence on the steps that need to be taken by a country that has lost market access because trading partners have invoked this provision. Greater clarification is required on how long is 'temporary' and on the quantity and type of scientific evidence that is deemed sufficient. The damage caused by temporary bans in the fish sector is well recorded, and in many instances such harm could have been alleviated had mechanisms existed that either helped remedy the fault or allowed scientific evidence to be produced that disproved the basis for the ban itself.

The EPAs represent an opportunity for the introduction of greater certainty about how long is 'temporary' and on the quantity and type of scientific evidence that is deemed sufficient.

Setting a Regulatory Ceiling

The SPS agreement sets a regulatory floor but not a ceiling. WTO Members are committed to both the international harmonisation of SPS measures, and the mutual recognition of measures employed by other countries. With respect to mutual recognition, a Member is committed, in principle, to granting equivalence to the SPS measures adopted by an exporting

country "if the exporting Member objectively demonstrates to the importing Member that its measure achieve the importing Member's appropriate level of sanitary or phytosanitary protection" (Article 4.1).

The problem is that, while the agreement sets minimum requirements for WTO-consistent of SPS measures, nothing prevents countries from adopting regulations that are considerably more stringent. Therefore, the question arises whether there is a level sanitary standards that importing countries cannot legitimately expect potential exporting members to achieve.

It could be argued that in exercising their right to require higher than international norms, importing countries also incur an associated obligation to provide a higher than normal level of scientific evidence with regard to the level of extra safety and associated benefits actually being achieved. There have been past instances, such as aflatoxins in nuts, where higher safety levels required by the EU were demonstrated by independent experts to result in practice in the saving of one in a billion people. While all human life needs to be protected, the SPS Agreement does not lay that down as a requirement in the ultimate degree.

Socio-economic Factors in Risk Assessment

The SPS Agreement permits Members to establish SPS measures based on scientific evidence, as well as on broader assessments of risk such as relevant economic factors, including:

- The potential damage in terms of loss of production/sales in the event of entry, establishment or spread of the disease or pest;
- The costs of control or eradication in the territory of the importing Member;
- The relative cost-effectiveness of alternative approaches to limiting risks (Art. 5.3).

Although trade agreements traditionally avoid these types of assessments due to the

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subjectivity associated with measuring them, the SPS Agreement recognises that imported risks to human, animal and plant safety and health are likely to have a significant socio-economic impact. However, the question remains about how socio-economic assessments can be incorporated into the legitimate justifications based on sufficient scientific evidence. None of the international scientific organisations referred to by the WTO (Codex, etc.) provide much scope for socio-economic assessments.

For the EPAs to be effective, clarification must be obtained on precisely what the SPS Agreement allows the EU to do, and the limitations and obligations that may be cited by ACP countries where specific measures are considered to exceed what is necessary for the adequate protection of health. Without such clarification, these non-tariff barriers will continue to hinder both regional integration and any increased inter- and intra-regional trade.

As a general observation, the SPS provisions in the EPAs fall short of making provision for the post-EPA era. There appears to be an insufficient attempt to allow the recipients to prioritise capacity-building assistance from the EU, and to establish mechanisms to ensure that any such commitments are in fact fulfilled in specified terms of finance, technical assistance and time.

Targeted Capacity-building

The terms ‘capacity-building’, ‘technical assistance’ and ‘funding’ are all used freely in the EPA negotiations. Although the EU appears reluctant to support measures that may not have a transparent purpose or application, it is more likely to consider favourably specific requests. SPS standards are an area eligible for support and also represent a prime vehicle for both the EU and ACP countries to make an impact on the development aims that underlie the EPAs.

To assist such consideration a few areas are outlined below:

- Identifying and costing what ACP countries need to comply with the EU SPS legislation requires a move from the broad generalisations that obscure the real requirements. It is clear that not all countries need the same degree of assistance, particularly in product areas such as fish exports, where considerable compliance

has already been achieved through the establishment of ‘competent authorities’. There are, however, some countries where export potential exists but its current size is insufficient for the government to establish CAs. The input of relatively small but targeted assistance in such countries may prove highly cost-effective, making them acceptable candidates for EU import purposes and thereby encouraging future development of the fisheries sector.

- Technical assistance should also help solve specific problems of individual ACP countries through customised solutions. This may require lateral thinking that identifies changes in other areas of an economy that could result in a leveraging impact on SPS activities in hitherto moribund sectors of production and processing. For example, in many countries it is not a shortage of finance that is a barrier, but rather its availability at commercially viable rates.

This was a problem for the Eastern European states that needed to develop an energy efficiency sub-sector upon their accession to the EU. The EU tackled this by providing specific sums of money (€3,000,000 to 5,000,000) to each country’s financial sector to be used in providing soft loans and other support specifically for energy projects. The principle is the same for ACP fisheries sub-sectors, and is worth considering.

- Moving beyond the goal of meeting the current requirements and considering how SPS-related assistance can be used to develop new products and assist the fisheries sector to move further up the value chain by exporting more processed products and fewer raw materials.

Spurred by its own need for fish from third countries when stocks are dwindling at home, the EU has a comprehensive framework of assistance designed to promote eligible imports from the fisheries sector. Less well addressed is the need for assisting the private sector in moving up the value chain through the development of processed multi-products.

This not only requires assistance in meeting SPS regulations, but also the creation of a more enabling business environment within which entrepreneurs in the fisheries industry can develop as they have done in other product sectors. Targeted funding under the umbrella of an EPA and focusing on the potential for establishing regional product identity should be considered by negotiators looking to both assist fisheries stakeholders and achieve some progress towards the development aims of the EPAs.

As indicated above, the aquaculture sector is a prime area for selective support and could be included as a specific area for funding and technical assistance within an EPA. It would be useful to assist the small and disconnected inland fisheries to produce commercially viable volumes for export and intra regional trade. This could be achieved through the development of community fishery centres, which would offer small scale fisheries cold storage and commercial marketing services. This could also be useful in tackling problems relating to the traceability and origin of fish coming from scattered sources.

- Under its fisheries agreements, the EU has contributed to making various fish processing establishments in ACP countries SPS-compliant. This has served the twin aims of helping these countries export to the EU, as well as the development of local economies. Nevertheless, these establishments can suffer from a shortage of product to process when EU fleets carry their entire locally caught catch back to Europe for processing.

Developing countries should consider requesting the EU to contribute a percentage of the catch of any EU-registered vessel to establish or enhance the processing capacity in the country where the fish was caught. While the development aims of the succession of Lomé conventions that preceded the EPA negotiations were never fully achieved, the economic partnership agreements represent an opportunity for reassessing what was done in the past and identifying what can be done to avoid a similar failure in the future.

Martin Doherty is Head of Research with the international trade consultancy Cerrex Limited in London. The author based this article on his study on The Importance of Sanitary and Phytosanitary Measures to Fisheries Negotiations in Economic Partnership Agreements, commissioned by ICTSD.

Ethanol: to Tariff or Not to Tariff?

Brazil and the US are locked in hot competition over ethanol trade, with the former seeking more market access and the latter determined to protect its domestic producers.

On 5 April, Brazil surprised the world by announcing a temporary elimination of its 20 percent import tariff on ethanol until 31 December 2011. The main motive behind the move was to encourage the United States to follow suit, but that outcome looks unlikely.

Bipartisan bills have already been introduced in both chambers of Congress, providing for a five-year extension of the 54-cent-per-gallon tariff levied on imported ethanol and the 45-cent-per-gallon 'blender's tax credit', currently available to refiners who add ethanol into their gasoline. Both measures were set to expire on 31 December 2010.

Senators Chuck Grassley and Kent Conrad said their legislation would "strengthen America's energy independence and create jobs through the production of domestically produced biofuels [which] offer an alternative to foreign oil and generate economic activity in the United States." They further claimed that a failure to extend the measures would "result in the loss of 112,000 jobs nationwide and reduce ethanol production by nearly 40 percent."

US industry warmly welcomed the legislative initiatives. Renewable Fuels Association president Bob Dinneen called the tax incentives "sound public policies by any economic, environmental or energy measure. Domestic ethanol use is lowering the price of gasoline, reducing imports of foreign oil, and helping stabilise and reinvestigate rural economies all across the country."

John Eichberger of the NACS industry group said his association supported extending the blenders' credit because "without it, these fuels are not economically viable." However, he said it was "time to eliminate the import tariff in order to expand available, cost-competitive supplies... Protectionist measures like this do not benefit consumers – they only lead to increased costs."

In contrast, Joel Velasco of the Brazilian Sugarcane Industry Association (UNICA) said that "generous government initiatives and consumption mandates" had allowed the US to build the world's largest ethanol industry over the past three decades, leading to an "elaborate system of subsidies and trade barriers" that had made Brazilian ethanol more expensive and nearly unavailable in the US. Mr Velasco threw down the gauntlet: "After 30 years of subsidies and import taxes, American consumers deserve clean fuels at a market-based price. Brazilian sugarcane ethanol producers are ready to compete. What about American corn ethanol producers?"

Competing Ad Campaigns

Brazilian ethanol, which uses sugarcane as a feedstock, is both cheaper and more energy efficient than the home-grown corn-based ethanol that dominates the US market. Ahead of the upcoming congressional debate, industry associations in both countries have embarked on advertising campaigns on the virtues of ethanol, with UNICA emphasising the superiority of the cane-based variety, while the US ethanol trade coalition Growth Energy does not mention the word 'corn' in its TV spots.

WTO Offers Another Avenue

Covering all its bases, Brazil is also seeking to include ethanol in the list of environmental goods targeted for steep and quick liberalisation in the Doha Round negotiations (see related story on page 7). UNICA CEO Marcus Jank expressed strong support for this position when WTO Director-General Pascal Lamy visited Brazil in April. WTO Members should reconcile their trade and climate change policies, Mr Jank said, as it made "no sense for countries to adopt ambitious policies to reduce greenhouse gas emissions, while continuing to apply high tariffs on clean technologies that can be instrumental to achieve reduction goals and allowing fossil fuels to be traded freely."

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

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WTO Meetings

May 18	Committee on Trade and Development
May 18	Dispute Settlement Body
May 19	Council on Trade in Goods
May 31	Trade Policy Review Body – China
June 4	Working Group on Trade, Debt and Finance
June 6-8	TRIPS Council
June 14-15	Committee on Regional Trade Agreements
June 22	Dispute Settlement Body

Other Meetings

May 26-27	OECD Council at Ministerial Level
Paris	www.oecd.org/
June 1-11	Ad Hoc Working Groups on the Kyoto Protocol and Long-term Co-operative Action
Bonn	www.unfcc.int/
June 5-6	APEC Trade Ministers' Meeting
	www.apec.org
June 26-28	G-20 Leaders Summit
Toronto	www.g20.gc.ca/

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www.ictsd.org

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